

MINUTES 28 MAY 2013



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 28 May 2013, commencing at 5.33pm.

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

	No apologies were received.

133	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 14 May 2013 be confirmed.

	Cr Peter Kafer declared a significant non-pecuniary conflict of interest in the Notice of Motion No.1. The nature of is being he is a member of the executive of Worimi Dolphins Rugby League Team.

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COUNCIL REPORTS

ITEM NO. 1

FILE NO: 16-2010-328-2

S96 MODIFICATION OF DEVELOPMENT APPLICATION FOR A SINGLE STORY DWELLING AT NO. LOT 3 DP:1076322 11 MOXEY CLOSE, RAYMOND TERRACE**REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER****GROUP: DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse the S96 modification of the Development Application 16-2010-328-2 to remove or modify condition 25 and/or the requirement for noise attenuated windows or building elements for the following reasons:
 - a) The modified dwelling fails to provide an acceptable internal acoustic environment for building occupants for the reasonable life of the dwelling;
 - b) The development with reduced noise attenuation is unsuitable for the site resulting in unacceptable interior design noise levels;
 - c) The proposal is not in accordance with Councils DCP 2007 Chapter B15- Aircraft Noise For Buildings;
 - d) The proposal fails to effectively deal with potential land-use conflict issues due to the operations of the existing air force base and Newcastle airport. The Council's policy is designed to enable reasonable development of dwellings on land affected by current and likely aircraft noise pollution without jeopardising the long term viability of the nationally significant air craft facility.

**ORDINARY COUNCIL MEETING – 28 MAY 2013
MOTION**

	Councillor Ken Jordan Councillor Paul Le Mottee
134	It was resolved that Council move into Committee of the Whole.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Paul Le Mottee Councillor Ken Jordan
	That Council approve the Section 96 modification of a development application for a single story dwelling at Lot 3, DP 1076322, 11 Moxey Close, Raymond Terrace.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

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, Ken Jordan, Chris Doohan, Steve Tucker, John Morello and Sally Dover.

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

MOTION

	<p>Councillor Geoff Dingle Councillor Peter Kafer</p> <p>That Council refuse the S96 modification of the Development Application 16-2010-328-2 to remove or modify condition 25 and/or the requirement for noise attenuated windows or building elements for the following reasons:</p> <ul style="list-style-type: none">a) The modified dwelling fails to provide an acceptable internal acoustic environment for building occupants for the reasonable life of the dwelling;b) The development with reduced noise attenuation is unsuitable for the site resulting in unacceptable interior design noise levels;c) The proposal is not in accordance with Councils DCP 2007 Chapter B15- Aircraft Noise For Buildings;d) The proposal fails to effectively deal with potential land-use conflict issues due to the operations of the existing air force base and Newcastle airport. The Council's policy is designed to enable reasonable development of dwellings on land affected by current and likely aircraft noise pollution without jeopardising the long term viability of the nationally significant air craft facility.
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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, Steve Tucker and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, John Morello and Sally Dover.

The motion on being put the motion was lost.

136	Councillor Paul Le Mottee Councillor Ken Jordan
	It was resolved that Council approve the Section 96 modification of a development application for a single story dwelling at Lot 3, DP 1076322, 11 Moxey 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: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, John Morello and Sally Dover

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

BACKGROUND

The purpose of this report is to present a development application to Council for determination. The application has been called to Council by Cr Le Mottee to "debate the complexities of a proposed dwelling affected by the 2012 ANEF (Aircraft Noise Exposure Forecast) (in 2013) but not the 2025 ANEF".

The applicant seeks to modify original conditions of consent on this application by way of a Section 96 modification; the modification seeks to remove the requirement for double glazed acoustic windows (10 Windows to be double glazed; 4 windows to be glass bricks or single pane laminated). This would effectively require the removal or modification of condition 25 of the development consent which states;

"The development shall be constructed in accordance with the recommendations contained in the acoustic report prepared by Hunter Acoustics and dated 23 April 2010. The acoustic engineer shall issue a compliance certificate before the issue of any occupation certificate."

The reasons for the imposition of condition 25 are:

- To re-enforce the applicants initial proposal as submitted to have an acoustically compliant building in accordance with Council Policy;
- Comply with Council DCP which aims to provide an acceptable internal acoustic environment for building occupants for the reasonable life of the dwelling; this includes not only current occupants but future occupants of the building as well.
- To effectively deal with potential land-use conflict issues due to the operations of the existing air force base and Newcastle airport. The Council's policy is designed to enable reasonable development of dwellings on land affected by current and likely aircraft noise pollution without jeopardising the long term viability of the nationally significant air craft facility.

The applicants' justification and reasons for seeking to modify the consent are contained in the "Statement of Environmental Effects" and also within a letter dated 17/4/2013. In summary the applicants' reasons are :

- 1) *To save on construction costs.*
- 2) *"There are no other houses in my street that have all of the acoustic requirements..."*
- 3) *"... in future my house will no longer be effected.. "*

The applicant contends that the additional costs involved in complying with the original development consent as proposed and particularly condition 25 is *"..at \$20,000 or more..."*.

The site is an "infill" development site that is in an existing residential area that is mostly developed. It is likely that most existing dwellings would not have an internal acoustic amenity sought in the design of original consent for the proposed dwelling due to their vintage. However, new dwellings that have received consent for the past 5 years have had requirements of noise attenuation applied to them.

In relation to aircraft noise pollution impacts the original development (approved on 2/6/2010) was designed to comply with, and assessed against the ANEF2012 Map issued by the Department of Defence and referenced in the Council Policy - Development Control Plan 2007 B15 (DCP) as applicable at the time.

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. Please find in **(ATTACHMENT 3)** the maps ANEF 2012, ANEF 2025 and the Noise Planning Area Map that Council is required to use for assessment purposes.

In considering the suitability of the site for this development, the applicant's acoustic consultants report reinforces the need for acoustic attenuation to be provided to the building.

The proposed windows are 'acoustically weak' compared to the originally specified windows. This will result in inside noise levels for occupants of this dwelling that will not comply with Council's DCP and Australian Standard AS2021-2000 until such time that the current aircraft are taken offline.

It is for these reasons that it is recommended the amendment to remove any requirement to reduce the acoustic qualities of any windows on this structure, not be supported.

This assessment approach is consistent with Council's current DCP2007 criteria for ANEF noise assessment.

FINANCIAL/RESOURCE IMPLICATIONS

While it is difficult to determine the potential for third party litigation in the future; the risk exists that present or future occupants could take action against Council for consenting to development resulting in an unacceptable indoor noise quality, contrary to Australian Standards and Council's own policy.

Conversely there is a possibility if the modification is supported and the requirement for noise attenuated windows removed or altered contrary to Council policy that other parties subject to the application of the same policy may seek damages.

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

The development application (modification) does not comply with Council's Development Control Plan DCP2007 Chapter B15- Aircraft Noise for Buildings.

Supporting this application would present a development inconsistent with Council policy, the Australian Standard (AS2021-2000) and potentially a claim that Council did not reasonably consider the impact in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Along with these proposed policy departures, should Council endorse such, significant risk may be incurred by Council.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

Council may recall that it adopted a revised Corporate Risk Management Policy on 27 November 2012. The policy includes Council's risk appetite statement that explicitly states:

"Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public."

A review of the assessment report, the applicant's submission and the submitted acoustic engineers report, details that a decision contrary to the recommendation presents a medium risk to Council as per Council's standard risk management matrix. These risks relate to Council, current and any subsequent occupiers of the dwelling, Council reputation and legal exposure. In this instance, a refusal of the application is the viable risk treatment.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the modification is supported that the current or future owners or occupiers could seek damages against Council on grounds of an unacceptable indoor noise quality.	Medium	Support the recommendation to refuse the S96 modification.	Yes
There is a risk that the Applicant may appeal the refusal of the S96 application	Medium	Support the recommendation to refuse the S96 modification.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The individual property owner and the community expect the minimum standard for dwelling design and internal noise levels to be maintained. There is a reasonable expectation that future purchasers will obtain a property that complies with relevant Australian Standards including an acceptable indoor design noise quality.

CONSULTATION

The recommendation has been peer reviewed within the Development Assessment and Compliance Section.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment;
- 3) ANEF 2012; ANEF 2025; Noise Planning Area Map (DCP 2007- Chapter B15).

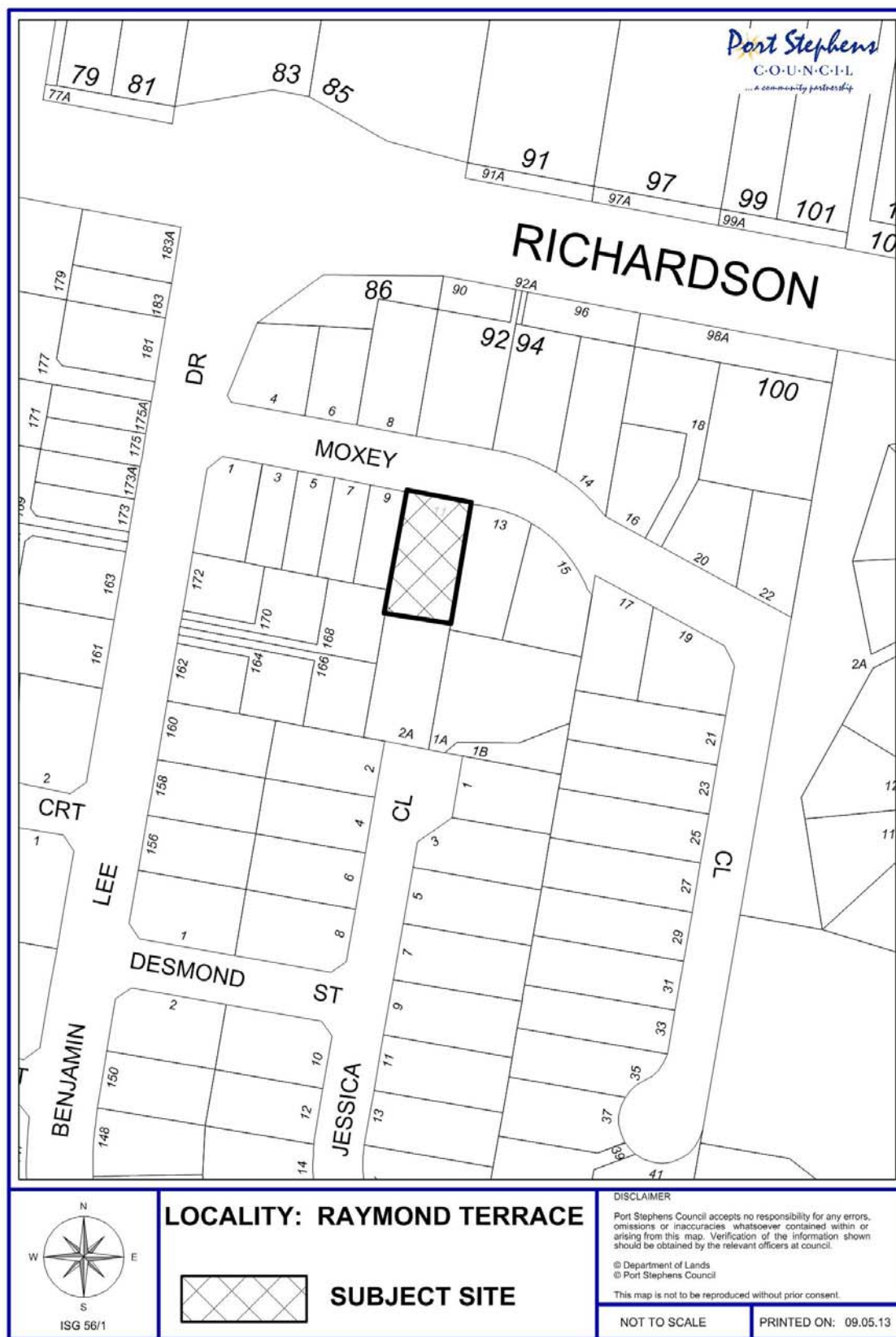
COUNCILLORS ROOM

- 1) Statement of Environmental Effects including applicants submission; and
- 2) ANEF 2012; ANEF 2025; Noise Planning Area Map (DCP 2007- Chapter B15)
(A3 colour copies)

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



116 Adelaide Street Raymond Terrace NSW 2324. Phone: (02) 45800255 Fax: (02) 45873612 Email: council@portstephens.nsw.gov.au

ATTACHMENT 2 ASSESSMENT

Site Description

The site is situated off Benjamin Lee Dr running parallel with Richardson Rd. The site is relatively flat and is 722.2m² in size.

Site Constraints

The site at the time of the original assessment was captured in the 20-25 noise contour of the 2012 ANEF map. Currently the site is not captured under the 2025 ANEF (10 August 2011) map. The site is currently captured by the Port Stephens Council DCP2007 Noise Planning Area Map which is an amalgamation of both of the aforementioned ANEF maps.

Surrounding Development

The surrounding development consists of both single and double story residential dwellings and associated ancillary structures.

Statutory Provisions

Environmental Planning and Assessment Act 1979 (Section 79C)

The following discussion is in addressing parts of the Section 79C of the EP and A Act that have the most relevance in consideration of this modification proposal.

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a)(iii) any development control plan, and*
- (c) the suitability of the site for the development,*
- (e) the public interest.*

Comments

- PSC DCP2007 clearly addresses this situation under chapter B15. The Plan indicates that both ANEF contours be considered and given any discrepancy between the two the higher noise contour be used for assessment purposes.
- The development is considered suitable for the site once noise attenuation in accordance with AS2021-2000 is implemented within the design. Without the appropriate noise attenuation the development is considered unsuitable.
- It is in the public's interest to expect that Council maintains the minimum level of indoor amenity in respect to aircraft noise.

SEPP Exempt and Complying Codes 2008

It is noted that a Complying Development for certain types of development (Single Story Dwelling and Alterations and Additions) may be permissible on this site. It is considered that the definition around ANEF in that code states that **any** ANEF map produced for that airport is applicable (in the development phase of ANEF maps there are many maps developed called ANEC's); in further considering what maps should be used to determine this, the 'most relevant' has effectively been used; these are the ANEF 2025 (detailing expected future noise impacts), ANEF 2012 (best detailing noise impacts until introduction of the F35 aircraft) and the Noise Planning Area Map (an ANEF 2012/ANEF2025 composite map). In reviewing these maps it is evident that noise pollution exists on this site to warrant noise attenuation measures to be implemented to ensure compliance with AS2021-2000.

For this reason it is considered arguable that any CDC in this vicinity should still have requirements to comply with AS2021-2000

Port Stephens Council DCP2007

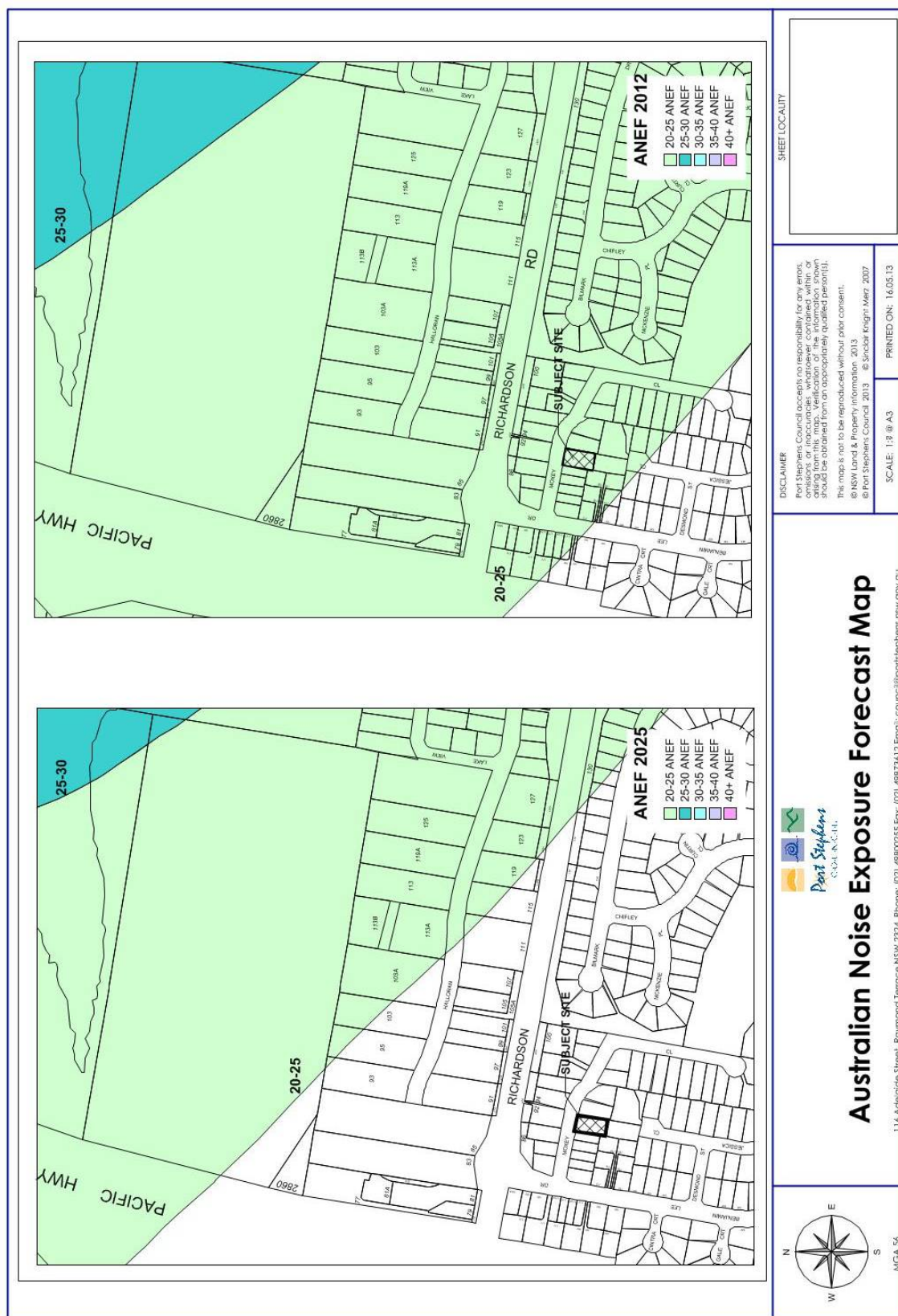
Chapter B15

- The DCP indicates that the development is captured under the 'Noise Planning Area Map'.
- The chapter also identifies the requirement for a noise report
- The submitted report indicates the requirement for attenuation.

Conclusion

The requirement for attenuation on this property is clear through the assessment framework and the submitted noise impact assessment. The size and location of the windows could be amended to reduce the impact however given the windows are the acoustically weakest point in a design, the noise attenuation requirements are recommended to remain to have a compliant design in regard to an acceptable level of indoor noise quality. It is for this reason that the request for the removal of condition No. 25 is recommended for refusal.

ATTACHMENT 3 ANEF 2012; ANEF 2025; Noise Planning Area Map



ITEM NO. 2

FILE NO: PSC2009-00382

RECLASSIFICATION OF LOT 10 DP 729986 - 2 JESSIE ROAD, ANNA BAY (FORMER ANNA BAY OVAL)

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal (included at **ATTACHMENT 2**);
 - 2) Forward the Planning Proposal to the NSW Department of Planning and Infrastructure under section 56 in the Environmental Planning and Assessment Act 1979 with a request for a Gateway Determination;
 - 3) Request a Written Authority to Exercise Delegation under section 59 of the Environmental Planning and Assessment Act 1979 to make the draft local environmental plan.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Bruce MacKenzie Councillor Ken Jordan
	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, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Morello and Sally Dover.

Those against the Motion: Cr John Nell.

MOTION

137	Councillor Ken Jordan Councillor Paul Le Mottee
	It was resolved that the Committee of the Whole 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, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Morello and Sally Dover.

Those against the Motion: Cr John Nell.

Cr John Nell recorded his name against the resolution.

BACKGROUND

The purpose of this report is to seek Council's support for the request to prepare a Planning Proposal on behalf of Council's Property Services Section - Corporate Services Group to reclassify the former Anna Bay Oval from community land to operational land.

Council resolved to support the request to submit a planning proposal at its meeting on 27 March 2012 as the landowner. However, consideration of the Planning Proposal as the Relevant Planning Authority, requires a separate assessment report. The subject land has been identified as being surplus to Council's needs as part of the Open Space Consolidation Review (2007).

It is proposed to amend either the Port Stephens Local Environmental Plan 2000 or the Port Stephens Local Environmental Plan 2013 (whichever instrument is in force when the plan is made) to reclassify the land from community land to operational land under the provisions of the Local Government Act 1993. The amendment will revoke the public reserve status of the land.

Proposal Details

Planning Proposal: To reclassify the former Anna Bay Oval from community land to operational land under the Local Government Act 1993 as an amendment to either the Port Stephens LEP 2000 or the Port Stephens LEP 2013 as outlined in **(ATTACHMENT 2)**.

Subject Land: Lot 10 DP 729986, 2 Jessie Road Anna Bay

Proponent: Port Stephens Council: Property Services Section - Corporate Services Group

Current Zone: Zone 6(a) General Recreation "A"

Owner: Port Stephens Council

A locality plan identifying the land and the proposed reclassification map subject to the Planning Proposal is included at **(ATTACHMENT 1)**.

The Planning Proposal prepared by *Strategy Hunter Consultants* does not identify any issues that would preclude support of the proposal. The proposal clarifies that Council does not seek to rezone the land. The existing 6(a) General Recreation 'A' zone permits a broad range of land uses that are yet to be explored by Council.

The planning proposal has been updated to reference the Draft Port Stephens Local Environmental Plan 2013 (final version adopted by Council on 26 March 2013) as this draft LEP was not exhibited before the original planning proposal was prepared. The draft LEP adopts Zone RE1 Public Recreation for the subject land.

The Anna Bay Pony Club (who occupies part of the site under existing licence arrangements) will be specifically consulted as part of the public exhibition process. The remainder of the site is largely unused.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal will be processed using fees collected under the current Fees and Charges Schedule. Stage 1 fees totalling \$37,800 have been paid by Council's Corporate Services Group. Stage 2 fees will be levied post-Gateway Determination.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		LEP Amendment Fees & Charges Schedule

LEGAL, POLICY AND RISK IMPLICATIONS

The Planning Proposal will be processed in accordance with the plan making procedures in the Environmental Planning and Assessment Act 1979 and LEP Practice Note Practice Note PN 09-003.

Local Government Act 1993

Reclassification of the land from community land to operational land under the Local Government Act 1993 will allow Council to explore options to develop the land for other land uses that are permissible in the current 6(a) General Recreation 'A' zone, without being constrained to use the land for a community purpose as required with the public reserve status of the land and its associated community land classification.

Section 117 Ministerial Direction 6.2 – Reserving Land for Public Purposes

This Direction requires the approval of the Director-General of the Department of Planning and Infrastructure to remove the reservation of land for a public purpose. The reclassification of the subject land from community land to operational land will involve the revocation of the public reserve status of the land. The reasons for this direction are provided in Council's adopted Open Space Consolidation Review (2007) and actioned through the Planning Proposal. Council will seek this approval as part of the plan-making process.

Council resolution 27 March 2012

The planning proposal actions the resolution of Council as landowner from its meeting on 27 March 2012 to submit a request to reclassify the subject land.

Port Stephens Local Environmental Plan 2000

The proposal seeks to amend the Port Stephens Local Environmental Plan 2000 by inserting the following into Part 2 of Schedule 1 as identified on the relevant land reclassification map as "operational land" (**ATTACHMENT 1**).

Schedule 1 Classification and reclassification of public land**Part 2 Land classified, or reclassified, as operational land—interests changed**

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Anna Bay, 2 Jessie Road	Lot 10, DP 729986 as shown edged heavy black on the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No. XX)."	Nil

Port Stephens Local Environmental Plan 2013

Should the Port Stephens LEP 2013 be in force prior to the finalisation of this planning proposal, then this LEP will be amended by inserting the text above into Part 2 in Schedule 4. A new Land Reclassification Map layer (RPL series) will also be required to be included in this LEP. The site will be identified as "operational land" on the Land Reclassification Map.

Use of delegation under s59 of EPAA to prepare draft LEP

It is proposed to request use of Council's delegation to prepare the draft local environmental plan. This delegation (should it be granted) will expedite the plan-making process by allowing Council to write the legal draft environmental plan following the exhibition process.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Planning Proposal will be rejected at the Gateway Determination.	Low	Ensure that the relevant planning issues are addressed in the Planning Proposal. To this end, the Planning Proposal has been updated to include reference to the Port Stephens LEP 2013.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The earlier Council report in March 2012 identified that the subject land is surplus to the open space requirements of Council and is largely unused. Reclassifying the land will provide Council with the opportunity to explore opportunities for the use of this land that will have greater benefit for the community.

CONSULTATION

A two way conversation was held with Councillors on the 23 August 2011 regarding the reclassification and rezoning of Council owned land. This was to determine any sites of concern or that they wanted to revisit. Anna Bay Oval (2 Jessie Road, Anna Bay) formed part of the presentation. At the time, Councillors had no concerns with that site and did not want to visit it. Another two way conversation was held on the 21 February 2012 only on Anna Bay Oval where a number of proposed uses for the site were tabled for consideration by Councillors.

Further Community consultation has already occurred with relevant stakeholders as reported to Council in the March 2012 report. This consultation will continue during the plan-making process.

The Anna Bay Pony Club (who currently occupies part of the site through a licence arrangement) will be specifically consulted.

Council has not identified any government agencies or authorities to be consulted in relation to this planning proposal. Council will consult with any agencies identified in the Gateway Determination.

The public exhibition process will be conducted for 28 days in accordance with the relevant provisions in the Environmental Planning and Assessment Act 1979, section 5.5.2 in the Department's publication "*A guide to preparing local environmental plans*" (April 2013) and the Department's LEP Practice Note PN 09-003. A public hearing will be conducted after the close of the public exhibition period in accordance with section 57(6) in the Act.

OPTIONS

- 1) Adopt the recommendation in this report to submit the Planning Proposal to the NSW Department of Planning and Infrastructure with a request for a Gateway Determination;
- 2) Amend one or more of the provisions in the Planning Proposal prior to submitting the Planning Proposal to the NSW Department of Planning and Infrastructure with a request for a Gateway Determination;
- 3) Reject the recommendations in this report and not proceed with the Planning Proposal. In this instance, the subject site will remain largely unused and present as a cost burden to Council and Council's resolution to reclassify the land will not be achieved.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Locality Plan and Reclassification Map – 2 Jessie Road, Anna Bay;
- 2) Planning Proposal (02 May 2013).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

FILE NO: PSC2006-1515

PLANNING PROPOSAL – WAROPARA ROAD, MEDOWIE

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 or the draft Port Stephens Local Environmental Plan 2013 (whichever plan is in force at the time the Planning Proposal is made) to change the minimum lot size at Lot 10 DP 1051742, No 8 Waropara Road, Medowie from 1ha to 1000m² as outlined in **(ATTACHMENT 1)**;
- 2) Submit the Planning Proposal to the Minister under section 56 of the Environmental Planning and Assessment Act 1979 for a Gateway determination; and
- 3) Request Written Authorisation to Exercise Council's Delegation in the making of the draft Local Environmental Plan under section 59 of the Environmental Planning and Assessment Act 1979.

ORDINARY COUNCIL MEETING – 28 MAY 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Geoff Dingle Councillor Peter Kafer
	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, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

MOTION

138	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole 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, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the Planning Proposal (ATTACHMENT 1) which seeks to amend the Port Stephens Local Environmental Plan 2000 or the draft Port Stephens Local Environmental Plan 2013 (whichever is in force at the time of the making of this plan). The Plan aims to amend the minimum lot size applying to part of the land to allow future subdivision in accordance with the Medowie Strategy.

Proposal details

Planning Proposal:	To amend the minimum lot size affecting part of the land
Subject land:	Lot 10 DP 1051742, No. 8 Waropara Road, Medowie
Existing Zone (LEP 2000):	1(c3) – Rural Smallholdings (1 hectare)
Proposed Zone (LEP 2013):	R5 Large Lot Residential
Current lot size:	1 hectare
Proposed lot size:	1000m ²
Proponent:	Carman Surveyors
Owner:	Cherlim Pty Ltd and Paxria Pty Ltd

Council has been requested to prepare a planning proposal over Lot 10 DP 1051742, No. 8 Waropara Road, Medowie to amend the minimum lot size applying to part of the site, from 1ha to 1000m². The proposal will potentially facilitate the creation of approximately 20 new lots (**ATTACHMENT 1**).

The Planning Proposal will be implemented by amending the draft Port Stephens Local Environmental Plan 2013 Minimum Lot Size map. The current 1(c3) Zone (LEP 2000) and R5 Zone (draft LEP 2013) will be retained.

Should the Port Stephens LEP 2000 still be in force at the time that this Planning Proposal is made, provisions relating to the specific land will be introduced to the Port Stephens Local Environmental Plan 2000 to permit a minimum allotment size of 1000m² as follows:

"This clause applies to Part of Lot 10 DP 1051742 and zoned 1(c5) Rural Small Holdings.

For the purposes of Clause 13(1) of this Plan, the consent authority may grant consent to the subdivision of the land to a minimum allotment size of 1000 square metres."

The Planning Proposal is generally consistent with the Medowie Strategy and excludes development on part of the subject site that is flood prone and comprises koala habitat.

The zone and minimum lot size applying to the remaining area of the site will be investigated during the progression of the Planning Proposal. Additional information, particularly regarding flooding and koala habitat, is required to determine the most appropriate treatment for that part of the site. It is anticipated that this part of the site will have a dwelling entitlement with limited subdivision potential.

The proponent originally sought to amend the minimum lot size of the entire site from 1ha to 2000m². However, the Planning Proposal was amended in consultation with the proponent, having regard to the flooding and vegetation constraints, and to comply with the Medowie Strategy. The minimum lot size of 1000m² is an appropriate outcome for the site and is consistent with surrounding rural residential development. Discussions have been held with the proponent, who is satisfied with this outcome.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal will be progressed using rezoning fees.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	\$12,150	Stage 1 and 2 rezoning fees

LEGAL, POLICY AND RISK IMPLICATIONS

Environmental Planning and Assessment Act 1979 (EP&A Act)

The Planning Proposal is to be progressed in a manner consistent with statutory requirements set out in the Environmental Planning and Assessment Act and the NSW Department of Planning and Infrastructure policy requirements.

In accordance with the EP&A Act, the Planning Proposal will be submitted to the Department of Planning and Infrastructure for a Gateway determination should Council resolve to endorse the planning proposal. The Gateway determination may specify additional information that the proponent must submit to Council and prior to exhibition of the planning proposal, including the site specific drainage solution, and a revised Koala Impact Assessment. The gateway determination will also specify any government agency consultation and public exhibition requirements.

State Environmental Planning Policies

There are no existing or draft SEPPs that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in **(ATTACHMENT 1)**. Further investigation is required to satisfy the following SEPP:

SEPP 44 – Koala Habitat Protection

A Koala Habitat Assessment was undertaken in accordance with Port Stephens Koala Comprehensive Plan of Management. However, it does not address the performance criteria for rezonings and will need to be amended subject to the gateway determination.

S117 Ministerial Directions

An assessment of relevant s.117 Directions against the planning proposal is provided in **(ATTACHMENT 1)**. There are no s.117 Directions applying to the land that prohibit or restrict the proposed development. Further investigation is required to satisfy the following s.117 direction:

2.2 Heritage Assessment

An Aboriginal Archaeological and cultural heritage Impact assessment has not been undertaken on the site. It is anticipated that the Worimi Local Aboriginal Land Council will be consulted on this matter.

There are no items of European heritage situated on the land.

4.3 Flood Prone Land

The area of the site that is flood prone land will retain its current lot size. The Planning Proposal is therefore consistent with this Direction.

Lower Hunter Regional Strategy

Medowie is identified as a new urban release area in the Lower Hunter Regional Strategy. The Planning Proposal is consistent with the LHRS.

Port Stephens Planning Strategy 2011

The Planning Proposal is consistent with the PSPS which identifies the site for 'Potential Future Residential' development.

Medowie Strategy

The Planning Proposal is consistent with the Medowie Strategy, which identifies the site for residential development. The site is located within the "Waropara Neighbourhood", with future development aimed at complimenting the two schools in the neighbourhood.

Land surrounding the subject site is generally large lot residential development, with lot sizes of approximately 8,000m². The Medowie Christian School adjoins the site to the south. The Medowie Strategy identifies the subject site with a range of lot sizes, from 'standard residential (500m² – 600m²)' to 'Environmental Living' and 'Rural Smallholdings (1000m² – 1500m²)'. The Planning Proposal seeks to average the lot sizes of those identified in the Strategy to 1000m², given the surrounding large lot development and the constraints of the site.

The zone and minimum lot size applying to the remaining area of the lot will be investigated in the progression of the Planning Proposal. Additional information, particularly regarding the koala habitat, is required to determine the most appropriate treatment for that part of the site. It is anticipated that this part of the site will have a dwelling entitlement with limited subdivision potential.

Medowie Drainage and Flood Study 2012

Medowie falls within the Campvale and Moffats Swamp catchments. Some areas in these catchments are subject to inundation by flooding in relatively small flood events (1Y to 5Y ARI). A further complication is that the Campvale catchment is a drinking water supply catchment and so drainage solutions need to consider water quality impacts.

As part of the floodplain management process for the Campvale and Moffat's Swamp catchment areas, which are managed by Council, the Medowie Flood Study has been prepared in order to determine the extent and nature of the current flood problem. The Medowie Drainage and Flood Study 2012 represents the first stage of the floodplain management process for these catchments.

The subject Lot is located in the Campvale inundation area, which is very sensitive. Residents are affected by prolonged storm events and run off from upstream developments. The catchment is landlocked with restricted outlet capacity.

Until such time that a catchment-wide solution is determined (the next stage of the Medowie Drainage and Flood Study 2012), a site specific solution with a drainage and flooding strategy for the proposal is required. Given the nature of the catchment area and having regard for the Medowie Drainage and Flood Study, consideration of a 72 hour event is required to avoid downstream effects.

The Planning Proposal's relationship to existing planning policies is contained in **(ATTACHMENT 1)**.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that flooding impacts on downstream properties	Low	A site specific drainage solution, that considers the 72hr event, is required to be undertaken by the proponent to ensure that there is no adverse flooding impacts on downstream properties	Yes
There is a risk of flooding	Low	The planning proposal does not seek to amend the planning controls relating to the portion of the lot that comprises of flood prone land.	Yes
There is a risk of flora and fauna impacts	Low	The planning proposal does not seek to amend the minimum lot size on land comprising of koala habitat and significant vegetation. It is likely that the proponent will need to amend the Koala Impact Assessment undertaken for the site to address Council's Comprehensive Koala Plan of Management.	Yes
There is a risk that neighbouring residents may have concerns with the proposed 1000m ² minimum lot size applying to the subject land.	Low	In accordance with the legislated process and the gateway determination, community consultation on the planning proposal will be undertaken. Any views expressed in submissions will be considered in the progression of the planning proposal.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal has been prepared with respect to the Port Stephens Planning Strategy and the Medowie Strategy. The Planning Proposal will assist in the provision of housing stock in the area and support Medowie's retail and community services.

Further studies are required in order to determine the environmental implications of the Planning Proposal. These additional studies will be requested should the Planning Proposal be supported at the Gateway.

CONSULTATION

Internal Consultation has been undertaken as detailed below:

Natural Resources

The ecological assessment undertaken for the site is sufficient to progress the planning proposal to the Gateway. However additional ecological assessment, including addressing the performance criteria for rezoning proposals of Council's Comprehensive Koala Plan of Management, is needed to progress the planning proposal should it be supported at the Gateway.

Further, only the western part of the lot is supported as the eastern side is flood prone and contains Preferred Koala Habitat.

Planning Comment

The request by the applicant (which sought to amend the minimum lot size over the entire lot) has been reviewed to reflect this advice so that the area subject to the amended minimum lot size avoids Preferred Koala Habitat, is outside of the flood prone area and is consistent with the Medowie Strategy.

The proponent has been advised and is satisfied with this outcome.

Engineering

The site is located in the Campvale inundation area, which is very sensitive. Residents are affected by prolonged storm events and run off from upstream developments. The catchment is landlocked with restricted outlet capacity.

A site specific solution with a drainage and flooding strategy for the proposal (such as an on-site retention pond that would retain the additional stormwater run-off from the development for long periods to allow a slow release that will not increase flood inundation times downstream of site) is required. Given the nature of the catchment area, a 72 hour event needs to be considered.

Planning Comment

It is anticipated that the Gateway determination will require additional flooding and drainage studies to ensure that a site specific solution is developed by the proponent.

The proponent will be required to satisfy Council that their site specific drainage solution addresses the 72 hour event prior to the Planning Proposal being further progressed.

State Agency consultation

Consultation with State Agencies will be undertaken in accordance with the Gateway Determination. It is anticipated that the Office of Environment and Heritage, Rural Fire Service, Worimi Local Aboriginal Land Council and the Hunter Water Corporation will be consulted with in the progression of the Planning Proposal.

Community consultation

In accordance with Part 4.5 of Department of Planning and Infrastructure's '*A guide to preparing local environmental plans*', an exhibition period of 28 days is considered appropriate.

Exhibition material will be on display at Council's administration building located at 116 Adelaide Street, Raymond Terrace between the hours of 8:30am to 5:30pm Monday to Friday. The exhibition material will also be made available on Council's website and at Council libraries.

Any further consultation shall be indicated within the Gateway Determination.

OPTIONS

- 1) Adopt the recommendations of this Report to submit the Planning Proposal to the Department of Planning and Infrastructure requesting a Gateway determination to enable further investigation and consultations to occur;
- 2) Amend one or more of the provisions of the Planning Proposal prior to submitting the Planning Proposal to the Department of Planning and Infrastructure for a Gateway determination; or
- 3) Reject the recommendations of this Report and not proceed with the rezoning process. This may impede Council's ability to deliver housing in accordance with the Lower Hunter Regional Strategy and the Medowie Strategy.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Planning Proposal.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4**FILE NO: A2004-0217****PUBLIC EXHIBITION OF REPEALED SECTION 94 PROJECTS ADOPTED 12 FEBRUARY 2013**

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the allocation of Repealed Section 94 funds as nominated in the Notice of Motion from the Council Meeting held 12 February 2013 as listed below:
 - a. Disability Access to the Nelson Bay Croatian Fisherman's Sport Club Bocce \$6,000;
 - b. Tomaree Ovals lighting upgrade \$25,000;
 - c. Retrofit of Banner Poles and Upgrade of seating in Nelson Bay – Nelson Bay and District Chamber \$15,000;
 - d. Completion of cycleway link from Kirrang Drive, Campvale underpass and Yulong Oval including drainage repairs \$20,900;
 - e. Replacement of Fern Bay Community Centre children's playground \$20,000
 - f. Upgrade of Raymond Terrace Skate Park \$20,000;
 - g. Design and build a fitness track in Boomerang Park \$10,000;
 - h. Installation of irrigation at No. 3 Oval at Lakeside Football Fields \$22,000.

ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION

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

MOTION

139	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to consider the public exhibition of the proposed allocation of Repealed Section 94 funds in accordance with the Notice of Motion from the Council Meeting held on the 12th February 2013.

At the Council Meeting held on the 12th of February 2013, Council resolved to allocate Repealed Section 94 funds to the following projects:

- a. Disability Access to the Nelson Bay Croatian Fisherman's Sport Club Bocce \$6,000;
- b. Tomaree Ovals lighting upgrade \$25,000;
- c. Retrofit of Banner Poles and Upgrade of seating in Nelson Bay – Nelson Bay and District Chamber \$15,000;
- d. Completion of cycleway link from Kirrang Drive, Campvale underpass and Yulong Oval including drainage repairs \$20,900;
- e. Replacement of Fern Bay Community Centre children's playground \$20,000
- f. Upgrade of Raymond Terrace Skate Park \$20,000;
- g. Design and build a fitness track in Boomerang Park \$10,000;
- h. Installation of irrigation at No. 3 Oval at Lakeside Football Fields \$22,000.

The Local Government Act 1993 requires the allocation of these funds to be publically exhibited for a period of 28 days. The funds were exhibited from 7 March 2013 to 3 April 2013 for an exhibition period of 28 days. No submissions were received.

FINANCIAL/RESOURCE IMPLICATIONS

Funding will come from repealed Section 94 funds.

Source of Funds	Yes/ No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	Yes	\$138,900	Funding from Repealed Section 94 - \$450,000
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council received advice from Lindsay Taylor Lawyers specifically in relation to the expenditure of Repealed Section 94 funds. In summary, the legal requirement around the expenditure of repealed funds allows some flexibility for the allocation of these funds as opposed to funds collected under the current contributions plans. Therefore the allocation of repealed S94 funds is legal.

The exhibition period has been completed within the requirements of the Local Government Act and was placed on exhibition for 28 days as required.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the allocation of Repealed Section 94 funds in this manner may draw heightened public criticism therefore reputation danger.	Low	Exhibit the proposed allocations of funds in accordance with the local Government Act to disclosed the nature of spending for community comment.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

By adopting the recommendation, Council will be providing funding to contribute to community and recreation infrastructure. The allocation of these funds will:

- a. Match other sources of funds and allow some projects listed to be completed outright; and
- b. Provide seed funds for other projects to enable plans and matching grant funding to be pursued.

CONSULTATION

The proposed list of projects was exhibited publically for 28 days. No submissions were received. Internal consultation also occurred with the Section 94 Analysis Team.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the list of projects and or funding allocation. The amends to the list would require exhibition and report back to Council;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Notice of Motion – Allocation of Repealed Section 94 Funds – 12 February 2013.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Notice Of Motion – Allocation of Repealed Section 94 Funds – 12 February 2013

ORDINARY COUNCIL – 12 FEBRUARY 2013

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 +
PSC2012-01190

ALLOCATION OF REPEALED SECTION 94 FUNDS

COUNCILLOR: NELL, DINGLE, KAER

THAT COUNCIL:

- 1) Allocate repealed Section 94 Funds to the following projects

Project Details	Sect 94 funds allocated
(a) Disability Access to the Nelson Bay Croatian Fisherman's Sports Club Bocce	\$6,000
(b) Tomaree Ovals lighting upgrade	\$25,000
(c) Retrofit of Banner Poles and Upgrade of Seating in Nelson Bay - Nelson Bay and District Chamber	\$15,000
(d) Completion of cycle way link from Kirrang Drive Campvale underpass and Yulong Oval including drainage repairs	\$20,900
(e) Replacement of Fern Bay Community Centre children's playground	\$20,000
(f) Upgrade of Raymond Terrace Skate Park	\$20,000
(g) Design and build a fitness track in Boomerang Park	\$10,000
(h) Installation of Irrigation at no. 3 oval at Lakeside Football Fields	\$22,000
Total	138,900

PORT STEPHENS COUNCIL

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ORDINARY COUNCIL – 12 FEBRUARY 2013

**BACKGROUND REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING &
ENVIRONMENTAL SERVICES MANAGER**

BACKGROUND

Recently Council obtained legal advice from Lindsay Taylor Lawyers specifically in relation to the expenditure of repealed Section 94 funds. In summary, the legal requirements around the expenditure of repealed funds allows some flexibility for the allocation of these funds as opposed to funds collected under the current contributions plans.

The proposed allocation of repealed funds for the projects listed in this Notice of Motion align with Council's existing asset renewal program and are located on Council owned/managed land. As a result, the above project allocation is consistent with the legal requirements.

These projects have not been fully costed at this stage. Additional sources of funding may be required for a number of these including grant funding and contributions to works.

ITEM NO. 5

FILE NO: PSC2008-4274

WILLIAMS & HUNTER RIVERS BANK EROSION MONITORING STUDY 2009-2011

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the "Williams & Hunter Rivers Bank Erosion Monitoring Study 2009-2011" and forward copies of the report to NSW Maritime for their consideration;
- 2) Provide a copy of the report to the Minister for Roads and Ports, the Honourable Duncan John Gay MLC, and ask them to implement the report.

ORDINARY COUNCIL MEETING – 28 MAY 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Ken Jordan Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

140	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the *"Williams and Hunter Rivers Banks Erosion Monitoring Study 2009-2011"*. This was a jointly funded program between, Port Stephens Council, Maitland City Council and the Hunter Central Rivers Catchment Management Authority. Port Stephens Council has been facilitating river bank erosion monitoring in the lower Williams River between Raymond Terrace and Seaham since 2004 and the Hunter River between Morpeth and Raymond Terrace since 2009. This was in response to escalating concern from the farming community as to the perceived increase in bank erosion rates as the

popularity of "slow tow" activities such as wake boarding increased. Council was receiving numerous complaints from both new and long-term farmers that bank loss was increasing dramatically with some areas losing several metres.

Past studies by GHD, the Hunter Central Rivers Catchment Management Authority and WorleyParsons have highlighted that slow tow activities are a major contributing factor to river bank erosion rates. In response to the recommendations of the initial GHD report '*Williams River Bank Erosion Study 2006*' and threats to the levy system the Roads & Maritime Services introduced "No Slow Tow" zones in the most fragile areas of the Williams and Hunter Rivers. Originally the "No Slow Tow" zone established in the Williams River was a three year trial between 2007 and 2010. Upon the findings of the WorleyParsons report '*Williams Riverbank Erosion Study*' in 2010 Port Stephens Council requested that the restrictions be retained. Roads & Maritime Services subsequently extended the timeframe to 2013.

The purpose of the latest study is to review the effectiveness of the William River 'No Slow Tow' zone, compare erosion rates within the Lower Williams River with those in the Hunter River and generate recommendations for the future management of these two stretches of river. The report represents a culmination of data collected from 28 points across the two river systems. It gives a clear indication that erosion rates within the Williams River "No Slow Tow" zone have reduced and the banks are showing signs of recovery. In addition the increased bank fragility caused by boat wake was observed to exacerbate the erosion experienced during flood events.

The following points are a summary of the reports recommendations; please refer to the map shown in attachment 1 for the location of monitoring sites.

The 'No Slow Tow' restriction that applies to the Williams River should be retained;
The 'No Slow Tow' Zone along the Williams River should be extended to include Site 5;
The 'No Wash' restriction along the Hunter River should be extended from Site 2 to a location upstream of Site 8;
A full river cross-section survey should be undertaken at the sites along the Hunter River with the highest erosion rates to determine whether bed erosion is contributing to bank stability;
The amount of wake boarding and water skiing along both rivers should be investigated to identify the most popular areas for these activities. When combined with the results of erosion assessment data the findings should determine the sustainability of wake boarding at these locations.

Points 1, 2, 3 and 5 are the responsibility of Roads & Maritime Services. This report will be sent to Roads & Maritime Services for their consideration following Councils Adoption.

Council will refer point 4 to the Hunter Central Rivers Catchment Management Authority for consideration.

As this most recent report and others have highlighted, if the existing restrictions are removed the banks will again be subject to significant erosion rates resulting in the

loss of valuable land, sedimentation of our water waterways and the loss of natural aquatic habitat.

This work addresses section 3.4 of Councils Delivery Program.

It should be noted that while the study was undertaken from 2009 to 2011 the report was only finalised in 2012.

FINANCIAL/RESOURCE IMPLICATIONS

Apart from officer time participating in any regional working groups there are no other resource implications from this report as the majority of the recommendations are the responsibility of Roads & Maritime Services. Officer time has already been allocated to this program.

Ongoing monitoring of the established bank monitoring points is not considered necessary as enough evidence has been collected as to the major influences of erosion on this river system. One off monitoring may be considered to assess the impact of a major flood event.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$5,000 - \$10,000	Staff time as required, within existing budget
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk implications relating to the Report are outlined below:

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Roads & Maritime Services will not act on the report	Medium	Lobby the Minister for the report to be implemented	Yes
There is a risk that the community continues to believe that Council is the responsible authority to resolve the issue	Medium	Continue to educate the community on land management techniques to reduce erosion and refer them to Roads & Maritime Services for boating management issues.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Port Stephens Council participates in and supports effective catchment management. Erosion along our alluvial river systems such as Williams and Hunter Rivers is both an economic, environmental and a social concern for its numerous landholders, river users and management authorities. Over the project period some areas have experienced over 2m of bank loss.

As the major contributing factor to riverbank erosion is boat usage, primarily slow towing activities, this must be effectively managed to ensure the sustainability of the river system. The information generated by this report and those previous will be provided to Roads & Maritime Services to appropriately plan the boating management for the area. This will allow river users to enjoy the river without adversely affecting property owners and the environment.

Port Stephens Council currently has Environmental Trust funding available to assist landholders to fence and revegetate their river banks. This program is due for completion in December 2013. This combined with the ongoing boating restrictions represents the best management outcome for the long-term stability of the river.

CONSULTATION

This document is restricted to the analysis of monitoring data, and its conclusions are not within Port Stephens Council's jurisdiction to implement, thus community consultation is not deemed as necessary for this report.

The study was jointly funded by Port Stephens Council, Maitland City Council and the Hunter Central Rivers Catchment Management Authority. The draft report was reviewed by all parties.

OPTIONS

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

ATTACHMENTS

- 1) Hunter & Williams River Monitoring Sites.

COUNCILLORS ROOM

- 1) Williams & Hunter Rivers Banks Erosion Monitoring Study 2009-2011.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
HUNTER & WILLIAMS RIVER MONITORING SITES



Hunter River Monitoring Points



1:25,000

Williams River Monitoring Points

ITEM NO. 6**FILE NO: PSC2009-02163****ELEVATOR REFURBISHMENT WORKS AT COUNCIL OWNED INVESTMENT PROPERTY, 437 HUNTER STREET, NEWCASTLE****REPORT OF: CARMEL FOSTER – PROPERTY SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the quotation received for the upgrade works of the passenger lift, 437 Hunter Street, Newcastle which has been received from the elevator system manufacturers, Otis Elevator Company Pty. Ltd.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor Sally Dover
	That the recommendation be adopted.

MOTION

141	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to recommend to Council to endorse the quotation received in respect of the upgrade works required which has been received from the elevator system manufacturers, Otis Elevator Company Pty. Ltd ('Otis') In accordance with Council resolution 110 on 23 April 2013.

As previously advised to Council, the works proposed represent a significant undertaking to improve the reliability of the elevators which service the building and also to improve the safety of both passengers and contractors servicing the elevators cars, systems and shafts. In recent days we have again had an event where two persons were trapped for a period of time in one of the lifts after it stopped

unexpectedly between floors. This has happened now on two occasions over a two year period.

In accordance with the resolution, a tender process was not undertaken in respect to these works. Due to the potential for liability and reputation risk, elevator manufactures do not service other manufacturer's infrastructure and competing firms only provide quotations for complete replacement of their infrastructure, not refurbishment. The replacement of the vertical transport system would be economically unfeasible and is unwarranted at this time.

FINANCIAL/RESOURCE IMPLICATIONS

Funding for the project is secured through Council approved capital expenditure budget.

In 2009 Council engaged Assetera Pty. Ltd to prepare an asset condition report and life cycle costing projections for Council's key investment property assets. At this time the lift upgrade project was costed at \$173,000. The current quotation is only slightly more expensive at \$178,400 however, also includes significant safety upgrade works now required as a result of new legislation and which were not previously required in 2009. The total is still within the Council approved capital budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$178,400	Included in the Council approved capital budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The quotation has been received from the elevator system manufacturer and not through the tender process in accordance with the previous resolution adopted by Council; therefore there are no Legal or Policy risks arising.

Other risks are set out hereunder;

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of potential injury to service personnel or others.	High	Adopt the recommendation.	Yes

There is a risk of erosion of the current income stream (in excess of \$650,000 net operating) and erosion of the capital value of the asset over the shorter to medium term (up to 5 years) with (State Government) tenants potentially becoming motivated to move to other premises with more modern facilities.	Medium	Adopt the recommendation.	Yes
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Endorsement of the quoted works will result in the following outcomes:

- 1) Improved reliability;
- 2) Considerable energy savings through providing modern drive technology;
- 3) Maintaining the attractiveness as a rental proposition to the market;
- 4) Prevent further erosion of the capital value of the asset over the short to medium term;
- 5) Protection of the cash flow stream;
- 6) Provision of an elevator system that is compliant with current legislation including Disability Discrimination Act, the Work Health and Safety Act and Regulations, and the Building Code of Australia.

CONSULTATION

Consultation in this matter has been sought from both internal and external sources:

- 1) Assetera Pty. Ltd. (external asset consultants);
- 2) Property Services Manager;
- 3) Property Investment Coordinator;
- 4) Facilities Officer;
- 5) Otis Elevator Company Pty Ltd.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

FILE NO: PSC2009-02163

**BUILDING MANAGEMENT SYSTEM WORKS FOR ADMINISTRATION
BUILDING HVAC UPGRADE PROJECT****REPORT OF: CARMEL FOSTER – PROPERTY SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) In accordance with Section 55 (3) (i) of the Local Government Act 1993, accept a proposal and quotation for the "Controls" component of the Heating Ventilation And Cooling ('HVAC') system upgrade for the Council Administration Building from Dalkia Energy Solutions as detailed in this report.
 - 2) The reason for this decision is due to the fact that we are in a position where the replacement of the entire system is not warranted and we can therefore only use the existing provider to upgrade the existing system.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Ken Jordan
	That the recommendation be adopted.

MOTION

142	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to recommend to Council to endorse the quotation received by Dalkia Energy Solutions in respect of the Controls component works for the Administration Building Heating Ventilation And Cooling ('HVAC') upgrade project.

On 9 April 2013, Council endorsed Church Air Conditioning and Refrigeration Pty Ltd as the successful tenderer for the staged upgrade of the HVAC systems at the

Raymond Terrace Administration Building. The tender as taken to market was for the mechanical upgrades (not including the Controls component) of the project.

The Controls component is an upgrade of the existing Building Management System ('BMS'). The BMS is a specialist subsystem which is comprised of sensors, detectors, controllers and a computer software system interfaced with the mechanical systems allowing the building manager/contractor to control the system and to receive reporting and to provide remote access as and when required.

This BMS system in the Administration building is of 'Trend' manufacture, supplied and installed by Dalkia Energy Solutions. Trend offer a highly developed system and are renowned as the largest supplier of such equipment in the UK and Europe. The existing system is representative of a quality installation and has been performing its function (interfaced to the now almost obsolete mechanical components) for over 10 years. A point of vital note is that Dalkia Energy Solutions are the only authorised Trend Controls accredited and authorised distributor in Australia.

In discussions with the project consultants, Optimal Consulting prior to going to tender it was agreed to exclude the controls component from the scope of the tender as this subsystem did not require replacement but only refurbishment in order to be interfaced with the new mechanical components. By including the BMS within the scope of the tender Council would have been exposed to significant cost increases over what the consultants advised because the tenderer would have added profit and overhead, an additional cost estimated to be to the order of \$15,000 - \$20,000. In addition, those tenderers other than Dalkia Energy Solutions would have had to quote for total replacement of the BMS to interface with their respective mechanical products.

The Administration Building HVAC upgrade project has been scoped to re-use the existing Trend BMS systems, which takes advantage of Council's existing capital investment.

As it is not possible to simply change the BMS system or integrate another manufacturer's equipment, the only alternative would be to replace the existing BMS with a complete new system.

On review of the proposal and given the pricing provided by Dalkia Energy Solutions to upgrade the BMS (\$117,998) it was considered prudent to go through standard procurement process and seek the request for quotation with at least three (3) suppliers. However, given the matters outlined above; the fact that only Dalkia Energy Solutions are able to provide an upgrade as distinct from replacement of the system and others would only be able to provide a total replacement option this would mean significant increases over the projected costs of the project.

Subsequent to receiving the upgrade proposal for the BMS and in light of the above information, a further proposal was sought from Dalkia Energy Solutions to provide a total replacement system as distinct from the planned upgrade. This proposal was received at \$178,660 Plus GST. The independent report from the project consultants Optimal consulting is attached hereto and puts forward the opinion that this quote is

very conservative with recently obtained pricings by Optimal for similar projects coming in at around \$264,000 by providers other than Trend.

FINANCIAL/RESOURCE IMPLICATIONS

Funding for the project is secured through Council approved capital expenditure budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$117,988	Included in the Council approved capital budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 55 of the Local Government Act sets out the requirements for Council to follow in respect of tenders. Section 55 deals with a wide and varied range of matters pertaining to tenders Council undertakes in the normal course to carry out the business of Council.

Relief is provided under Section 55 of the Act in certain circumstances and specifically s. 55 (3) (i) states:

- *This Section does not apply to the following contracts:*
 - (i) *a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenders, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.*

Other risks are set out hereunder;

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of potential significant additional capital expenditure to Council and exposure to cost overruns in respect of the Mechanical	High	Adopt the recommendation.	Yes

services contract as a result of seasonal/project delay.			
--	--	--	--

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Endorsement of the quoted works will result in the following outcomes:

- 1) Avoid delay in carrying out necessary upgrade works which are within the current budget.

CONSULTATION

Consultation in this matter has been sought from both internal and external sources:

- 1) Property Services Manager;
- 2) Property Investment Coordinator;
- 3) Facilities Officer;
- 4) Dalkia Energy Solutions;
- 5) Optimal Consulting Engineers.

OPTIONS

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

ATTACHMENTS

- 1) Quotation received from Dalkia Energy Solutions;
- 2) Optimal Consulting Engineers report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

PORT STEPHENS COUNCIL

Report:

Building Management System
Administration Building and Council Chambers
116 Adelaide Street Raymond Terrace

April 2013



OPTIMAL Consulting Engineers Pty Ltd
7 Mulloka Road
Mirrabooka, NSW 2264



Telephone: 02 49 733 102
Facsimile : 02 49 732 693
Email: rewalsh@bigpond.net.au

REPORT:

Mr. Bernd Kirchhoff, Port Stephen's Councils Facility Officer has requested Optimal provide a report on the BMS (Building Management System) offers from Trend / Dalkia for Council's consideration.

Building Management:

Over the past 20 years with the rise of sophisticated computer technology the 'management' of buildings has grown exponentially. This technology offers such benefits as:

- Centralised time scheduling – In Council's Administration building the 15 air conditioning systems can be turned on and off individually to suit weekends / holidays assuring that units don't run when not required.
- Air conditioning systems are controlled from multiple thermostats to provide best possible temperature control.
- Energy saving options are included such as carbon dioxide sensors to regulate the outside air flow to suit the occupants.
- In the event of breakdown or fault on a particular unit a fault signal is registered and an email sent to the service provider to attend site.

The System in the Administration Building:

Various companies supply and install BMS systems such as:

- Honeywell
- Siemens
- Johnston

The system in the Administration building is 'Trend' manufacture, supplied and installed by Dalkia Technical services. Trend offer a highly developed system and are the largest supplier of such equipment in UK and Europe.

The existing system is well installed and has been performing its function for over 10 years.

Application of the Existing Trend BMS with the New Air Conditioning Upgrade:

The existing Trend equipment can be integrated with the new air conditioning plant. Various changes to the wiring and new equipment is necessary as outlined in the quotation from Dalkia dated 12 March 2013 – please refer to 3.2 Inclusions:

- New Trend BMS controls as listed.
- New mains and power wiring to some of the new units (existing mains are too small due to changes in AS3000 wiring rules)
- Supply of new variable speed drives (VSD's) for the new fresh air fans.
- Wiring and installation.

It should be noted that all of the existing BMS equipment will be retained and the 'add on' items will supplement and enhance the existing systems.

Direct Quotation by Dalkia of Trend Equipment to Council:

This project is designed to re-use the existing Trend BMS systems, which takes advantage of Council's existing capital investment. It is not possible to simply change such a BMS system or integrate another manufacturer's equipment.

This is the case with all BMS systems, be they Honeywell / Siemens / Johnston / etc. It is not possible to 'tack on' a Siemens system to an existing Honeywell installation and vice – versa.

As is the situation with any BMS system the client is semi-'locked in' to the existing supplier. To offer Port Stephens Council the best price Optimal recommended that the Council purchase the BMS / Electrical system direct, rather than through the mechanical contractor who would add profit and overhead.

We estimated a saving of at least \$15,000 - \$20,000 + GST.

Acting in the Clients best commercial interest we can confirm that this is quite a 'usual and typical' arrangement which we have done with such clients as Sydney Water Corporation / Macquarie Generation / Newcastle Council in the past.

Price Comparison:

Mr. Kirchhoff has asked Dalkia / Trend the estimated cost of supplying a completely new BMS system, rather than supplementing the existing system (on the hypothetical basis that the existing system was not installed).

Refer to Dalkia Quotation 22 April 2013:	\$178,660 + GST
The 'Base' quotation from Dalkia 12 March 2013:	\$88,003 + GST
Saving to Council is (minimum):	\$90,657 + GST

Additional Items:

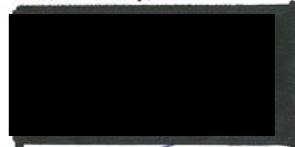
Due to the tender from the mechanical contractor Church Air Conditioning Pty Ltd, Mr. Kirchhoff has taken the opportunity to include energy saving upgrade Option 4 (installation of VSD's to the 12 split ducted units) to the 'base' quotation, with which we fully agree. This brings the total BMS+ associated electrical work to \$117,998.

Conclusion:

In our considered opinion the quotation for a 'completely new' system from Dalkia (\$178,660) is very conservative. We received a BMS quotation for a similar project recently for \$264,000 + GST. The price from Dalkia for the Trend equipment and wiring is exceptionally reasonable.

We can state with professional confidence and industry knowledge that this direct purchase arrangement is best value-for-money for Port Stephens Council. The Council's funds are being used well, and significant monies saved in the best interest of Ratepayers.

Yours faithfully,



Richard Walsh
Senior Engineer
Optimal Consulting Engineers Pty Ltd

ATTACHMENT 2



Newcastle Office

Unit 1 / 72 Munibung Rd
Cardiff N.S.W. 2285
P.O. Box 20

Telephone: (02) 4956-5001
Facsimile: (02) 4954-6883
Mobile: 0423798412

ATTENTION: Bernd

RE: Port Stephens council Admin upgrade

FROM: Ben McLaren

DATE: 22.4.13

NO. OF PAGES: 1

Bernd,

Dalkia would like to provide the following quote to supply and installation of a new complete BMS for the Port Stephens Council. The price includes the following

- New controls hardware
- New field devices
- New wiring were needed
- All Controller programming
- All Graphics programming
- New Functional description

Total Price \$178,660.00 +GST

The above price is generally in accordance with the plans and specifications supplied and is subject to regional management approval and Dalkia Technical Services Pty Ltd standard sales terms and conditions a copy of which are available upon request.

Regards,



Controls Specialist
Account Manager – Newcastle Branch

✉ [Email: bmclaren@dalkia.com.au](mailto:bmclaren@dalkia.com.au)

ITEM NO. 8

FILE NO: A2004-0742

TRANSFER OF CROWN ROADS REQUIRED TO SERVICE DEVELOPMENTS WITHIN PORT STEPHENS LOCAL GOVERNMENT AREA

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the *Planning and Transfer Protocols for Crown Roads required to service approved Developments*.
- 2) Authorise the General Manager to sign the *Planning and Transfer Protocols for Crown Roads required to service approved Developments*.
- 3) Note that following execution of the documents by the General Manager the documents will be sent to Crown Lands for endorsement and acceptance by that Department and one original returned to Council for registration on file.

ORDINARY COUNCIL MEETING – 28 MAY 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Paul Le Mottee Councillor Ken Jordan
	That the recommendation be adopted.

MOTION

143	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to recommend the endorsement and signing of the *Planning and Transfer Protocols for Crown Roads required to service approved Developments* (Transfer Protocols). The agreement is between Trade & Investment – Crown Lands (Crown Lands) and Port Stephens Council (Council) which includes 8 Key Steps (**ATTACHMENT 1**).

In 1995, Council approached the Local Government and Shires Association (LGSA) of NSW (see Attachment 2) to investigate issues surrounding the Transfer of Crown Roads to Council as required under Section 151 of the Roads Act 1993. A letter was received from LGSA after their discussions with the then Department of Land and Water Conservation – now Crown Lands.

Pursuant to Sections 150 and 151, of the Roads Act 1993, Crown Lands can transfer roads to Council without Councils consent however, with the Transfer Protocols in place it will ensure Council is aware of proposed transfers. Crown Lands transfers the road by publication in Government Gazette and Council is obliged to accept the transfer. The Transfer Protocol document has now been finalised to deal with such transfers for Council to review and if agreeable to endorse. The Transfer Protocols will give confidence to staff approving a DA making use of a Crown road eliminating considerable time taken to discuss each case with Crown Lands.

The Transfer Protocols will also reduce the number of Crown roads dedicated to Council without consultation by capturing them as they occur and this will assist both organisations. Council will benefit as the approval process for Development Application (DA), Construction Certificate (CC) and Occupation Certificate (OC), covered by Part 4 of the Environmental Planning and Assessment Act will be more efficient. Also, ensuring appropriate road construction occurs before it becomes Council's ongoing maintenance responsibility. Crown Lands will also be notified of any Crown roads required for future development in advance, which will allow them an opportunity to be part of the development.

In the past Council has borne the cost of construction and maintenance of some sub-standard public roads owned by either Crown or Council. The Transfer Protocols will avoid doubt and confusion about public roads and Council will only be responsible for Council public roads, which will now be built to appropriate standards before transfer to Council.

Item 7 of the Transfer Protocols reverses the transfer process should be approved DA not proceed within five years. The unformed road will revert to Crown Lands as owner of the Crown road. This process will be at no cost to Council, as Crown Lands will gazette the reversal.

Council has been following the processes contained within the draft Transfer Protocols document in recent times when dealing with proposed developments and road construction requirements for Crown Roads and the Protocols have been effective in managing successful outcomes.

FINANCIAL/RESOURCE IMPLICATIONS

The signing of the *Planning and Transfer Protocols for Crown Roads required to service approved Developments* will result in Council maintaining only Council public roads. Transferred roads under this Protocol will be constructed and financed by the applicant of the approved development. The ongoing maintenance of these roads can then be financed by the Facilities and Services section as part of their road maintenance schedule.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources required to issue consent conditions within existing budget and forms part of the responsibilities of the Property Officer, Development Engineer Coordinator and Development Assessment & Compliance Section Manager.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Roads Act 1993 and the Environmental Planning and Assessment Act will administer the works required. The Protocols should be followed to ensure Council is responsible for its Council public roads and Crown Land remains in control of Crown roads that service rural type agricultural holding which require minimum access.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Crown will transfer roads to Council without Council's knowledge and without consultation. The consequence of this action is that Council will have to accept roads not constructed to an acceptable standard. Council is then obliged	Medium	Endorse the Planning and Transfer Protocols for Crown Roads required to service approved Developments.	Yes

to expend unbudgeted monies to bring the roads up to an acceptable standard.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Having the Protocols in place will result in improved liaison internally between various Council staff and integrate current processes. This action will also improve communication between Council and Crown Lands. There would be no additional environmental issues related to the signing of the Protocol. There could be some financial savings to Council as maintenance funds will only be spent on Council public roads.

CONSULTATION

- 1) Property Officer;
- 2) Crown Lands Department (East Maitland);
- 3) Development Engineer Coordinator;
- 4) Civil Assets Engineer Manager, Executive Planner – Major Assessments and Policy Coordinator Senior Planner;
- 5) Development Assessment and Compliance Manager;
- 6) Building Assessment Manager;
- 7) Legal Services Manager.

OPTIONS

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

ATTACHMENTS

- 1) Planning and Transfer Protocols for Crown Roads required to service approved Developments;
- 2) Letter – Local Government & Shires Association (dated 25/09/1995).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



**PLANNING & TRANSFER PROTOCOLS FOR CROWN ROADS
REQUIRED TO SERVICE APPROVED DEVELOPMENTS**

Agreed road transfer protocols between Trade & Investment – Crown Lands (Crown Lands) and Port Stephens Council (Council).

Background:

1. Crown roads are generally referred to and known as “paper roads”. They provide limited access in a natural terrain/unconstructed form. The emphasis on Crown roads administration is to maintain the continuity of legal public road access.
2. Incremental traffic generating development is a key influence on the construction, use and maintenance of Crown roads within the council area. Council’s development consent role regarding public road access and infrastructure planning are integral to this process. Demand for formed road access is predominantly generated by development consent (for example, the progressive subdivision and/or occupation of land). **Note:** There are other approval processes such as complying development State Government approval which are not captured by this protocol.
3. Local Council is generally the development consent authority under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*. As such Council is responsible for evaluating and determining appropriate standards for road access to developments, together with any ongoing road management issues.
4. Crown Lands is not responsible for evaluating, approving or regulating road work requirements to service approved developments. Where road works are a requisite of development consent the Crown road should be transferred to Council.
5. Transfer of a Crown road enables Council to:
 - a. Fulfil it’s obligations under the *EP & A Act 1979* and *Roads Act 1993*.
 - b. Administer road works required in accordance with conditional consent.
6. Past practices have led to contention regarding road conditions and protracted and costly negotiations regarding road transfer. These unnecessarily effect working relationships between agencies and can be avoided.

Benefits of road transfer protocols:

1. Streamlines approval processes for development applications (DA) and subsequent road works and ancillary services.
2. Improvement of client servicing.
3. Clarifies the roles of respective agencies.
4. Enables equitable levels of contributions from proponents and adequate standards of access to service approved developments in the short and longer term.
5. Provides a pro-active approach to infrastructure planning. This ensures that reactive situations to substandard access don’t arise.
6. Ensures that public roads are managed by the appropriate authority, generally the development consent authority.

Port Stephens Council and Trade & Investment – Crown Lands Road Transfer Protocols 22 March 2013

Key Steps agreed to by both parties in this protocol are:

1. Council in assessing DAs evaluates issues associated with road access.
2. Through the assessment process, Crown Lands will provide assistance in determination of the status of public roads, as required.
3. Where a DA involves or impacts on a Crown road, Crown Lands must be referenced during the assessment process. This will facilitate obtaining land owner's consent to the DA.
4. For Crown roads, where Council assesses that road works are required, then the transfer provisions (Sections 150 & 151) under the *Roads Act 1993* and these protocols will be followed.
5. When approving a DA, Council will impose conditions to achieve the appropriate level of construction standards and any identified upgrade requirements. Council will also condition the DA such, that a construction certificate for the development cannot be issued until the Crown Road has been transferred to Council and a Roads Act Application has been made to, and approved by Council.
6. Transfer is to be completed prior to the commencement of any road works within the road reserve. Upon advice from Council (following their receipt of a valid Roads Act Application), Crown Lands will publish the transfer notification as soon as possible in the NSW Government Gazette and notify Council.
7. Crown Lands will reverse the transfer of a former Crown road if the development does not proceed within five years from the date of consent and where road works have not commenced.
8. Where either party identifies that the transfer of a Crown road has not occurred in the past but warrants transfer due to Council authorised works or maintenance, the transfer process will be initiated once acknowledged by both parties.

Signed this.....day of.....2013	Signed this.....day of.....2013
.....
General Manager Port Stephens Council	Senior Manager Hunter Area / North Region Trade & Investment - Crown Lands
.....	Delegate officer under section 151 of the <i>Roads Act 1993</i>
or Delegated Officer	
.....	
(Name & Position)	

ATTACHMENT 2

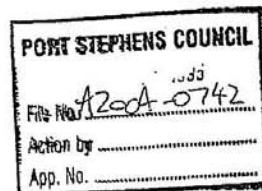


LOCAL GOVERNMENT and
SHIRES ASSOCIATIONS of NSW

GPO Box 7003 SYDNEY NSW 2001 • Phone (02) 299 7711 • Fax (02) 262 1049
Local Government Centre • 215 Clarence St SYDNEY NSW AUSTRALIA

Our ref: R95/0025
Further contact: David Allen
25 September 1995

Mr Ted Campbell
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324



Dear Mr Campbell

Re: Crown Roads

Thank you for you writing about problems with transfer of crown roads.

I apologise to the delay in getting back to you. This was caused by the need to reach an agreement with the Department of Land and Water Conservation on a protocol for the handling of transfer of Crown Roads. A copy of this protocol is attached.

It is hoped that this protocol will clarify the process of dealing with Crown Roads when an application for development is made. If you have any difficulties with the protocol or if further problems are encountered please do not hesitate to contact David Allen at the Associations.

Yours sincerely

Brendan Hartnett
Director Policy

WEEKLY CIRCULAR 37

15 September 1995

page 14

ROADS AND TRANSPORT - Item 12	
Subject	TRANSFER OF RESPONSIBILITY ON CROWN ROADS
Summary	The Department of Land and Water Conservation has agreed to a protocol with Local Government over the transfer of Crown roads.
Extra info	Nil
Contact: David Clark/David Allen	Reference: R95/0025

The Associations met with the Department of Land and Water Conservation (DLWC) in response to concerns from councils over the transfer of Crown roads to councils without their consent. The DLWC are not transferring Crown roads except in response to applications to form and use Crown roads not presently in use. The department agreed to adopt the following approach in dealing with applications to construct or form a Crown road:

- A Crown Lands Service office will not accept an application unless it is accompanied by the concurrence of the local council to the vesting of that road in the local council in order to facilitate the construction of the road.
- On notification by a council of its concurrence and provided that State Land Service concurs in the construction of the road, the road would be vested in (that is, transferred to) the local council and the council would then deal with the application, setting the standards for road construction and any other requirements on the basis that the council has become the road authority (under the Roads Act) in respect of that road.
- Where a local council does not concur to the road being transferred, the State Land Service will not authorise the application. It will refer the applicant to council for council's possible further consideration of the matter in terms of the impacts on property access.
- In the event that a member of the public carries out limited improvement to a Crown road when the improvement is not a condition of development consent, for example placing gravel on roads and/or works which do not involve any cut, fill or drainage, then the Crown road will not be transferred.
- When applications are currently with the State Land Services and council will not concur in the transfer of ownership, the State Lands Services will not authorise the road construction. It will refuse the application and refer the applicant to the council for possible further consideration of the matter in terms of impact on property access.

The new arrangements commenced on 14 September 1995.

Instructions will be issued to district offices in relation to these arrangements.

The other matter raised in relation to Crown roads, is the impact of native title in the transfer of Crown roads to Local Government. It has been established recently that the legal position in respect to Crown roads is that the establishment of a Crown road before 31 October 1975 (operative date of the Commonwealth Racial Discrimination Act, 1975) extinguished native title in respect of the land involved. As most Crown roads were established well before that date it is safe to regard native title as generally not being an issue so far as transfers of Crown roads are concerned.

ITEM NO. 9

FILE NO: PSC2010-03933

TERRACE GATEWAY CENTRE DEVELOPMENT

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(c) and (d) (i) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 9 on the Ordinary meeting agenda namely **Terrace Gateway Centre Development**.
 - 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include:
 - a) contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council proposes to conduct business.
 - b) includes details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.
 - 3) In particular, the information and discussion concerns **Terrace Gateway Centre Development**.
 - 4) On balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as the information and discussion need to be carried out confidentially to protect the interests of both parties. Any breach of such confidentiality could prejudice Council's position.
 - 5) That the minutes relating to this item be made public.
 - 6) Authorise the sale of Lot 1 DP571048, Lot 1 DP89726, Lot 4 DP571048, Lot 3 DP1133956 and part of Lot B DP335394 being part of Council owned Operational land situated on the corner of Adelaide and William Streets, Raymond Terrace, to Stevens Charles Properties Pty Ltd, for the market value as determined by the independent valuation report.
 - 7) Authorise the Mayor and General Manager to affix the seal of Council and execute the "Option to Purchase" and "Contract for Sale" for the sale of land and any associated legal documentation.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor John Morello
	That Council: <ol style="list-style-type: none">1. Authorise the sale of Lot 1 DP571048, Lot 1 DP89726, Lot 4 DP571048, Lot 3 DP1133956 and part of Lot B DP335394 being part of Council owned Operational land situated on the corner of Adelaide and William Streets, Raymond Terrace, to Stevens Charles Properties Pty Ltd, for the market value as determined by the independent valuation report.2. Authorise the Mayor and General Manager to affix the seal of Council and execute the "Option to Purchase" and "Contract for Sale" for the sale of land and any associated legal documentation.

MOTION

144	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to seek Council's consent to enter into an Option to Purchase and a Contract for Sale of land at Raymond Terrace for a proposed Serviced Apartment Development.

The proposed development requires a total land area of 2,750 square metres. The details of the properties that make up the required area are;

- 48 William Street – Lot 1 DP571048
- 50 William Street – Lot 1 DP89726
- 118 Adelaide Street – Lot 4 DP571048
- 120 Adelaide Street – Lot 3 DP1133956
- Part of 122 Adelaide Street – Lot B DP335394

The sale of the above lots, will, (subject to a Development Application approval), enable development of a multi storey complex consisting of 30 two bedroom serviced apartments with a dual key operation allowing for a maximum of 60 units. The facility also proposes to include a conference room, private gymnasium, public restaurant and retail space, with frontages to both Adelaide and William Streets. The

proposed development will provide all car parking requirements within the proposed site. Location of the site is shown in **(ATTACHMENT 1)** and marked up on the Aerial in **(ATTACHMENT 2)**.

The land is zoned 3a General Business under Port Stephens LEP 2000 and B3 Commercial Core under the Draft Port Stephens LEP 2012.

The proposed development site is contained within a larger parcel of Council owned land, shown hatched in **(ATTACHMENT 3)**, comprising of multiple lots, with a total site area of approximately 11,220 square metres. The overall site is bounded by Adelaide, William and Sturgeon Streets. The site has a number of structures and improvements on it, including the YMCA Gymnasium, a range of tenants in the former Terrace Shopping Village, Lifeline in the former Retravision building and car parking. The site also contains vacant land.

In accordance with the Land Acquisition and Divestment policy the Property Section engaged an independent Valuer to undertake a current market valuation. Subsequently, a formal 'letter of offer' has been received from Steven Charles Property Pty Ltd refer **(ATTACHMENT 4- CONFIDENTIAL)**.

FINANCIAL/RESOURCE IMPLICATIONS

A development of this scale in such a prominent location will provide the catalyst for further development within the CBD.

It is anticipated that the proceeds of the sale will be received during the 2013/2014 financial year.

Financial benefits to flow on from this development will include:

- A direct financial benefit to Council from the sale of land;
- An increase in the value of the residual land;
- Encourage other development on the site and the CBD;
- The development represents only 25% of the site;
- Immediate economic benefit to Raymond Terrace;
- Provide quality accommodation for Executives of businesses such as Sandvik and Westrac.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	\$10,000	Legal Fees and charges and Survey Fees.
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The subject land is classified as Operational land allowing Council to dispose of all or part of the site.

The sale of land is consistent with the Property Services Acquisition and Divestment of Land policy.

The purchaser wishes to enter into an "Option to Purchase" for a period of 12 months, with an option fee of 1% of the purchase price. The purchaser agrees to lodge a Development Application with Port Stephens Council within 90 days of entering into the Option Agreement. The Option is to be exercised within 42 days of achieving development approval. Should the Development Application not be approved the Option to Purchase will terminate.

The contract deposit is 10% of the purchase price with settlement 42 days from exchange of contracts.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the development will occur at another location if Council does not proceed with the sale of land and Council will lose a revenue opportunity.	High	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The sale of this site represents approximately 25% of the total site area, allowing Council to retain ownership of the remaining 75% for future development, or sale.

The development of the remainder of the land will be greatly enhanced as a result of a significant development on the most prominent corner of the site, setting the standard for future buildings to dovetail into the precinct of the Terrace Gateway Centre.

The proposed project is a catalyst development that upon completion will provide significant benefits to the Raymond Terrace CBD through flow on economic activities.

The economic implications are considerable given such a high quality accommodation facility at the entrance to the CBD, providing opportunities for newly established businesses such as Sandvik and Westrac plus the relative proximity

to the Newcastle Airport, to take advantage of. The facility is also proposing to provide a high standard public restaurant with alfresco dining.

CONSULTATION

- 1) Group Manager Corporate Services;
- 2) Property Services Section Manager;
- 3) Stevens Charles Properties Pty Ltd;
- 4) 2 Way Conversation with Councillors, Tuesday 14 May 2013.

OPTIONS

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

ATTACHMENTS

- 1) Marked up Site Plan;
- 2) Marked up Aerial;
- 3) Council owned land (hatched);
- 4) Confidential – Provided under separate cover.

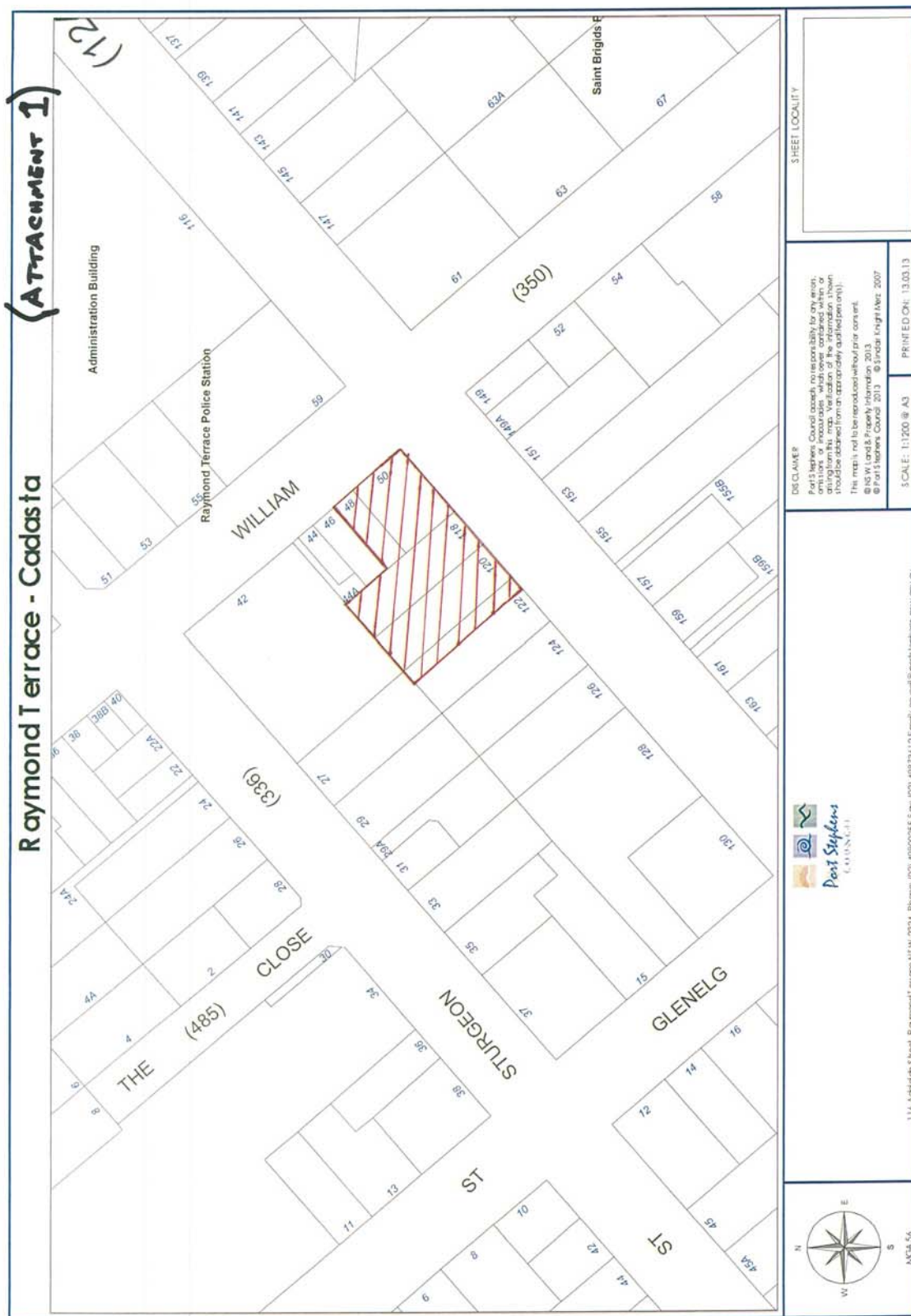
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

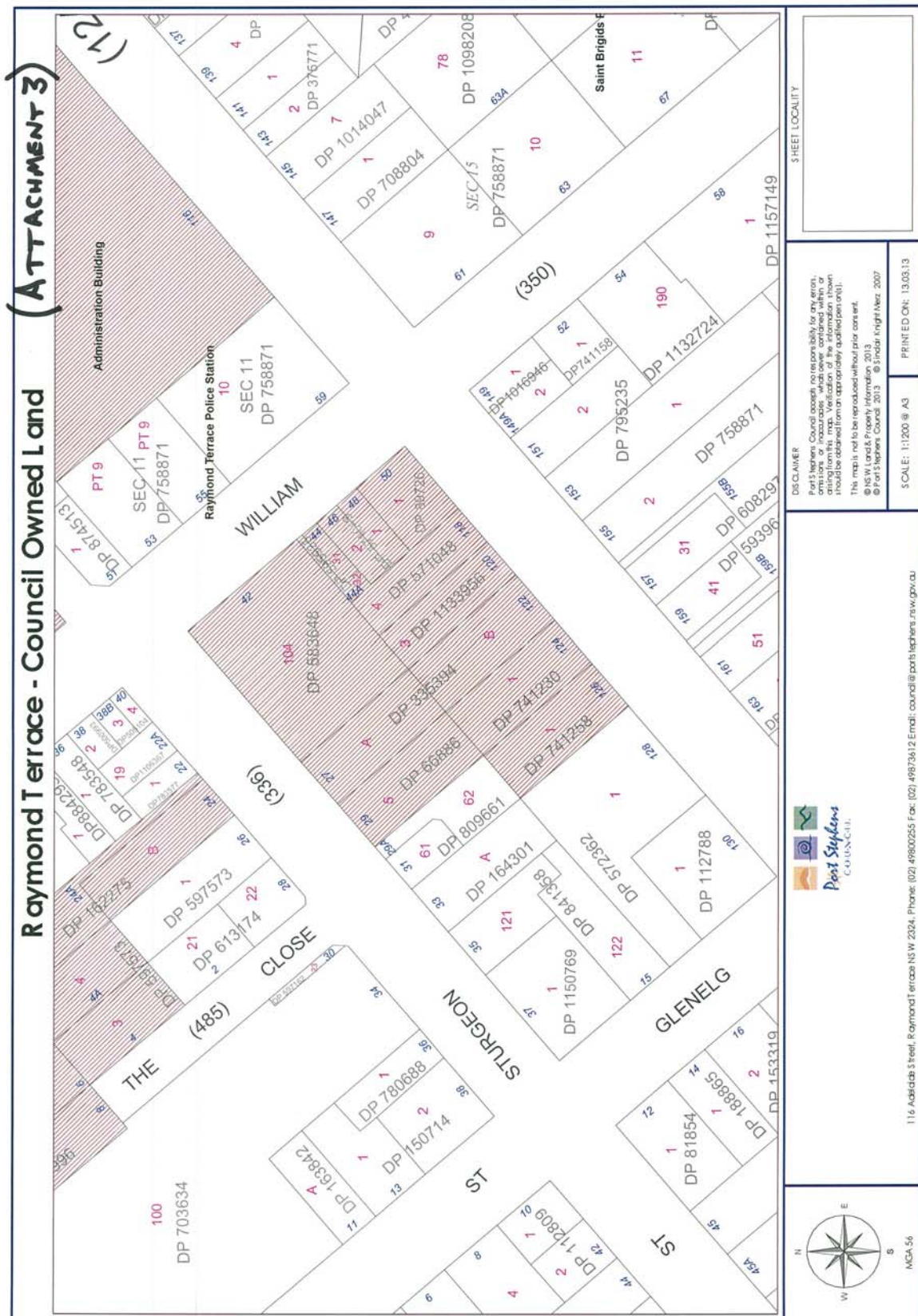
ATTACHMENT 1



ATTACHMENT 2



ATTACHMENT 3



ITEM NO. 10

FILE NO: FILE NO: A2004-0242

QUARTERLY BUDGET REVIEW AS AT 31 MARCH 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 as **(TABLED DOCUMENT 1)** titled 2012-2013 Quarterly Budget Review Statement – March 2013.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

145	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

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 2012/2013 budget which are detailed in the Quarterly Budget Review Statement – March 2013. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the March Quarterly Budget Review.

Council adopted its Integrated Strategic Plans on 26 June 2012 (Council Minute 151), these Plans include the budget estimates for the 2012/2013 financial year.

FINANCIAL/RESOURCE IMPLICATIONS

Council's underlying result is expected to be \$652,000 (deficit) being an improvement of \$715,000 with the adoption of the recommended changes. The original projected underlying deficit adopted by Council in June 2012 was \$2.3 million (deficit).

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Costs associated with the review and implementation of the amended budget are managed within the Financial Services section budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

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?
The is a risk that the underlying operating result is in deficit	High	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) Document 1 2012-2013 Quarterly Budget Review Statement March 2013;
- 2) Document 2 2012-2013 Quarterly Budget Review Statement March 2013.

ITEM NO. 11

FILE NO: PSC2012-04560

FEES AND CHARGES 2013-2014

REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the submissions received and adopt the Fees and Charges 2013-2014 with recommended amendments contained in this report.
- 2) Adopt the proposal for three categories of users of Council's community owned facilities from 1 July 2014 as detailed in this report.
- 3) Note the changes to the treatment of the Waste Services Charge for GST purposes and agrees to keep the Waste Management Charge at \$48.00 exclusive of GST until a ruling is obtained from the Australian Taxation Office.
- 4) Note the changes to statutory fees as detailed in **(ATTACHMENT 1)**.
- 5) Note that a review of the rezoning fees will be undertaken and a report presented to Council.

ORDINARY COUNCIL MEETING – 28 MAY 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Steve Tucker Councillor Ken Jordan</p> <p>That Council:</p> <ol style="list-style-type: none"> 1) Note the submissions received and adopt the Fees and Charges 2013-2014 with recommended amendments contained in this report. 2) Adopt the proposal for three categories of users of Council's community owned facilities from 1 July 2014 as detailed in this report. 3) Note the changes to the treatment of the Waste Services Charge for GST purposes and agrees to keep the Waste Management Charge at \$48.00 exclusive of GST until a ruling is obtained from the Australian Taxation Office. 4) Note the changes to statutory fees as detailed in (ATTACHMENT 1). 5) Note that a review of the rezoning fees will be undertaken and a report presented to Council. 6) Defer the adoption of the archive fee for Section 96 applications.
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MOTION

146	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

Public Exhibition Process

The purpose of this report is to advise Council of the outcomes of the community consultation authorised by Council at its meeting on 26 March 2013 (Minute No. 068) to place on public exhibition for a period from 1 to 30 April 2013 the draft Fees and Charges 2013-2014 in accordance with Section 610F(1) of the Local Government Act 1993.

Section 610F(2) provides that Council should exhibit fees together with the Operational Plan 2013-2014 and this was done, however the submissions received as a result of that process are the subject of this separate report for ease of communication.

As a result of the public exhibition process Council received eight (8) submissions from the public and a submission from the General Manager addressing five (5) items. Submissions are appended as **(ATTACHMENT 1)**.

Halls Forum

In addition to the exhibition process in April 2013, on 7 March 2013 a forum was held with the Halls Committees. The forum considered a proposal from a member of the Corlette Committee to establish a common set of definitions for categories of customers. This would provide booking officers with clear guidelines and ensure the optimum return to the community for use of its facilities.

There would be three categories:

For profit users;

Community groups – not for profit but whose purpose was to benefit its members;

Registered charities – not for profit but whose purpose was to benefit the wider community.

It is recommended that this approach be adopted from 1 July 2014.

Should Council agree with this approach, the categories would apply from 2014-2015 for all Council facilities, not just for community halls.

Legislative Changes

Certain Waste Management charges made under Section 501 of the Local Government Act 1993 are GST-taxable supplies effective from 1 July 2013 following Australian Taxation Office ruling 2013/19.

Further Waste Management service charges made under Section 501 of the Local Government Act 1993 are GST- taxable supplies effective from 1 July 2013, as they apply to rate assessments categorised as 'Business'. The charge will be \$389.40 (including GST) in 2013-2014.

Council is awaiting a GST ruling in relation to the proposed Waste Management Charge - \$48.00 and depending upon the ruling this charge may be \$48.00 (GST exempt) or \$52.80 (including GST) in 2013-2014.

It is recommended for this Waste Management Charge that it remains GST free until the ruling is received from the Australian Taxation Office, at which time a report will be provided to Council on the outcome. At this stage the date of the proposed ruling being available is not known.

These Waste Management charges are in the Draft Integrated Plans 2013-2023 at pages 53 and 54, as required by Section 405(2) of the Local Government Act 1993 and are included in this report as they relate to Council's proposed revenue for 2013-2014. They are also referenced in the report to Council on the exhibition of the Draft Integrated Plans 2013-2023.

Re-Zoning (Planning Proposal) Fees

As a result of a submission (Number 9 in **ATTACHMENT 1**), Development Services Group is re-assessing the approach to charging for re-zoning land. It is intended to complete a comprehensive study of comparative costs and budget implications. A report will be made to Council at the conclusion of this study. In the interim fees are recommended to be retained at the levels in the draft Fees and Charges 2013-2014.

FINANCIAL/RESOURCE IMPLICATIONS

Fees and Charges represent up to 36% of Council's revenue and proposed charges for 2013-2014. They also include statutory charges that Council is required to collect on behalf of other agencies and fees associated with Council's own service delivery for which it can levy a fee under Section 610D of the Local Government Act 1993.

Costs associated with Fees and Charges 2013-2014 relate to production and distribution of documents required by the legislation and Council's service delivery processes.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$1,500	Recurrent funding.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 610 of the Local Government Act 1993 and Regulation 201 of the Local Government (General) Regulation 2005 require that a Council must adopt a schedule of fees and charges as part of its Operational Plan and budget. The draft Fees and Charges were formulated in accordance with Council's Pricing policy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not adopt the Fees and Charges 2013-2014 before 30 June 2013 and in consequence suffers financial loss as it is unable to levy fee income.	Low	Council adopts the Fees and Charges proposed for 2013-2014 at its meeting on 28 May 2013.	Yes
There is a risk that if Council does not adopt the Fees and Charges 2013-2014 before 30 June 2013 it will suffer reputational loss being in breach of the law.	Low	Council adopts the Fees and Charges proposed for 2013-2014 at its meeting on 28 May 2013.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Proposed Fees and Charges 2013-2014 have been formulated in accordance with Council's Pricing policy which has regard to its community service obligations, economic return to Council for use of assets paid for by the community, ability of customers to pay for services, and in accordance with Council's legal obligations.

CONSULTATION

The draft Fees and Charges 2013-2014 were placed on public exhibition from 1 to 30 April 2013. Copies were placed on Council's website, in libraries and at the Administration Building. Advertisements were placed in the Port Stephens Examiner prior to and during the exhibition period.

In addition, a forum was held with the Halls Committees on 7 March 2013.

OPTIONS

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

ATTACHMENTS

- 1) Summary of Submissions received as a result of public exhibition of the Draft Fees and Charges 2013-2014;

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Summary of Submissions – draft fees and charges 2013-2014

No.	Proposer	Submission	Recommendation – It is recommended:
1	Nelson Bay and District Social and Welfare Club	<p><i>(Note: letter received on 26 February 2013 – proposer advised that contents would be included with submissions in this report. The letter is addressed to the Nelson Bay 355c Hall Committee and copied to Council).</i></p> <p>The proposer is seeking relief from Hall hire charges due to falling membership which is affecting their revenue. The proposer pays a monthly rental fee.</p> <p><i>Note: The Hall's 355c Committee has no discretion to set or waive fees as only Council can set fee; the proposer has the option to apply to Council for relief through financial assistance under Section 356 of the Local Government Act, and Council's Financial Assistance Policy; the proposer has not decreased usage of the Hall despite apparently declining attendance; the proposer has previously been advised through the Community & Recreation Services officers that they should make a submission directly to Council.</i></p>	That Council notes the correspondence and confirms the fee structure to be levied by the Nelson Bay Senior Citizens Hall 355c Committee as shown in the exhibited draft Fees and Charges 2013-2014.
2	Anna Bay/Birubi Point Reserves, Hall and Tidy Town Committee	Request to remove the Party Booking Fee of \$116.25 as this is now covered by either the day or evening function fee.	That Council agrees to remove the Party Booking Fee.
3	Lemon Tree Passage Old School Centre 355c Management Committee	Request to be exempt from the 2% increase (CPI) on the grounds that smaller groups that use the Centre would find it difficult to continue; the need to remain competitive with the Mallabulla Hall and Church Halls and centres; Committee feels that the Centre should be considered "low maintenance".	That Council notes the correspondence but declines the request for exemption.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Proposer	Submission	Recommendation – It is recommended:
		<p><i>Note: as the Committee itself states there are alternatives for small community groups in the area; acceding to the request means that the rest of the community is effectively 'subsidising' this Centre beyond normal community service obligation; there is no independent assessment of what constitutes 'low maintenance' and if this facility falls into such a category; the Halls forum in March felt that the increase was acceptable as it is line with CPI (YTD September 2012).</i></p>	
4	Hon Treasurer, Corlette Hall Parks & Reserves Committee	<p>Outlines process issues with charging bonds.</p> <p><i>Note: subsequent correspondence from the Secretary of this Committee clarified that there is no issue with the schedule of proposed fees; and that the procedural issues are being dealt with through Community & Recreation Section staff as per the decisions from the Halls Forum on 7 March 2013.</i></p>	That Council notes the correspondence.
5a	Resident of Corlette	Proposes that the Fees and Charges 2013-2014 (p60) be amended to add an exemption category for bonds related to Public Halls & Centres to exempt the Electoral Commissions and Electoral Companies from paying a bond, but retaining the cleaning fee.	That Council adopts the proposal and amends the Fees & Charges 2013-2014 accordingly.
5b	Resident of Corlette	<p>Suggests that despite legal advice received to the contrary, a bond is not a fee; and if it is, 355c committees should have control over whether it can be charged or not; cites Tamworth Council in 2010 as an example.</p> <p><i>A ruling was obtained from Division of Local Government on 3 May 2013 that confirmed that a</i></p>	That Council notes the correspondence.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Proposer	Submission	Recommendation – It is recommended:
		<i>bond is a fee or charge; that only Council can make a fee or charge and cannot delegate to any entity or individual; that Council may waive a fee but must do so after an exhibition period of 28 days where submissions are sought.</i>	
6	Resident whose children attend Medowie Child Care Centre	<p>Objection to increase in fees.</p> <p><i>Fees for this Centre were developed in January 2013 on the premise that Council would still be operating the Centre and that costs had to be recovered. There was no increase in the fees last year. As a result of the closure of the tender process for management of the Medowie Child Care Centre, it is anticipated that the new management will be setting fees early in the new financial year. Council officers have contacted the resident directly regarding this issue.</i></p>	That Council notes the correspondence.
7	Resident whose twins attend Medowie Child Care Centre	<p>Objection to increase in fees and proposal for a discount of 10% for second and subsequent children. Advises that currently paying \$728 per week for four days and this is unviable.</p> <p><i>Please refer to No. 7 above. The concept of a discount for second and subsequent children will be part of the consideration of scale of fees for the new management of the Medowie Child Care Centre.</i></p>	That Council notes the correspondence.
8	Wallalong Landowners Group – Project Director	<p>1. Objecting to the fees and charges associated with large development proposals (pp68-69) which are based on size of land package and staff time; offers two solutions to replace the current schedule. Cites fees considerably higher than surrounding councils and</p>	That Council notes the submission and adopts the fees as exhibited in the draft Fees and Charges 2013-2014.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Proposer	Submission	Recommendation – It is recommended:
		<p>proposes either</p> <p>2. (1) Fixed application fee plus a “do and charge” component based on actual time expended (similar to Newcastle & Lake Macquarie Councils); or</p> <p>3. Fixed Fee but with a sliding scale for more complex applications (similar to Maitland City Council).</p> <p><i>As a result of this submission Development Services Group is to re-examine how these fees are calculated and will report the results to Council in due course.</i></p>	

The General Manager has made the following submission containing 6 items.

No.	Proposer	Submission	Recommendation – It is recommended:
1	The General Manager, Port Stephens Council	Credit card fees are currently included under the heading “Dishonoured Payments” (pp33-34). A more appropriate heading is “Payment Processing” because the credit card fee applies to approved payments and not dishonoured payments. It is proposed to create a new heading for the fee entitled Payment Processing.	That Council agrees to the placement of Credit Card fees under a new heading “Payment Processing”.
2	General Manager Port Stephens Council	(P23) On 21 March 2013 in Circular 13-10, the Division of Local Government set the annual fee for Section 603 rates certificates at \$70.00 each, an increase on the current fee of \$65.00. These fees are GST Exempt.	That Council notes the increase in this Statutory fee.
3	General Manager Port Stephens Council	The Swimming Pools Amendment Act 2012 requires that the Swimming Pools Register be updated on-line. In instances where pool owners do not have access to a computer, Council staff are required to input data for those residents and Council	That Council accepts the proposal to charge a registration/amendment input fee of \$10.00 (exclusive of GST).

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Proposer	Submission	Recommendation – It is recommended:
		can charge an input fee of \$10.00 (exclusive of GST) per registration and/or amendment. It is proposed that this fee be included in the Fees and Charges 2013-2014 under Statutory Pricing.	
4	General Manager Port Stephens Council	<p>Family Day Care (p24): Orientation Fee – change the clarification wording by the addition of "for new educators."</p> <p>Enrolment fee: add the following clarification: "One off non-refundable fee to enrol a new family."</p> <p>Late Attendance Record Fee: add the following clarification: "Per attendance record."</p>	That Council accepts the proposed changes to Family Day Care fees clarification.
5	General Manager Port Stephens Council	<p>Family Day Care (p24): It is recognised that educators and parents who transition from another Family Day Care provider will have already paid annual fees and it would cause hardship to impose full Port Stephens Council fees. It is proposed that the Orientation fee for transitioning educators should be reduced to \$5.00 (GST does not apply) with the clarification to be worded: "One off non-refundable orientation fee for Registered Educators transitioning directly from another FDC service."</p> <p>It is further proposed that the Enrolment fee for transitioning families should be reduced to \$5.00 (inclusive of GST) with the clarification to be worded: One off non-refundable fee to enrol a family transitioning directly from another FDC service.</p>	That Council agrees to the Family Day Care reduced fees proposed for transitioning educators and families.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013
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No.	Proposer	Submission	Recommendation – It is recommended:
6	The General Manager, Port Stephens Council	Under <i>Principal Certifying Authority Inspection Fees – Subdivision & Non Building</i> on page 58: an existing fee for engineering checking assessment review of \$140.55 has in the past covered this work and work done for checking environmental assessments. It is proposed that a separate fee entry be made for the environmental assessment of \$140.55 including GST. This fee entry makes it clear exactly what is being delivered. As it is the same as for the engineering checking assessment, it is being included for accuracy and transparency and therefore another exhibition is unnecessary and an unwarranted expense.	That Council adopts the description to clarify what exactly is being charged.

ITEM NO. 12

FILE NO: PSC2012-03334

INTEGRATED PLANS AND RESOURCE STRATEGY 2013-2023

REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the amendments to the Integrated Plans and Resource Strategy 2013-2023 proposed in this report.
 - 2) Adopt the Integrated Plans and Resource Strategy 2013-2023.
-

ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION

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

MOTION

147	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to provide information for Council to consider regarding submissions received related to the Integrated Plans and Resource Strategy 2013-2023. These documents were approved by Council to go on public exhibition from 1 April to 30 April 2013 in accordance with Section 404 of the Local Government Act 1993.

There were two submissions from the general public on the Integrated Plans and Resource Strategy. The General Manager has made a submission in consultation with responsible Council officers. All submissions are appended as **(ATTACHMENT 1)**.

FINANCIAL/RESOURCE IMPLICATIONS

The Integrated Plans include the Community Strategic Plan 2013-2023, the Deliver Program 2013-2017 and the Operational Plan 2013-2014; and the Resource Strategy includes the Workforce Strategy 2013-2017, the Strategic Asset Management Plan (SAMP3) 2013-2023 and the Long Term Financial Plan 2013-2023, which provide the human resources and financial resources to implement the Delivery Program of Council between 2013-2017, and the Operational Plan 2013-2014. Section 403 of the Local Government Act 1993 provides:

- (1) A council must have a long-term strategy (called its resourcing strategy) for the provision of the resources required to implement the strategies established by the community strategic plan that the council is responsible for.*
- (2) The resourcing strategy is to include long-term financial planning, workforce management planning and asset management planning.*

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$2,000	Printing and distribution of adopted documents.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 402(5) of the Local Government Act 1993 provides:

Following an ordinary election of councillors, the council must review the community strategic plan before 30 June following the election. The council may endorse the existing plan, endorse amendments to the existing plan or develop and endorse a new community strategic plan, as appropriate to ensure that the area has a community strategic plan covering at least the next 10 years.

The Integrated Plans include the Community Strategic Plan 2013-2023 which is mandated by Section 402(1) to (4) of the Local Government Act 1993 and meet the requirements of those elements of Section 402. The Integrated Plans also include Council's Delivery Program (Section 404) and Operational Plan (Section 405).

There are no policy implications as all aspects of the Integrated Planning & Reporting framework are mandated by legislation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if Council fails to adopt the Integrated Plans and Resource Strategy 2013-2023 before 30 June 2013 there will be financial exposure and potential loss of revenue as Council will have no right to levy rates or expend funds in the next financial year except in very limited circumstances.	Low	Council adopt the Integrated Plans and Resource Strategy 2013-2023 before June 2013.	Yes
There is a risk that if Council fails to adopt the Integrated Plans and Resource Strategy 2013-2023 before 30 June 2013 it will suffer reputational loss caused by breaching the law.	Low	Council adopt the Integrated Plans and Resource Strategy 2013-2023 before June 2013.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Integrated Plans 2013-2023 document at page eight details how the service packages provided by Council address the social, economic and environmental as well as civic/corporate leadership pillars of sustainability as required by Section 402(3)(a) of the Local Government Act 1993.

CONSULTATION

The Integrated Plans and Resource Strategy 2013-2023 was exhibited publicly from 1 April to 30 April 2013 and submissions were invited. The documents were advertised in the Port Stephens Examiner and on Council's website. The Council's Residents' Panel were also invited to make submissions. Staff also took the opportunity to advise the General Manager of improvements that could be made and these are included in the submissions in **(ATTACHMENT 1)**.

OPTIONS

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

ATTACHMENTS

- a. Submissions - Proposed amendments to the Integrated Plans and Resource Strategy 2013-2023.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Submissions - Proposed amendments to the Integrated Plans and Resource Strategy 2013-2023

The following submissions were received from the public:

1. Resident of Corlette;
2. Tomaree Residents & Ratepayers Association.

Each submission contained a number of issues and these are addressed below by reference to a numbering system: 1.1, 1.2 etc refers to items raised by the Resident of Corlette; 2.1, 2.2 etc refers to items raised by the Tomaree Residents and Ratepayers Association.

No.	Document	Page	Submission	Recommendation
1.1	Long Term Financial Plan 2013-2023 – Improved Scenario	36	<p>Apparent inconsistency between Long Term Financial Plan and Council's adopted resolution of April 2013 related to the cost of the Big W development.</p> <p><i>The apparent inconsistency in costing of the Salamander Bay land development relates to the timing of the information provided. The original Long Term Financial Plan as exhibited included costing for the project as it was then scoped. Subsequent further scoping works have been completed which resulted in the revised project scope being put before Council and subsequently adopted in April 2013. All costs associated with the redevelopment have been included in the April 2013 report and will be constantly monitored. Any variations will be reported to Council as the project progresses.</i></p> <p>It is proposed that the long Term Financial Plan be amended to reflect the latest information.</p>	That Council notes the correspondence; and agrees to the amendment of the Long Term Financial Plan 2013-2023 to reflect the up-to-date financial information.
1.2	Long Term Financial Plan 2013-2023 – Strategic Scenario	46	<p>Apparent inconsistency between Long Term Financial Plan and Council's adopted resolution of April 2013 related to the cost of the Birubi Point Surf Club development</p> <p><i>The apparent inconsistency in costing of the Birubi Surf Life Saving club relates to the timing of the information</i></p>	That Council notes the correspondence and agrees to the amendment of the Long Term Financial Plan 2013-2023 to reflect the up-to-date

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
			<p><i>provided. The original Long Term Financial Plan as exhibited included the project as it was then scoped. Subsequent further scoping works have been completed which resulted in the revised project scope being put before Council and subsequently adopted in April 2013. The project has been fully costed and the proposed finance sources were included in the report to Council in April 2013.</i></p> <p>It is proposed to amend the Long Term Financial Plan to reflect the latest information.</p>	financial information.
1.3	Strategic Asset Management Plan	73	<p>Parks and Reserves proposed level of service inadequate to serve the needs of residents and visitors to the Tomaree Peninsula.</p> <p><i>During the Sustainability Review community engagement process, service levels were discussed with the community. Whilst it was agreed that the service levels were not ideal, they are based on what the community agreed they were willing to pay for rather than forego other services.</i></p>	That Council notes the correspondence.
1.4	Strategic Asset Management Plan	82	<p>Proposed removal of double swing at Lorikeet Reserve, Corlette and refusal of a playground from Landcom – requires community discussion.</p> <p><i>The resident has confused two separate things: the removal of the double swings is planned as per the Strategic Asset Management Plan at page 82. Community opportunity to comment has been provided through the exhibition process.</i></p> <p><i>The Vantage developer Landcom is in negotiation with Council over various asset proposals, which included a proposed playground. Should the negotiations result in such a proposal being recognised, it would be subject to the Development Application process, including the opportunity for the community to provide input. At this stage there is no viable proposal on foot that could be recommended</i></p>	That Council notes the correspondence.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
			<i>to Council to take forward.</i>	
1.5	Strategic Asset Management Plan	82	<p>Works should include Angophora Reserve, Bagnall Beach Reserve: replace sun cover and provide better parking for this reserve off street parking off Bagnall's Beach Road.</p> <p><i>The program of works to Replace and Rehabilitate Playground assets does not include the works required by the Resident. This is because the program of works is based on a risk assessment of all playgrounds and reserves in the LGA and for the period 2013-2023 the prioritisation of works is based of management of risks with the available, limited capital funds. Expenditure also has to be shared equitably across the LGA. Angophora Reserve and Bagnalls Beach Reserve do not come into the risk priority category in the next ten years. Should that situation change, next iterations of Asset Management Plans will reflect programs to address the risks.</i></p>	That the correspondence be noted.
1.6	Strategic Asset Management Plan	85	<p>Public amenities: resident questions how satisfaction levels with current services are to be measured; notes that no new amenities to be built outside new subdivision release; advocates use of section 94 funds to replace amenities blocks. Notes also that Council promises every year to achieve 'renewal and replacement' but funds are diverted elsewhere.</p> <p><i>There are two public amenities projects proposed for 2013-2014: Salt Ash and Stuart Park – both to get new pump out systems. In subsequent years an amount has been allocated annually for this asset category. Section 94 funds cannot be used for this purpose.</i></p>	That the correspondence be noted.
1.7	Strategic Asset Management Plan	88	Resident notes that overall condition of Sports assets is good, but at the cost of other asset categories.	That Council notes the correspondence.
1.8	Strategic Asset Management Plan	95	Reference to One Mile Surf Club asset's poor condition and asks why some funds for Fingal Bay and/or Birubi Surf Clubs could not be diverted to	That Council notes the correspondence.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
			<p>One Mile Surf Club; replace the amenities and/or improve the car park.</p> <p><i>There no plan has yet been developed for this asset although its condition is noted. The condition rating is based on a storage room and a viewing platform for Council's paid lifeguards. There are no volunteers at One Mile Surf Club whereas the Surf Life Saving Association volunteers are present at the other two Surf Clubs mentioned. Thus these have priority for expenditure. Whilst the need for work at One Mile Surf Club is recognised the focus is on delivery of the major project at Birubi.</i></p>	
1.9	Strategic Asset Management Plan	214	<p>Resident questions the cost of the erosion study at Sandy Point, Corlette and assumes that the grant of \$90,000 would be consumed with nothing left to do the work.</p> <p><i>The Resident has misunderstood the purpose and scope of this funding. This funding only relates to the preparation of the study. We have no outcome of the study to inform any program for implementation, which would involve additional funds. The study will inform the works project to be undertaken and then we will have a better idea of associated costs of works. Grants and other sources of funds will be identified at that time.</i></p>	That Council notes the correspondence.
1.10	Strategic Asset Management Plan	216	<p>Queries the difference between the \$2 million for the development of 155 Salamander Way 3 lot subdivision when Council had approved \$4.3 million.</p> <p><i>Development of the 155 Salamander Way subdivision has been costed by an independent Quantity Surveyor. The conditions placed on the subdivision were included in the cost report. To estimate the profit from a simple deduction of the sale to BigW from the cost to provide the infrastructure and subdivide the lot is</i></p>	That Council amends the Capital Works Program (Attachment 1 of the Strategic Asset Management Plan) to reflect that this development will be completed wholly within 2013-2014 and to adjust the Long Term Financial Plan to reflect this

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
			<p><i>not correct. The infrastructure will provide road frontage, drainage, bus interchange and landscaping to service the entire development not just the one lot that is proposed to be sold to BigW.</i></p> <p><i>Page 216 – the 2 million does form part of the \$4.3 million however we were unsure whether the development would span one or two financial years as the timing was dependant on the approval of the Development Application (DA). The DA has now been approved so we expect the \$4.3 million will be fully expended in the next financial year 2013-2014.</i></p>	apportionment.
2.1	Long Term Financial Plan (LTFP)	17	<p>References the future developments (e.g. King's Hill) and notes that these are included in the revenue side but not accounted in the expenditure side when assets revert to Council.</p> <p><i>The reference refers to the number of rate assessments that might conservatively be expected to arise should these developments come to pass. However the LTFP is explicit that these are only assumptions about future events – there are no figures derived from them for either revenue or expenditure as the nature and scope of these developments are not known in sufficient detail to allow for any reasonable extrapolation of figures to inform the LTFP.</i></p>	That the correspondence be noted.
2.2	Long Term Financial Plan (LTFP)	55-56	<p>Council's commercial ventures must be the subject of professionally conducted feasibility studies and business plans before considering borrowing to fund such ventures.</p> <p><i>The level of overall debt and subsequent debt service ratios should be subjected to specific analysis of each project being mindful of the capacity of the Council to repay the debt and maintaining ratios within industry standards.</i></p>	That the correspondence be noted.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
2.3	Long Term Financial Plan (LTFP)	46	<p>Birubi Surf Club construction: Notes the apparent discrepancy between this document and the Minutes of Council's meeting of 23 April 2013.</p> <p><i>The apparent inconsistency in costing of the Birubi Surf Life Saving club relates to the timing of the information provided. The original Long Term Financial Plan as exhibited included the project as it was then scoped. Subsequent further scoping works have been completed which resulted in the revised project scope being put before Council and subsequently adopted in April 2013. The Long Term Financial Plan will now be amended to reflect the latest information. The project has been fully costed and the proposed finance sources were included in the report to Council in April 2013. All costs associated with the redevelopment have been included in this latest report and will be constantly monitored. Any variations will be reported on a regular basis.</i></p>	<p>That the correspondence be noted.</p> <p>That Council approves the amendment of the Resource Strategy documents as contained the General Manager's submission – Item 16 below.</p>
2.4	Long Term Financial Plan	60	<p>At section 6.1.4 reference is made to the profits from holiday parks located on Crown Land being only reinvested in holiday parks. Notes that it can be reinvested in other Crown Land Reserves .</p> <p>The submission is correct and it is proposed that the wording of 6.1.4 be changed to read: Net profits from Holiday Parks on Crown Land are retained for reinvestment back into Crown Land Reserves managed in trust by Council.</p>	<p>That Council agrees to reword 6.1.4 to reflect expenditure of profits on Crown Land Reserves, not just on holiday parks on Crown Land.</p>
2.5	Strategic Asset Management Plan	81	<p>Playground Assets: Replacement and Rehabilitation of Playgrounds Plan – asks for reasons why decisions related to Shoal Bay Tennis, Lancaster Park and Lorikeet Reserve are recommended for “remove and leave as open space” .</p> <p><i>Playgrounds are in very poor condition across the LGA and need to be</i></p>	<p>That Council notes the correspondence.</p>

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
			<i>removed. On a risk management basis they were prioritised. An independent audit was undertaken to assess the risks. Council does not have the funds to replace all playgrounds at this point and a strategy to leave as open space after removing hazards is the best option for managing the risks. Plans are in place for Little Beach playground to be replaced which will cost \$85,000 and work is scheduled for 2013-2014. What funding is available has to be shared equitably across the LGA, however whilst Shoal Bay Tennis and Lancaster Park are still in very poor condition in the shorter term the risk has to be removed and replacement slated for a future date.</i>	

The following submission is made by the General Manager:

No.	Document	Page	Submission	Recommendation
1	Integrated Plans	14	1.1.1.3: Replace "Convene a community safety expo" with "Provide community crime prevention programs". Other details remain the same.	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.
2	Integrated Plans	14	1.1.1.5: Replace Coordinate Council services with NSW Police for Tomaree Peninsula New Year's Eve celebrations" with "Coordinate Council's operations with NSW Police". Other details remain the same.	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.
3	Integrated Plans	16	2.1.1.2: Replace "Promote Seniors' Week" with "Promote Council's on-line Seniors' program and Seniors' Week". Other details remain the same.	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.
4	Integrated Plans	17	3.1.1.1 Replace "Promote annual International Day for people with disabilities" with " Provide support, education and awareness of disabilities to the community and Council staff". Reporting timeframe would be quarterly with other details the unchanged.	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.
5	Integrated Plans	19	5.1.1.1: Add: "Convene and" at the	That Council

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
			beginning of this action and remove reference to Youth Week. See 5.1.1.5 below.	accepts the proposed amendment to the Integrated Plans 2013-2023.
6	Integrated Plans	19	5.1.1.4: Add a new action: "Undertake research and develop a strategy for present and future needs of the youth population", to be funded from recurrent funding and progress reported quarterly till June 2014. Social Planning would be the responsible area of Council to undertake this action.	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.
7	Integrated Plans	19	5.1.1.5: Add: "Coordinate and promote Youth Week Program". This is separated from 5.1.1.1 because it has guaranteed funding from State government and will occur in April 2014. Social Planning area will undertake this action.	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.
8	Integrated Plans	21	6.1.1.12: Add "Convene and support the Port Stephens Interagency Network". State government is funding this action which is undertaken by Social Planning, which will report quarterly.	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.
9	Integrated Plans	23	7.1.1.9 Add: "Maintain and Resource Council's Cultural Framework." This action will be resourced from revenue, and reported quarterly by Social Planning.	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.
10	Integrated Plans	53-54	<p>Waste Management Statement: Certain Waste Management Charges made under s501 of the Local Government Act 1993 are GST taxable supplies effective from 1 July 2013 following Australian Tax Office GST Ruling 2013/19.</p> <p>Waste Management Service Charges made under s501 of the Local Government Act 1993 are GST taxable supplies effective from 1 July 2013. These charges apply to rate assessments categorised as Business. This charge will be \$389.40 (inc GST) in 2013/2014.</p> <p>It is proposed that the Waste Management Statement be amended</p>	That Council accepts the proposed amendment to the Integrated Plans 2013-2023.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
			<p>to reflect this change.</p> <p><i>For Council's information, we are awaiting a GST ruling in relation to the proposed "Waste Management Charge - \$48.00" and depending upon the ruling this charge may be \$48.00 (GST exempt) or \$52.80 (inclusive GST) in 2013/2014. This request for a separate ruling has been made on the recommendation of the Genesis Accounting consultant who is acting for several councils, including Port Stephens. Subject to the ruling being available – and no date can be provided to Council at this time, we are intending to retain the charge of \$48.00 (GST exempt) as exhibited in the Integrated Plans.</i></p>	
11	Workforce Strategy	N/A	In order to make the Workforce Strategy more accessible an Executive Summary has been added and the Business Operating System updated to the current version.	That Council notes the additions to the Workforce Strategy 2013-2017.
12	Long Term Financial Plan	From 26	<p>The Long Term Financial Plan 2013-2023 contains three scenarios (Base, Improved, Strategic) and demonstrates projections on the future performance under four benchmark ratios, as identified by NSW Treasury Corporation (TCorp). These are Cash Expense Ratio, Unrestricted Current Ratio, Debt Service Cover Ratio and Interest Cover Ratio.</p> <p>In April 2013 in its Report entitled Financial Sustainability of the New South Wales Local Government Sector at p23, TCorp proposes additional ratios that apply to the measurement of financial performance in local government and it is proposed that the Long Term Financial Plan 2013-2023 be amended to include these additional ratios being: Operating Ratio, Own Source Operating Revenue Ratio, Building and Infrastructure Backlog Ratio, Asset Maintenance Ratio, Building and Infrastructure Asset Renewal Ratio, Capital Expenditure Ratio.</p>	That Council agrees to the inclusion of an additional six Ratios for each of the Scenarios projecting future performance.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

No.	Document	Page	Submission	Recommendation
13	Strategic Asset Management Plan – Attachment 1; Long Term Financial Plan	211ff	<p>Council's approval is sought to move the following work to the 2014-2015 financial year: (p214) Road Pavement: Ferodale Road from the school to Waraparra Road – construction including kerb and gutter, cost \$343,655.</p> <p>The development is to construct a roundabout at the intersection of Ferodale Road and Peppertree Close. Council is preparing to shoulder widen Ferodale Road west of a roundabout to allow for turning traffic into shops. The total cost of all the work is \$383,655 and the project has been exhibited in Council's Section 94 Plan. The work scope includes road rehabilitation that was not scheduled. However as outlined at page 211 of the draft Strategic Asset Management Plan, allowance has been made for deterioration in the condition of an asset faster than anticipated that may require substitution of one project for another. In this instance the rapid deterioration of the road pavement coincided with the need for Council to do work at Ferodale Road outlined above. Therefore it is proposed to combine the road rehabilitation with the shoulder widening as this approach is more cost efficient than doing each of the works separately in time.</p>	That Council adopts the move of works described to financial year 2014-2015; approves the work of road pavement rehabilitation and shoulder widening at Ferodale road west of the roundabout; adjust the summary of expenditure on page 212 to reflect the adjustment; amend the Long Term Financial Plan 2013-2023 to reflect the adjustment.
14	Strategic Asset Management Plan – Attachment 1	N/A	In 2011 and 2012 Council put on public exhibition and subsequently approved a program over four years to replace air conditioning in the Administration Building. At its meeting on 9 April 2013 (after the SAMP exhibition period had commenced) Council resolved (Minute 087) to reduce this project from four years to two years at a cost of \$341,000 which will result in a saving of \$136,000 for this project.	That Council notes the change of timing and agrees to the inclusion of this project in 2013-2014 Program of Works.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013				
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No.	Document	Page	Submission	Recommendation
15	All documents	N/A	That the Integrated Plans and Resource Strategy 2013-2023 be amended to remove the wording "Port Stephens Tourism Ltd) and replace with "Destination Port Stephens" wherever it occurs.	That Council agrees to the word replacements.
16	Strategic Asset Management Plan – Attachment 1	211f	The Birubi Surf Club works for 2013-2014 have been omitted from Attachment 1. The expenditure in that year is a proportion of the total expenditure approved by Council. In that year it is estimated that the works will cost \$4.1 million.	That the proposed work on Birubi Surf Club be included in the Strategic Asset Management Plan Attachment 1 for 2013-2014 and the Long Term Financial Plan be adjusted accordingly.

ITEM NO. 13

FILE NO: A2004-0217

ALLOCATION OF PARCEL OF LAND AT BOOMERANG PARK FOR MEN'S SHED

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Enter into a Memorandum of Understanding with the Raymond Terrace Men's Shed Inc and Port Stephens Dog Sports Club Inc for the purpose of confirming intention to redevelop the Boomerang Park Amenities Building as a shared site for both groups to operate from.
 - 2) Develop a building design that would facilitate the needs of the Raymond Terrace Men's Shed Inc and Port Stephens Dog Sports Club Inc.
 - 3) Develop a cost model that could be used to attract sponsorship and grant funding.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor Peter Kafer
	That the recommendation be adopted.

MOTION

148	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to address the Notice of Motion from the Council Meeting held on the 24th April 2012.

At the Council Meeting held on the 24th April 2012, Council resolved to allocate a parcel of land within the community land section of Boomerang Park (in consultation

with the Ward Councillors and Men's Shed Committee) for the purpose of "Raymond Terrace Men's Shed". This would allow them to fundraise and organise grant funding for the building.

Since this Notice of Motion was tabled, a number of options have been explored with the group. The most recent agreements, based on site visits and discussions with staff and representatives from the Men's Shed and the Dog Sports Club, suggest that the Boomerang Park Amenities Building would be a suitable location.

Council staff will be commencing work on the preparation of a plan of management and master plan for Boomerang Park in the second quarter of 2013/14. It is anticipated that this process will be completed by June 2014. The proposed collocation will be covered in this process and would be consistent with industry trends.

The current amenities' building has a number of structural issues that need to be addressed in the near future. The life span of the building will be significantly reduced if either major renovations are not undertaken or total replacement does not occur. This being the case, and given there is a mutual desire to cooperate on co-location between the two groups, this site is recommended as the preferred future location for the Raymond Terrace Men's Shed Inc and Port Stephens Dog Sports Club Inc.

The renovation or total replacement of this facility is also favourable to Council for the following reasons:

Renovating/replacing the existing building would not add to the existing asset portfolio;

The utility services are already available at the site therefore reducing cost in the construction;

Co-location and shared use of community buildings is desirable as it maximises the occupation of the asset, ensures surveillance and safety of the asset and builds a sense of community.

FINANCIAL/RESOURCE IMPLICATIONS

Currently there is no funding available for this project.

This project is not included in the Strategic Asset Management Plan or the Community Strategic Plan. In order for this recommendation to proceed further it would need to be fully scoped and funding options identified prior to inclusion in the Councils Integrated Plan.

Progressing with this MOU will require staff resources to coordinate meetings and discussions. Legal resources will be required to prepare and oversee the memorandum of understanding.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$1000	Estimated cost of legal fees for preparation of MOU. Covered within existing resources.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal impediments to adopting the recommendation.

The proposal is consistent with the current plan of management for Boomerang Park.

Adopting the recommendation is in line with Council's Community Services Policy (adopted 28/8/2001, Minute Number 363) which states that: "Council will ensure an appropriate range of buildings exist to enable community services to develop and operate."

Any future tenancy agreements will be assessed through the draft Community Leasing Policy.

The risks associated with adopting the recommendations are detailed in Table 1 below.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the groups may not agree on how to co-exist within a single building resulting in increased intervention by Council as the asset owner and tenancy manager.	Low	Council staff will facilitate meetings between both groups to reach a favourable and feasible outcome to meet the needs of both groups.	Yes
There is a risk that entering into an MOU will raise expectation with the groups that a new building will be funded and completed within a timeframe that is not feasible resulting in	Low	Regular meetings with both groups to discuss progress, milestones achieved and timeframes for future milestones. These meetings will also address the financial situation at each stage and to look at potential income	Yes

reputation damage to council.		streams that the groups maybe able to draw upon eg. Grants, donations etc.	
There is a risk that there would be a change in the membership of the groups resulting in changes to the planning process.	Low	Formalise a Project Management Plan for the project with sign off from both parties.	Yes
There is a risk that any future expansion of the Raymond Terrace Depot will impact on the design and location of the future renovation or reconstruction resulting in rework, extra costs and reputation damage.	Low	Council staff will liaise and work with the project team and stakeholders of the Raymond Terrace Depot future plans to minimise this impact. Integration of the two projects will be discussed from the outset and communicated to both the Raymond Terrace Men's Shed Inc and the Port Stephens Dog Sports Club Inc.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation will enhance the ability for these two groups to build membership and develop their specific focus. The local community will benefit by having two groups functioning from one site thus providing best value for the use of that site. Having both groups operate from the one site under a long term licence or lease will enable them to increase their profile and membership and deliver their services to the broader community.

There are no foreseeable implications for the local economy either positive or negative.

There are no foreseeable implications for the ecology of the area either positive or negative.

CONSULTATION

Formal and informal meetings have been held with both the Raymond Terrace Men's Shed and the Port Stephens Dog Sports Club over the last six months. Specifically some of these have occurred on:

- 03/04/13 – Council Chambers – RT Men's Shed
- 07/03/13 – Council Chambers – Port Stephens Dog Sport Club
- 25/10/12 – Council Chambers – RT Men's Shed
- 11/10/12 – Council Chambers – RT Men's Shed
- 09/10/12 – Boomerang Park Amenities – Port Stephens Dog Sport Club

Both parties have had an opportunity to liaise with their committees and both parties believe that a shared facility to replace the current facility would be a favourable outcome. Attachment 1 and 2 give evidence to the mutual support of this proposal by both groups.

Community and Recreation's Planning Team and Assets Team have led discussions on this matter.

Discussions have been held with the Operations Manager regarding the potential implications of this recommendation on planning for the future Raymond Terrace Depot. Further consultation is required on this matter.

OPTIONS

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

ATTACHMENTS

- 1) Correspondence from Raymond Terrace Men's Shed Inc;
- 2) Correspondence from Port Stephens Dog Sports Club Inc.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Page 1 of 1

From: _____
Sent: Thursday, 21 February 2013 8:31 PM
To: _____
Cc: _____
Subject: Boomerang Park Men's shed/ Dog club building site proposal..

Hello _____

Is it possible for you to provide an update on the outcome of the recent RT Dog clubs AGM as to their members view on progressing with the propose new Men's Shed/Dog Club building in Boomerang Park.

The proposal was put forward at our January men's shed general meeting for consideration. Members were pleased with the proposal and voted that we should continue negotiations with all parties.

The men's shed members are keen to move forward with the process and would ask a meeting with all parties be arranged as soon as practicable.

For your reference I will be away from _____ I would be available for a latish afternoon meeting

If it can be arranged the week beginning Monday 11th March or any time thereafter.

Best regards

***PRESIDENT
RAYMOND TERRACE MEN'S SHED.***

10/05/2013

ATTACHMENT 2

Page 1 of 1

From: [REDACTED]
Sent: Sunday, 9 December 2012 4:59 AM
To: [REDACTED]
Subject: Boomerang Park
Hello [REDACTED]

With regard to Council's proposal as to the use of the Amenties Block at Boomerang Park, I would like to advise you that it was discussed at our Committee meeting on Wednesday evening.

We did have a few concerns with the proposal, nothing major of course, but niggles all the same, they were, security, metal filings, noise of machinery and electricity and council costs.

Having said that, we are obliged to present this to our general membership, and to this end we will be holding a general meeting on the 2nd Sunday, ie 10th February, 2012 after training. The reason for the delay is that we do not train on Sundays' during January, as it is too hot for the dogs, and we all need a break.

In any event the committee was happy to go ahead with the proposal, with due consideration to our concerns, and will advise the general membership of the committee findings.

I hope that this helps you in your endeavours, and apologise that we cannot give a clear answer until after the meeting.

If this is a problem, please do not hesitate to contact me and we will try to expedite the matter earlier if necessary.

Regards,

*Secretary,
Port Stephens Dog Sports Club Inc.*

10/05/2013

ITEM NO. 14

FILE NO: T11-2013

T11-2013 – TENDER – NATIVE BUSH ENHANCEMENT ACROSS PORT STEPHENS LOCAL GOVERNMENT AREA

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL
SERVICES SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 14 on the Ordinary Council agenda namely **T11-2013 – Tender – Native Bush Enhancement Across Port Stephens Local Government Area**.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **T11-2013 – Tender – Native Bush Enhancement Across Port Stephens Local Government Area**.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
 - 5) Accept the recommended applicants for a panel of providers for bush regeneration works across the Local Government Area.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor John Morello
	That Council accept the recommended applicants for a panel of providers for bush regeneration works across the Local Government Area.

MOTION

149	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to gain approval to appoint a panel of providers for bush regeneration work across the Port Stephens Local Government Area. As per Councils Procurement Guidelines that link to the Local Government (Tendering) Regulations 1999, a procurement contract in excess of \$150,000 per annum and/or two or more years in duration must be endorsed by Council. This tender is funded by Environmental Trust Grants, and is in addition to the Natural Area Restoration program that was adopted by Council in 2012.

The following contractors have been selected through the tendering process:

Trees in Newcastle;
Toolijooa;
BARRC;
Conservation Volunteers Australia;
Worimi Local Aboriginal Land Council.

The top four providers will be primarily utilised as they presented the best skills and value for money. The other provider will be used on an as needs basis if their particular skill set is required.

The contract is for a period of two years with an option for Council to extend for an additional two years, then an additional year.

Council has legislative requirements, under the Local Government Act, to maintain and manage the bushland and foreshores on land that it owns or manages. To assist

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

with these responsibilities Council is currently administering two large (\$260,000 each) Environmental Trust Grants on behalf of community groups. These are:

- Project Title: Benapi Point Corridors Restoration Project
Community Group: Soldiers Point –Salamander Bay Landcare Committee (355C)
- Project Title: Tilligerry Peninsula Community Bush Regeneration Project
Community Groups: Tilligerry Habitat Association Inc; Tilligerry Tidy Towns & Landcare Committee (355C); Mallabula Parks & Reserves Committee (355C); Lemon Tree Passage Parks & Reserves Committee (355C)

These grants will provide funds for bush regeneration work at Soldiers Point and the Tilligerry Peninsula over the next five years. The contractors selected for the panel will be used for these Environmental Trust projects, and other projects and grants as they arise. The contractors may vary from site to site and will be chosen based on price, performance, skill set and availability.

Seven tenders were received for this work. All tenders were evaluated using a Value Selection Methodology system. The attributes, which are weighted according to importance, were tender price, previous experience, staff experience, OH&S documentation, insurances and a referee check. The tender requested a price based on supply of a team of trained professional regenerators on a daily basis. The Tenderers scores based on the Value Selection Criteria are included as **(ATTACHMENT 1)**.

It should be noted that Worimi Local Aboriginal Land Council has been included in the panel of providers even though they scored lower than other excluded providers. This is because they provide expertise on local indigenous land management using traditional knowledge that may be required on culturally sensitive sites.

FINANCIAL/RESOURCE IMPLICATIONS

The supervision of bush regeneration contractors will involve staff time and resources to administer the Environmental Trust Grants, and the co-ordination of works to complement community groups, grant requirements, and council works plans.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Staff time as required, within existing budget
Reserve Funds			
Section 94			
External Grants	Yes	\$500,000 (over 5 yrs)	Environmental Trust Grant (x2)
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

By contracting out the maintenance of Port Stephens Councils Bushland and Foreshore Reserves, Council will meet its duty of care obligations to the Local Government Act 1993, Rural Fires Act 1997, Threatened Species Conservation Act 1995, Environment Protection and Biodiversity Conservation Act 1999 and will fulfil the land management requirements of Port Stephens Councils – Natural Area Generic Plan of Management 2003, and fulfil Environmental Trust Grant requirements.

Providing a maintenance program will manage the threat of noxious weed spread, improve habitat for native animals, and reduce fire risk/severity.

Risk implications relating to the Environmental Trust Grant projects are outlined below:

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the contractor does not achieve objectives	Medium	Written contract will hold contractors to account. Staff will supervise and monitor works.	Yes
There is a risk that community groups pull out of the project	Medium	Scheduled meetings, ongoing communication to keep Community groups engaged.	Yes
There is a risk that if requirements of Environmental Trust Grant are unfulfilled – funding will be withdrawn	Medium	Staff will supervise program to ensure grant milestones are achieved	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Whilst large natural areas of the LGA are not under direct Council control, Council is responsible for the management of 554.1 Ha of Natural Areas and 295.1 Ha of Foreshore. These bushland areas contain plant communities regarded as being of special conservation significance to the region. In addition some sites are habitat for a number of endangered fauna and flora species. Effective bushland management on Council land will contribute to improved biodiversity, noxious weed control and reduce potential bushfire risk. The two Environmental Trust Grants will contribute funds to help manage 150 ha of bushland.

All land management agencies have a responsibility to the community for efficient and effective natural area management. As this responsibility can be costly to Council, the Environmental Trust Grant will financially assist Council to meet its responsibilities.

Port Stephens Council's contribution to natural area management will also assist in the maintenance of a safe community as unmaintained bushland areas can be used for antisocial behaviours.

CONSULTATION

Consultation has been undertaken with the following people/agencies:

- Contracts and Procurement Co-ordinator
- PSC Parks Team Leader East/West
- NSW Environmental Trust
- Community Groups:
 - Soldiers Point –Salamander Bay Landcare Committee (355C);
 - Tilligerry Habitat Association Inc;
 - Tilligerry Tidy Towns & Landcare Committee (355C);
 - Mallabula Parks & Reserves Committee (355C);
 - Lemon Tree Passage Parks & Reserves Committee (355C).

OPTIONS

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

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Confidential – Value Selection Matrix

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 15

FILE NO: PSC2013-01613

ALCOHOL AND OTHER DRUGS SERVICES TENDER

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 15 on the Ordinary Council agenda namely **Alcohol And Other Drugs Services Tender**.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Alcohol And Other Drugs Services Tender**.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
 - 5) Accept the tenders of Medvet and Frontline Diagnostics who offered the best value be appointed as Panel Service Providers to Port Stephens Council for the period 1 July 2013 to 30 June 2015.
 - 6) That provision be allowed for a two year extension based on satisfactory supplier performance which may take the contract through to 30 June 2017.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Steve Tucker Councillor John Nell
	That Council: 1) Accept the tenders of Medvet and Frontline Diagnostics who offered the best value be appointed as Panel Service Providers to Port Stephens Council for the period 1 July 2013 to 30 June 2015. 2) That provision be allowed for a two year extension based on satisfactory supplier performance which may take the contract through to 30 June 2017.

MOTION

150	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to recommend to Council the preferred tenderer for the provision of drug and alcohol testing services.

In July 2011 Port Stephens Council participated in an alcohol and other drugs industry trial with other Hunter Councils. The objective of the trial was to assist in the development and implementation of alcohol and other drugs procedures in the workplace.

It was recognised by all parties, including our member unions, that the inappropriate use of alcohol and/or other drugs is a significant problem that can affect an employee's work performance and jeopardise the health, safety and welfare of the employee, their co-workers and other people within the workplace.

Following the successful completion of the trial, a slightly amended version of the policy and procedure was implemented. The adopted policy and procedure provides for:

testing of the workplace on a random basis;
testing if there is a reasonable suspicion that a worker is impaired by alcohol or drugs;
and

testing following incidents which cause injury, involve accidents, result in property damage or have potential for significant risk of harm or injury to persons or equipment.

Tenders were invited as part of a wider Hunter Council procurement initiative. Regional Procurement called for tenders for the provision of drug and alcohol testing services on behalf of eleven (11) participating member councils.

As the timing of testing is critical, it is recommended that the two highest ranking tenderers be appointed to a panel of providers rather than a single tenderer. This will ensure that testing is able to be conducted when required.

The tenders of Medvet and Frontline Diagnostics offered the best value as service providers. Medvet was established in 1985 and is a national provider of onsite health and safety services with extensive experience across a broad range of industries. Similarly, Frontline Diagnostics has been established since 1999 and is also a national provider with well qualified and experienced staff committed to best practice standards.

FINANCIAL/RESOURCE IMPLICATIONS

Each section manager is responsible for funding the testing carried out for their workers. Funds are available in each section manager's budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$12,500	Cost for total organisation
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

Tender Evaluation

The tender evaluation was conducted on Thursday 11 April 2013 at Hunter Councils Inc. administration centre at Thornton. Five tender submissions were received. The tender evaluation panel consisted of one member from each of the following councils:

- Lake Macquarie City Council;
- Port Stephens Council;
- Wyong Shire Council;
- Maitland City Council;
- Cessnock City Council;
- Upper Hunter Shire Council; and
- Regional Procurement.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

All evaluation weightings and criteria were agreed upon by participating councils prior to the tender closing.

Criteria	% Weighting
Post incident callout fee	25
Confirmatory sample collection and testing fee (per person)	10
Random test cost (per collector)	5
Targeted random test cost (per person)	5
Travel cost per km	5
Alcoholiser unit (hand held basic model) compliant to AS3547	5
Saliva testing kit (basic) compliant to AS4760	5
Education and training part-day hourly rate \$ (this rate is to be inclusive of all on-costs)	5
Education and training full-day hourly rate \$ (this rate is to be inclusive of all on-costs)	5
Referees	5
Quality Assurance	5
WH&S	5
Response times incident testing	5
Security awareness and fraud prevention	10
TOTAL	100

LEGAL, POLICY AND RISK IMPLICATIONS

Employers have a duty to ensure the health, safety and welfare of their employees and other people within the workplace. Employees have a duty to take reasonable care of their own health and safety, as well as for the health and safety of other people within the workplace.

There are penalties under legislation for employers and employees who fail to take their health and safety responsibilities seriously.

Council's Employee Assistance Program provides professional and confidential counselling for workers who may be experiencing problems associated with alcohol and other drugs.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that a worker impaired by alcohol or other drugs may present a hazard to	High	Measures must be taken to minimise this risk. These include the provision of alcohol and other drugs testing in	Yes

themselves or others.		accordance with Council's adopted policy and procedure.	
There is a risk that Council could breach its duty of care in relation to the use of alcohol and other drugs and their potential to cause increased risk of injury or harm in the workplace.	Medium	Council must ensure that a culture that accepts excessive consumption of alcohol and other drugs does not exist within the workplace. This includes implementation of an Alcohol and other Drugs policy and procedure which includes provision of testing.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The use of alcohol and other drug testing is now commonplace within Australian industries. As an employer, Port Stephens Council is committed to providing a safe, health and secure environment for all our employees and for those affected by our operations and activities.

The provision of providing alcohol and other drugs services that supports our adopted policy and procedure will help to achieve our objectives of:

- eliminating the risks associated with the misuse of alcohol or other drugs, therefore providing a safer working environment;
- reducing the risks of alcohol and other drugs impairment in the workplace; and
- promoting a supportive culture that encourages a co-operative approach between management and workers and builds on the shared interest in workplace health and safety.

CONSULTATION

- 1) Executive Leadership Team;
- 2) Unions;
- 3) Consultative Committee;
- 4) Organisation Development;
- 5) Health and Safety Committee;
- 6) Hunter Councils.

OPTIONS

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

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Tender Evaluation Summary – (Confidential).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 16

FILE NO: T08-2013

T08-2013 EMPLOYEE ASSISTANCE PROVIDER

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 16 on the Ordinary Council agenda namely **Employee Assistance Provider**.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Employee Assistance Provider**.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
 - 5) Accepts the tender from Access Programs Australia Ltd who offered the best value for the provision of services associated with an Employee Assistance Provider based on a yearly retainer and fee for service for training. This contract is for an initial period of two (2) years with an option to extend for a further period of two (2) years.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Geoff Dingle Councillor Steve Tucker
	That Council accepts the tender from Access Programs Australia Ltd who offered the best value for the provision of services associated with an Employee Assistance Provider based on a yearly retainer and fee for service for training. This contract is for an initial period of two (2) years with an option to extend for a further period of two (2) years.

MOTION

151	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to recommend the preferred tenderer for the provision of services to support Council's Employee Assistance Program (EAP).

Council's EAP is a work-based early intervention program aimed at the early identification and/or resolution of both work and personal problems that may adversely affect performance. It provides assistance to employees through confidential professional counselling and support in dealing with workplace and personal issues.

The EAP supports Council's strong commitment to ensure the health, safety, and welfare of our workers and meeting our obligations under the Work Health and Safety Act.

Tenderers were asked to quote on an hourly rate per employee for the services identified in Module 1 below, or on a yearly retainer basis. Quotes for Module 2 services were based on a fee for service basis.

MODULE 1	
1.1 EAP Services	1.2 Provision of referrals to specialist services
On site critical incident stress management	Vocational guidance
Relationship problems	Indigenous counselling
Workplace stress	Disability support providers
Workplace conflict	Support services for parents
Anger management	Financial counselling providers
Emotional stress	Adolescent care services
Post traumatic stress disorder	Family mediation and conciliation services
Depression and anxiety management	Relationship and parent education services
Child and family problems	Adoption services
Gambling	Aged care including dementia home support
Addiction and substance abuse	Disability services
Pain management and adjustment to injury	Drug and alcohol addiction support
Grief and bereavement	Suicide prevention services
Workplace harassment	Gambling support services
Personal issues	Domestic violence support services
Financial counselling	
Vocational counselling/career transition support	
MODULE 2	
Provision of on site training	
Training delivered to staff to identify and effectively manage & support people dealing with mental illness, depression and dependency issues.	

Six tender submissions were received. All evaluation weightings and criteria were agreed upon by the evaluation panel prior to the tender closing. Tender evaluations were conducted by the Human Resources Officer in conjunction with the Purchasing Officer using the Weighted Criteria Methodology Summary.

Based on the evaluation, the yearly retainer option for Module 1 outlined below, in combination with a fee for service for Module 2, was identified as the best value option for Council:

- EAP Counselling Service (as stated in 1.1 and 1.2 above) including:
- Up to 5 sessions annually per employee:
 - This service is based on an average utilisation rate of 35 employees for individual counselling sessions and unlimited Manager Assist usage.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

- Manager Assist Service:
 - Manager Assist provides managers and supervisors with coaching and support from a professional counsellor to assist in dealing with complex staff matters.
- Promotional Material
- Administration and Management
- Quarterly Contract meetings
- Tip Sheets
- Monthly Newsletter articles
- Module 1 inclusions without critical incident debriefing
- Quarterly reports

All Tenders were compliant and none of the organisations have indicated deviations from the contract documentation provided in the tender.

Following the tender evaluation process, Access Programs Australia Ltd is the evaluation panels preferred tenderer.

Access Programs Australia has been operating since 1989 and has an extensive network of counsellors and consultants with a Newcastle based office. Their aim is to improve the well-being and work productivity of individuals, and to promote positive organisational behaviour.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$29,500	The funding for the employee assistance program is provided through the Human Resources Unit budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to tender for services where the contract is for a period of two (2) years or more.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that work performance may be affected if employees do not have access to confidential professional counselling and support to help them deal with workplace and personal issues.	Medium	Appoint qualified and experienced Counsellors to provide this service to Council staff and their families.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

An Employee Assistance Program provides individuals who are experiencing issues at work and/or personally with access to confidential professional counselling support. This represents potential cost savings in regard to issues such as safety risks, employee grievances and legal claims.

A work-based early intervention program aimed at the early identification and/or resolution of both work and personal problems can represent savings in reducing absenteeism and turnover and improve productivity and staff engagement.

There are no significant environmental implications from this recommendation.

CONSULTATION

- 1) Organisation Development Section;
- 2) Financial Services Section.

OPTIONS

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

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Tender Evaluation Summary – (Confidential).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 17

FILE NO: T10-2013

TENDER T10-2013 - LEASE OF MEDOWIE CHILDREN'S CENTRE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 17 on the Ordinary Council agenda namely **T10-2013 Lease of Medowie Children's Centre**.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Lease of Medowie Children's Centre**.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
 - 5) Accept the tender submitted by Uniting Care Children's Services for the lease of Medowie Children's Centre at the price of \$35,000 (exc. GST) per annum indexed for a period of five (5) years plus three (3) lots of five (5) year extension options in the tenants favour.
 - 6) Authorise the Mayor and General Manager to affix the seal of the Council to the lease documentation.
-

**ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor John Morello
	That Council: 1) Accept the tender submitted by Uniting Care Children's Services for the lease of Medowie Children's Centre at the price of \$35,000 (exc. GST) per annum indexed for a period of five (5) years plus three (3) lots of five (5) year extension options in the tenants favour. 2) Authorise the Mayor and General Manager to affix the seal of the Council to the lease documentation.

The Mayor made special mention of the staff of the Centre for their professionalism and commitment to the Centre and Council over the past year.

Specifically, staff have worked with full knowledge that the centre would be out sourced and their jobs made redundant. Knowing that, they have still provided quality care for the families and children.

MOTION

152	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to have Council consider and accept the tender for the lease of Medowie Children's Centre as a Long Day Care Centre.

As part of the Sustainability Review for Children's Services, Council resolved on 26 June 2013 (Minute number 150) to seek an alternative organisation to take on the operation of the Medowie Children's Centre.

Council received expressions of interest for the lease and running of the Medowie Children's Centre up to the 29th January 2013. Three organisations made submissions. A selective tender process followed which invited the three organisations to tender for the full lease and operation of the Centre. Two submissions were received on 29th April 2013.

The two tenders received were from;
Lake Macquarie Educational Pre-school;
Uniting Care Children's Services.

The majority of assessment criteria for the tender were based on non price attributes, namely:

- Approved Provider status;
- Previous experience;
- Management Transition Plan;
- Financial capacity;
- Business Model;
- Industrial Relations Record;
- Innovation;
- Insurances.

The annual rent value was nominated in the tender specification to enable all proponents to present business models based on the same known annual lease costs.

The tender evaluation panel determined that both proponents met the assessment criteria. Refer to Attachment 1 for details.

FINANCIAL/RESOURCE IMPLICATIONS

The Sustainability Review of Children's Services identified an ongoing financial subsidy to Medowie Children's Centre in the amount of \$63,000 on average per year. Adopting the recommendation will reduce this annual financial subsidy to zero and return an annual rental income of \$35,000 per year.

Adopting the recommendation does have resource implications in that the Redundancy and Entitlements conditions of the Enterprise Agreement are triggered. It is calculated that a one off cost of \$255,000 will be incurred in staff redundancy and entitlement payments.

Adopting the recommendation will result in the reduction in staffing resources of EFT 9.29.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	(\$98,000)	Based on annual lease income of (\$35,000) and annual savings in subsidy of (\$63,000).
Reserve Funds	Yes	\$255,000	One off staff entitlements and redundancy payments.
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Medowie Children's Centre is located on land classified as Community use. The Local Government Act requires that the community is given 30 days notice of Council's intention to lease the land for a period greater than five (5) years.

Council is the Approved Provider of Medowie Children's Centre through the Early Childhood Education and Care Directorate (provider Number PR-00003335). "Notice of Transfer of Service Approval – Centre Based" must be lodged with the Australian Children's Education and Care Quality Authority with 42 days notice prior to the transfer of Service Approval. "Notification of Transfer of Management" must also be lodged with the Department of Education, Employment and Workplace Relations with 42 days notice.

Adopting the recommendation does trigger Redundancy and Entitlements conditions of the Enterprise Agreement. Staff, at the Centre, have been regularly keep informed of the proposed change in business model since it was the announced as part of the Sustainability Review for Children's Services in June 2012.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that selecting an organisation without sufficient financial capacity may lead to business failure with the potential for the service to be returned to Council.	Med	Adopt the recommendation.	Yes
There is a risk that selecting an organisation without sufficient experience may deliver an unsatisfactory outcome and result in reputation damage for Council.	Low	Adopt the recommendation.	Yes
There is a risk that adopting the recommendation may result in reputation damage caused by a perception that the preferred proponent is offering a business as	Low	Adopt the recommendation and advise detractors of the benefits of the preferred proponent.	Yes

usual child care model.			
There is a risk that selecting an organisation with unproven quality performance may lead to reputation damage for Council.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation means continuous access for the community to a quality long day care children's centre in Medowie. This in turn allows working families to continue to working in the knowledge that their children are well catered for in a high quality service.

Families will have (a) continued access to childcare of a similar quality to that provided by Council, (b) at a more affordable price and (c) which does not require a subsidy from the ratepayers of Port Stephens. This will enable families to engage fully in the life of their work and communities and contribute to the local and regional economy.

Adopting the recommendation is not likely to result in any impacts on the local ecology.

CONSULTATION

Extensive consultation with customers, staff, Councillors and key stakeholders, on the proposal to lease the Medowie Children's Centre, was undertaken during the Sustainability Review for Children's Service process in 2012.

Since this time, staff and parents that use Medowie Children's Centre have been regularly briefed on the change process through face to face meetings and individual letters.

- Meetings between Medowie Children's Centre staff and management took place on 3 May 2012, 15 November 2012 and 24 April 2013.
- Management met with families on 3 May 2012, 3 July 2012 and 15 November 2012.
- Letters were posted to individual families on 3 May 2012, 28 June 2012, 23 October 2012, 11 December 2012, 25 February 2013 and 26 April 2013.

Internal advice has been sought and received from the Corporate Services Group and the General Managers Office, specifically the Purchasing Officer, the Property Investment Co-ordinator, the Human Resources Manager, and the Manager Legal Services.

Consultation has been led through the Children's Services Coordinator and the Director of Medowie Children's Centre.

A Two Way Conversation was held with Councillors on Tuesday 8th May 2012.

OPTIONS

- 1) Accept recommendations;
- 2) Reject recommendations and negotiate a lease with another provider;
- 3) Reject the recommendation and re-let the tender;
- 4) Reject the recommendation and continue to directly provide the Medowie Children's Centre service.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Confidential - Value Selection Methodology Summary – Lease of Medowie Children's Centre.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 18

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 28 May 2013.

No:	Report Title
1	Designated Persons – Pecuniary Interest
2	Business Improvement Quarterly Report
3	Petition Requesting the Clearing of Undergrowth from Vacant Land Next to 30 Fingal St, Nelson Bay
4	Cash and Investments Held at 30 April 2013

ORDINARY COUNCIL MEETING – 28 MAY 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

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

MATTER ARISING

	Councillor John Nell Councillor Sally Dover
	That Council be provided with a report regarding the undergrowth on the Fingal Street Reserve at Nelson Bay, which surrounds the Police and Citizens Youth Club (PCYC).

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

	Councillor Paul Le Mottee Councillor Steve Tucker
135	It was resolved that Council move out Committee of the Whole.

MOTION

153	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Committee of the Whole recommendation be adopted.

MATTER ARISING

154	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that Council be provided with a report regarding the undergrowth on the Fingal Street Reserve at Nelson Bay, which surrounds the Police and Citizens Youth Club (PCYC).

INFORMATION PAPERS



INFORMATION ITEM NO. 1

DESIGNATED PERSONS – PECUNIARY INTEREST

REPORT OF: PETER GESLING – GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2013-01465

BACKGROUND

The purpose of this report is to advise Council of the persons designated for the submissions of Pecuniary Interest Returns.

Councillors

Cr Bruce MacKenzie
Cr Geoffrey Dingle
Cr Christopher Doohan
Cr Sally Dover
Cr Kenneth Jordan
Cr Peter Kafer
Cr Paul Le Mottee
Cr John Morello
Cr John Nell
Cr Steve Tucker

General Manager's Office

General Manager
Executive Officer
Legal Services Manager

Corporate Services

Group Manager Corporate Services
Accountant
Business Support Coordinator
Business Systems Support Section Manager
Commercial Business Manager
Finance & Assets Coordinator
Financial Services Section Manager
Management Accountant
Organisation Development Section Manager
Procurement & Contracts Coordinator
Property Development Coordinator
Property Investment Coordinator
Property Officer

Property Services Section Manager

Development Services

Group Manager Development Services

Assistant Development Planner

Building Assessment Manager

Business Development & Investment Manager

Communicate Port Stephens Coordinator

Community Planning & Environmental Services Section Manager

Compliance Officer

Coordinator Environmental Health & Compliance

Coordinator Natural Resources (2)

Development Assessment & Compliance Section Manager

Development Assessment Officer - Customer Service

Development Assessment Team Leader

Development Coordinator

Development Planner (2)

Economic Development & Communications Section Manager

Environmental Health Officer (3)

Environmental Health Team Leader

Environmental Officer

Health & Building Surveyor (5)

Major Projects, Policy & Compliance Coordinator (formerly Executive Planner)

Principal Strategic Planner

Ranger (4)

Ranger Team Leader

Section 94 Officer

Senior Building Surveyor

Senior Development Planner (3)

Senior Health & Building Surveyor (2)

Senior Health & Building Surveyor (Casual)

Senior Health & Building Surveyor Fire Safety

Senior Strategic Planner

Social Planning Coordinator

Strategic Planner (4)

Strategic Planning Coordinator

Tourism & Events Coordinator

Tourism Marketing Manager

Vegetation Management Officer

Waste Compliance Officer

Facilities & Services

Group Manager Facilities & Services
Childrens' Services Coordinator
Civil Assets Engineer
Civil Assets Section Manager
Community & Recreation Assets Coordinator
Community & Recreation Services Manager
Community Options Coordinator
Contracts & Services Coordinator
Coordinator – Construction
Coordinator – Construction (Acting)
Coordinator - Parks - East
Coordinator - Parks - West
Coordinator - Roads
Coordinator - Roadside & Drainage - East
Coordinator - Roadside & Drainage - West
Design & Project Development Engineer
Development Engineer (2)
Development Engineering Coordinator
Drainage Engineer
Fleet & Depot Services Coordinator
Fleet Management Supervisor
Library Services Manager
Operations Section Manager
Parks & Waterways Assets Coordinator
Project Management Coordinator
Recreation Planning & Development Coordinator
Senior Development Engineer
Strategic & Projects Management Engineer
Student Development Engineer
Waste Management Coordinator
Works Manager
Works Manager

ATTACHMENTS

Nil.

INFORMATION ITEM NO. 2

BUSINESS IMPROVEMENT QUARTERLY REPORT

REPORT OF: PETER GESLING, GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2011-04300

BACKGROUND

The purpose of this report is for Council to receive and note the attached Business Improvement Process Quarterly Report January-March 2013.

Council has a Business Improvement Program of Works that is made up of a prioritised list of 48 business improvement projects. The Business Improvement Analysis Team is responsible to approving which projects are included in the Program of Works and how our resources are allocated so that we have a "One Council" approach to business improvement.

Each piece of work has a project sponsor, a project manager and a project plan which is reported against using Performance Manager. In the past quarter projects completed include Commercial Property Management system, On-Line leave; Cemetery Management system and Water Quality monitoring system improvement.

In addition to this Program small scale improvements within operational processes and systems continue to occur.

ATTACHMENTS

- 1) Business Improvement Quarterly Report: January – March 2013.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

ATTACHMENT 1

Group	Section	Service or Function	Improvement cause	Improvements result	Created
Corporate Services	Property Services	Official naming of all Public & Crown Reserves at Tilligerry Peninsula – Gazette of names complete after approval by LPI – Geographical Names Board	A process improvement, A people/relationship improvement	A saving in time, An improved, expanded or more efficient service	8/01/2013
Identification of reserves now official and more easily located by community and staff when enquiries are made.					
Corporate Services	Business Systems Support	HR Personnel Files	A process improvement	A saving in time, An improved, expanded or more efficient service	14/01/2013
From December 2012 all HR Personnel Files are now managed electronically using TRIM. This process improvement has resulted in a more effective and appropriate method to capture and manage the personnel records, and additionally creates a time saving opportunity for both the creators and viewers of the records.					
Corporate Services	Business Systems Support	New Anti-Barking Collars Register in Authority	A process improvement	A saving in time, An improved, expanded or more efficient service	21/01/2013
Customer Relations are about to start hiring out Anti-Barking Collars to the public. The Business Systems Support section have created a register in Authority to register and monitor the usage of these collars (OFI 356).					
Corporate Services	Business Systems Support	Business Improvement	A process improvement, A people/relationship improvement	An improved, expanded or more efficient service	28/02/2013
The Business Improvement Program of Work has been developed with a supporting process that ensures senior leadership buy in to how this are prioritised and managed. The aim is a "One Council" approach to Business Improvement.					
Corporate Services	Business Systems Support	Business Improvement	A process improvement, A people/relationship improvement	A saving in time, An improved, expanded or more efficient service	28/02/2013
The Business Improvement Technology Template has been developed and endorsed by the Business Improvement Analysis Team. It allows project managers to consider a number of critical elements before pursuing a technology option. The form is based on systems thinking and includes measures for success.					
Corporate Services	Business Systems Support	Business Improvement	A process improvement, A people/relationship improvement	An improved, expanded or more efficient service	28/02/2013
The Sustainability Review process has been modified to ensure better communication with the stakeholders. This includes an improvement to the reporting templates for Councillors and the pre-and post consultation with relevant stakeholders.					

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

Group	Section	Service or Function	Improvement cause	Improvements result	Created
Corporate Services	Organisation Development	Work Health and Safety - Safe Design Procedure	A process improvement	An improved, expanded or more efficient service	4/02/2013
The new Work Health and Safety Regulations increase the obligations surrounding workplace designs for all employers, with a focus on the harmonised legislation returning to the root cause of risk in the workplace.					
Corporate Services	Organisation Development	Work Health and Safety - Excavations Procedure	A process improvement	An improved, expanded or more efficient service	5/02/2013
The purpose of this procedure is to define how Port Stephens Council will go about completing excavations in a safe manner and in accordance with legislative requirements.					
Corporate Services	Organisation Development	Work Health and Safety - Working near overhead or underground electric lines	A process improvement	An improved, expanded or more efficient service	5/02/2013
This procedure addresses the work health and safety requirements when working in the vicinity of overhead and/or underground electric lines.					
Corporate Services	Organisation Development	Work Health and Safety - Asbestos Procedure	A process improvement	An improved, expanded or more efficient service	5/02/2013
Due to changes in the WHS Act and Legislation of 2011, the Asbestos Procedure was reviewed and updated accordingly. The objective of this procedure is to provide direction for the minimisation of risks to health due to exposure to asbestos in the workplace. This procedure has been designed to ensure that managers and workers are involved in the development of safe systems of work and a safe environment with respect to asbestos management issues.					

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

Group	Section	Service or Function	Improvement cause	Improvements result	Created
Corporate Services	Property Services	Dynamic pricing refers to pricing on demand, based on customer value and the demand for Holiday Park Inventory.	A process improvement	A saving in time, A financial saving, An improved, expanded or more efficient service	11/02/2013
<p>We now after many months of trial and error and persistence have created an opportunity to increase tariffs based on Park occupancy. This will provide Halifax and other BSHP properties with the ability to increase revenue. Tariff range bandwidths can be set for all different product types as well as tourist sites. Occupancy ranges can be determined and changed depending on supply and demand (ie) tariffs can be set based on Port Stephens Events calendar/Public and School Holiday periods etc.</p> <p>The Yield Management model we have set up in RMS during the trial stage at Halifax is as follows : Implemented 26/10 - 30/06/2013</p> <p>Quarterdeck Villa's X 13: (two bedroom Cabins) 0-69% Occupancy tariff remains as agreed to in 2011-2012 Fees and Charges (set Tariff).</p> <p>70-100% Occupancy tariff is increased by \$25.00 per night.</p> <p>Bay Villa's X 17: (two bedroom Cabins) 0-74% Occupancy tariff remains as agreed to in Fees and Charges (set Tariff).</p> <p>75-100% Occupancy tariff is increased by \$25.00 per night.</p> <p>Beach Villa's X 3 : (three bedroom Cabins) 0-80% Occupancy tariff remains as agreed to in 2011-2012 Fees and Charges (set Tariff).</p> <p>81-100% Occupancy tariff is increased by \$50.00 per night.</p> <p>Dynamic Pricing is set up for Weekend Packages/ Xmas and Easter School Holidays on all Cabin product.</p> <p>Dynamic Pricing will not apply to any Group Bookings.</p> <p>Dynamic Pricing will not apply to Caravan and Tent sites at this stage.</p> <p>The current Park specific Brochure compliments the dynamic pricing variable as we advertise from \$ - & to \$ tariffs for all cabin product types and for Tourist sites regardless of season. As Beachside Holiday Parks we need to look at continuous Improvement, explore new ways of doing business and implement change. After many months of hard work / research and persistence I am confident that Dynamic pricing will be effective across all Holiday Parks in providing an opportunity to create greater Park income.</p> <p>I would like to take this opportunity to Thank Kris Scott for her hard work / diligence and persistence with implementing Dynamic Pricing at Halifax.</p>					
Corporate Services	Organisation Development	Insurance Reporting	A process improvement, A people/relationship improvement	A saving in time, A financial saving, An improved, expanded or more efficient service	15/02/2013
<p>CRMT has developed a training package and brochure for staff who are required to complete investigations and reports for insurance purposes. The package was developed to improve the quality, completeness and timeliness of insurance reports and to improve the understanding of staff involved regarding the use of their reports. The training will result in saving in staff time in having to follow up incomplete or inaccurate reports, reduce the costs associated with the follow up and ensure that the right information is provided in the first place. Importantly, improved reporting will also better position Council to defend claims made against it, potentially saving legal costs and the involvement of staff in protracted legal proceedings. Improved reporting will also allow quicker finalisation of claims minimising the damage to Council's reputation caused by delays in responding to claimants.</p>					

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

Group	Section	Service or Function	Improvement cause	Improvements result	Created
General Manager's Office	Office of the General Manager	Budget improvement	A process improvement	A financial saving	15/02/2013
The 2012 Local Government Election was budgeted for \$315,000 however a saving of \$53,000 was achieved through good contract management.					
General Manager's Office	Office of the General Manager	2 way conversation program	A process improvement, A people/relationship improvement	A saving in time, An improved, expanded or more efficient service	15/02/2013
The two way conversation program, by way of introducing a "key points" template. This has improved the information flow to Councillors and allowed more time to talk face to face with Councillors.					
Development Services	Office of the Group Manager - Development Services	Implementation of Monthly Work Plan	A process improvement, A people/relationship improvement	An improved, expanded or more efficient service	20/02/2013
Implementation of a monthly work plan at Group Manager to Section Manager level - keeps projects on track at monthly intervals rather than at the 6 monthly IWDP review.					
Development Services	Community Planning and Environmental Services	Report Writing notes to Staff	A process improvement	An improved, expanded or more efficient service	20/02/2013
Reputational implications of improvement through improved Council Reports.					
Development Services	Office of the Group Manager - Development Services	RBT - Report and Briefing Timetable	A process improvement	A saving in time, An improved, expanded or more efficient service	20/02/2013
RBT enables better tracking and management of upcoming Council Reports and Briefings.					
Development Services	Development Assessment and Compliance	Performance Manager	A process improvement	A saving in time	20/02/2013
Better quality and accountable data inserted into PM.					
Development Services	Development Assessment and Compliance	DA List - 200 Day	A process improvement	An improved, expanded or more efficient service	20/02/2013
200 day DA list query/report refined to reflect only the DA's awaiting Council information, rather than where it previously reflected all DA's over 200 days, which included those awaiting information from an applicant/external party.					
Development Services	Development Assessment and Compliance	Weekly DA's Submitted Report	A process improvement	An improved, expanded or more efficient service	20/02/2013
New report created to indicate all DA's submitted over a one week period. Report sent to Group and Section Manager and Mayor, which allows increased awareness and communication of big DA's.					

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

Group	Section	Service or Function	Improvement cause	Improvements result	Created
Corporate Services	Organisation Development	Work Health and Safety - WHS Corrective Actions Procedure	A process improvement	An improved, expanded or more efficient service	1/03/2013
This new procedure was developed to provide a mechanism to record any non-conformances identified in the Port Stephens Council Work Health and Safety Management System (WHSMS).					
Corporate Services	Organisation Development	Work Health and Safety - WHS Emergency Management Procedure	A process improvement	An improved, expanded or more efficient service	1/03/2013
This existing document was reviewed against compliance with the new WHS legislation that was introduced in 2012. The objectives of this procedure are to ensure readiness for any foreseeable emergencies, to be able to effectively respond to emergencies and minimise any adverse impact on the safety or health of people or the environment.					
Corporate Services	Organisation Development	Work Health and Safety - Workplace Inspection Procedure	A process improvement	An improved, expanded or more efficient service	1/03/2013
This new procedure was developed to provide a mechanism for identifying hazards in addition to the normal workplace reporting mechanisms. Workplace inspectors play an important role as an independent assessor of the workplace.					
Corporate Services	Organisation Development	Hand Over Process	A process improvement, A people/relationship improvement	A financial saving, An improved, expanded or more efficient service	14/03/2013
A process has been developed to ensure that responsible officers provide the officer relieving in their role with a comprehensive "hand over" including responsibilities under emergency management, incident and business continuity management, WHS and appropriate delegations. The process can be applied to positions throughout Council.					
Corporate Services	Organisation Development	Work Health and Safety - Facilities Procedure	A process improvement	An improved, expanded or more efficient service	22/03/2013
This Procedure provides guidance on ensuring the provision of appropriate facilities for workers in all council workplaces, including those with a particular need or disability.					
Corporate Services	Organisation Development	Work Health and Safety - Data Analysis and Reporting	A process improvement	An improved, expanded or more efficient service	22/03/2013
This procedure details how Port Stephens Council WHS statistical data (analysed from incidents, injury / disease data) will be used to develop performance improvement strategies and evaluate the effectiveness of the implemented WHS Management System.					

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

Group	Section	Service or Function	Improvement cause	Improvements result	Created
Corporate Services	Organisation Development	Work Health and Safety - WHS Corrective Actions Procedure	A process improvement	An improved, expanded or more efficient service	1/03/2013
This new procedure was developed to provide a mechanism to record any non-conformances identified in the Port Stephens Council Work Health and Safety Management System (WHSMS).					
Corporate Services	Organisation Development	Work Health and Safety - WHS Emergency Management Procedure	A process improvement	An improved, expanded or more efficient service	1/03/2013
This existing document was reviewed against compliance with the new WHS legislation that was introduced in 2012. The objectives of this procedure are to ensure readiness for any foreseeable emergencies, to be able to effectively respond to emergencies and minimise any adverse impact on the safety or health of people or the environment.					
Corporate Services	Organisation Development	Work Health and Safety - Workplace Inspection Procedure	A process improvement	An improved, expanded or more efficient service	1/03/2013
This new procedure was developed to provide a mechanism for identifying hazards in addition to the normal workplace reporting mechanisms. Workplace inspectors play an important role as an independent assessor of the workplace.					
Corporate Services	Organisation Development	Hand Over Process	A process improvement, A people/relationship improvement	A financial saving, An improved, expanded or more efficient service	14/03/2013
A process has been developed to ensure that responsible officers provide the officer relieving in their role with a comprehensive "hand over" including responsibilities under emergency management, incident and business continuity management, WHS and appropriate delegations. The process can be applied to positions throughout Council.					
Corporate Services	Organisation Development	Work Health and Safety - Facilities Procedure	A process improvement	An improved, expanded or more efficient service	22/03/2013
This Procedure provides guidance on ensuring the provision of appropriate facilities for workers in all council workplaces, including those with a particular need or disability.					
Corporate Services	Organisation Development	Work Health and Safety - Data Analysis and Reporting	A process improvement	An improved, expanded or more efficient service	22/03/2013
This procedure details how Port Stephens Council WHS statistical data (analysed from incidents, injury / disease data) will be used to develop performance improvement strategies and evaluate the effectiveness of the implemented WHS Management System.					

INFORMATION ITEM NO. 3

**PETITION REQUESTING THE CLEARING OF UNDERGROWTH FROM
VACANT LAND NEXT TO 30 FINGAL STREET NELSON BAY**

REPORT OF: PETER GESLING – GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2012-00746

BACKGROUND

The purpose of this report is to advise Councillors that a petition containing 27 signatures has been received by the General Manager from the residents of Fingal and Swordfish Streets Nelson Bay requesting the clearing of undergrowth from vacant land next door to No 30 Fingal Street Nelson Bay.

ATTACHMENTS

- 1) Petition – Vacant Land Fingal Street Nelson Bay;
- 2) Map of area.

ATTACHMENT 1

16th April 2013

Re: Vacant land, Fingal Street Nelson Bay

We the residents of Fingal and Swordfish Streets Nelson Bay are requesting the clearing of undergrowth from vacant land next door to No: 30 Fingal Street Nelson Bay.

This land has become a fire hazard as well as a haunt for a group of young boys. This group roams the streets generally getting up to no good till all hours of the night.

The local residents have had a number of problems with this group which is mainly made up of boys who don't live locally but are hanging out around the home of a new resident to the street.

The vacant land is used by these boys to hide and smoke marijuana at the same time harassing and intimidating the elderly resident next door to this land.

We feel if this land was cleared it would help to eliminate some of the problems.

ATTACHMENT 2



INFORMATION ITEM NO. 4

CASH AND INVESTMENTS HELD AT 30 APRIL 2013

REPORT OF: TIM HAZELL – FINANCIAL SERVICES 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 30 April 2013.

ATTACHMENTS

- 1) Cash and investments held at 30 April 2013;
- 2) Monthly cash and investments balance April 2012 to April 2013;
- 3) Monthly Australian term deposit index April 2012 to April 2013.

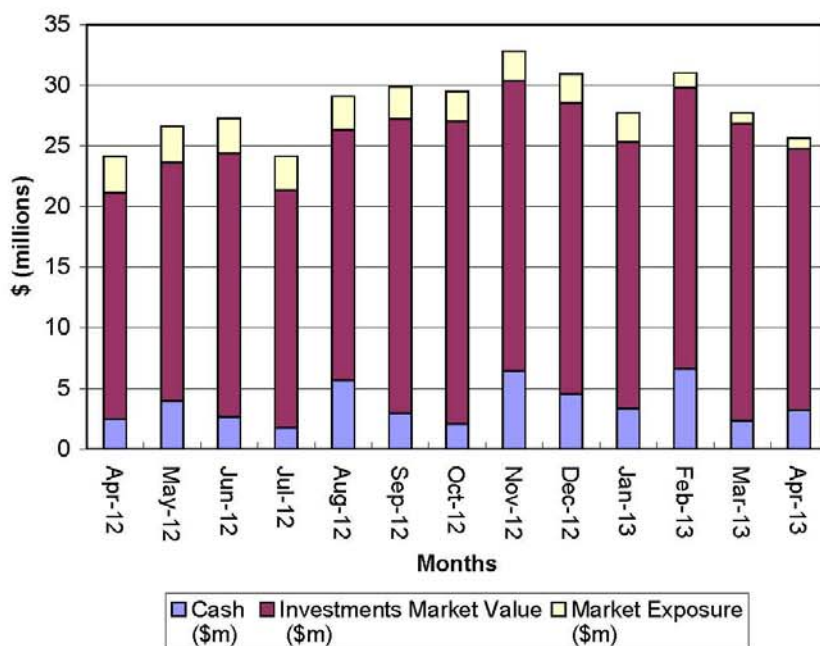
ATTACHMENT 1

CASH AND INVESTMENTS HELD AS AT 30 APRIL 2013								
ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	4.53%	120	7-May-13	1,000,000	1,000,000
SUNCORP-METWAY LTD	SUNCORP	A1/A+	TD	4.52%	92	7-May-13	1,000,000	1,000,000
POLICE CREDIT UNION LTD	FARQUHARSON	N/R	TD	4.45%	120	14-May-13	1,000,000	1,000,000
ING BANK (AUSTRALIA) LTD	CURVE	A1/A	TD	4.31%	122	27-May-13	1,000,000	1,000,000
ME BANK	ME BANK	A2/BBB	TD	4.40%	93	19-Jun-13	1,000,000	1,000,000
ING BANK (AUSTRALIA) LTD	FIIG	A1/A	TD	4.30%	122	26-Jun-13	1,000,000	1,000,000
POLICE CREDIT UNION LTD	RIM	N/R	TD	4.15%	65	26-Jun-13	1,000,000	1,000,000
WAW CREDIT UNION COOPERATIVE LTD	FIIG	N/R	TD	4.38%	100	3-Jul-13	2,000,000	2,000,000
PEOPLES CHOICE CREDIT UNION	FARQUHARSON	A2/BBB+	TD	4.30%	128	17-Jul-13	1,000,000	1,000,000
BEIRUT HELLENIC BANK LTD	BHB	N/R	TD	4.50%	127	17-Jul-13	1,000,000	1,000,000
BEIRUT HELLENIC BANK LTD	BHB	N/R	TD	4.50%	121	17-Jul-13	1,000,000	1,000,000
ME BANK	ME BANK	A2/BBB	TD	4.40%	173	7-Aug-13	1,000,000	1,000,000
BANK OF QUEENSLAND LTD	CURVE	A2/BBB+	TD	4.38%	124	21-Aug-13	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	RIM	P-3/Baa3	TD	4.30%	181	28-Aug-13	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	FIIG	P-3/Baa3	TD	4.42%	184	11-Sep-13	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	4.37%	184	15-Sep-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
SUB TOTAL (\$)							18,500,000	18,500,000
OTHER INVESTMENTS								
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	30-Jun-13	500,000	500,000
GRANGE SECURITIES "KAKADU AA"	GRANGE	CCC	CDO	4.35%	7yrs	20-Mar-14	1,000,000	330,100
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	361,230
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,876	850,883
SUB TOTAL (\$)							3,930,376	3,027,213
INVESTMENTS TOTAL (\$)							22,430,376	21,527,213
CASH AT BANK (\$)							3,192,424	3,192,424
TOTAL CASH AND INVESTMENTS (\$)							25,622,800	24,719,637
CASH AT BANK INTEREST RATE				2.95%				
BBSW FOR PREVIOUS 3 MONTHS				3.04%				
AVG. INVESTMENT RATE OF RETURN				4.14%				
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE			
CDO = COLLATERALISED DEBT OBLIGATION					FRSD = FLOATING RATE SUB 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								

Cash and Investments Held

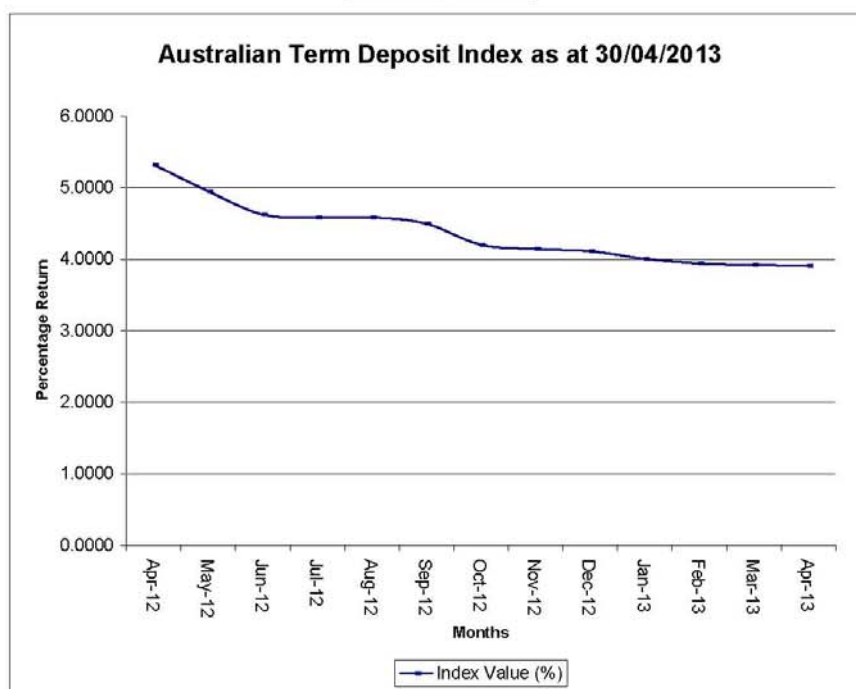
Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Apr-12	2.441	18.722	2.959	24.121
May-12	3.931	19.700	2.981	26.611
Jun-12	2.597	21.774	2.906	27.277
Jul-12	1.724	19.576	2.854	24.154
Aug-12	5.655	20.655	2.775	29.086
Sep-12	2.945	24.263	2.667	29.875
Oct-12	2.066	24.918	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

Cash and Invested Funds for the Period ended 30/04/2013



Australian Term Deposit Accumulation Index

Date	Index Value (%)
Apr-12	5.3227
May-12	4.9508
Jun-12	4.6252
Jul-12	4.5808
Aug-12	4.5858
Sep-12	4.4974
Oct-12	4.1994
Nov-12	4.1428
Dec-12	4.11
Jan-13	4.0025
Feb-13	3.94
Mar-13	3.9185
Apr-13	3.9119



NOTICES OF MOTION

NOTICE OF MOTION

Cr Peter Kafer left the meeting at 6.58pm prior to Notice of Motion being dealt with.

ITEM NO. 1

FILE NO: A2004-0217

SPONSORSHIP – WORIMI DOLPHINS RUGBY LEAGUE TEAM

COUNCILLOR: DINGLE

THAT COUNCIL:

- 1) Agrees to provide sponsorship (a mixture of both cash and in-kind support) to the value of \$5,000 to the Worimi Dolphins Rugby League Team in the 2013 NSW Aboriginal Knockout to be held over the October long weekend 2013, subject to confirmation in the 2013/2014 draft budget.

BACKGROUND REPORT OF: MIKE MCINTOSH – GROUP MANAGER DEVELOPMENT SERVICES

ORDINARY COUNCIL MEETING – 28 MAY 2013 MOTION

	Councillor Geoff Dingle Councillor John Nell
	That Council agrees to provide sponsorship (a mixture of both cash and in-kind support) to the value of \$5,000 to the Worimi Dolphins Rugby League Team in the 2013 NSW Aboriginal Knockout to be held over the October long weekend 2013, subject to confirmation in the 2013/2014 draft budget.

AMENDMENT

	Councillor Steve Tucker Councillor Ken Jordan
155	It was resolved that Council defer the Notice of Motion until consideration of the Corporate Sponsorship policy.

The Amendment on being put became the Motion which was carried.

BACKGROUND

- 1) In accordance with Section 356 of the Local Government Act 1993, Council may undertake to grant financial assistance for the purpose of exercising its functions.

356 CAN A COUNCIL FINANCIALLY ASSIST OTHERS?

- (1) *A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.*
- (2) *A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.*
- (3) *However, public notice is not required if:*
 - (a) *the financial assistance is part of a specific program, and*
 - (b) *the program's details have been included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and*
 - (c) *the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and*
 - (d) *the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.*
- (4) *Public notice is also not required if the financial assistance is part of a program of graffiti removal work.*

Note: Part 4 of the [Graffiti Control Act 2008](#) deals with graffiti removal work.

- 2) The Notice of Motion before Council is considered to be more likely described as a Donation as opposed to Sponsorship. A Donation is generally provided as a gift or assistance where there is no expectation of compensation from the recipient. Sponsorship on the other hand typically relates to a cash or in kind fee with the expectation of a commercial return or community benefit.
- 3) Irrespective of the definition, generally both can be considered as providing 'financial assistance' in accordance with Section 356 (above) of the Local Government Act 1993.

RESCISSION MOTIONS

RESCISSION MOTION

ITEM NO. 1

FILE NO: 16-2011-603-1

DEVELOPMENT APPLICATION FOR FIFTY THREE (53) LOT RESIDENTIAL SUBDIVISION AT NO. 2 HALLORAN WAY, 153 RICHARDSON ROAD, RAYMOND TERRACE

COUNCILLORS: NELL, KAFER, DINGLE

That Council rescind its decision of 14 May 2013 on Item 2, namely Development Application for Fifty Three (53) Lot Residential Subdivision at No. 2 Halloran Way, 153 Richardson Road, Raymond Terrace.

ORDINARY COUNCIL MEETING – 28 MAY 2013 MOTION

Cr Peter Kafer returned to the meeting at 7.08pm.

Cr John Morello left the meeting at 7.08pm during the Rescission Motion.

Cr John Morello returned to the meeting at 7.09pm during the Rescission Motion.

	Councillor John Nell Councillor Geoff Dingle
	That Council rescind its decision of 14 May 2013 on Item 2, namely Development Application for Fifty Three (53) 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: Crs Peter Kafer, Geoff Dingle and John Nell.

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

The Rescission Motion was lost.

ITEM NO. 2

FILE NO: 16-2011-603-1

DEVELOPMENT APPLICATION FOR FIFTY THREE (53) LOT RESIDENTIAL SUBDIVISION AT NO. 2 HALLORAN WAY, 153 RICHARDSON ROAD, RAYMOND TERRACE

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

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2011-603-1 for a fifty three lot residential subdivision at 2 Halloran Way and 153 Richardson Road for the following reasons:
 - The development is inconsistent with Section B15 – Aircraft Noise of Development Control Plan 2007;
 - The development is inconsistent with Table 2.1 of Australian Standard 2021-2000 which outlines the site acceptability criteria;
 - The development is inconsistent with the zone objectives for the Residential 2(a) zone under the Port Stephens Local Environmental Plan 2000;
 - The development will result in the creation of allotments subject to unacceptable levels of aircraft noise and associated community impacts;
 - Any applications for dwellings on the proposed allotments will be inconsistent with the requirements of Australian Standard 2021-2000 in that dwellings will be "unacceptable" development.

BACKGROUND

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

The development application proposes a two (2) into fifty three (53) lot residential subdivision (incorporating 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 road

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

Aircraft Noise

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 must comply with 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 they do 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 zone.

It is noted that 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 53 new residential allotments in an area “unacceptable” would result in the creation of allotments with poor residential amenity that are unable to be build on due to aircraft noise constraints.

Given the ANEF 2025 noise contours it is recommended that the application be refused. Any approval of the subdivision would result in the creation of fifty three (53) allotments intended for residential dwellings that could not have a dwelling built upon them due to aircraft noise constraints relating to the ANEF 2025 charts.

The development plans indicate that a portion of the site is located within the 20-25 ANEF Noise Contour. Within this noise zone dwellings are conditionally acceptable. It is considered that of the 53 allotments proposed, approximately 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 23-30 ANEF noise zone, Council would be in the future position of having to assess approximately

43 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.

Drainage

To enable a full assessment of the impacts of the development on stormwater flow in the general locality, Council requires additional detail to be submitted.

While these outstanding details are not seen as reasons to refuse the application, it is recommended that they be addressed prior to any approval.

A full assessment of the outstanding detail is contained within Attachment 2.

Residential 2(a) Zone Objectives

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 53 new allotments in an aircraft noise zone within which dwellings are an unacceptable form of development.

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.

If council enables the creation of 53 allotments for the purpose of a dwelling, by way of approving the application, it may incur a legal liability, costs of which are 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 description.
- 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 allotments by future owners or builders.	High	Refuse application	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Despite the aircraft noise non compliance, it is considered that the approval of 53 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 fifty-three (53) allotments intended for the future development of residential dwellings that are subject to aircraft noise constraints. Under the provisions of DCP2007 and Australian Standard 2021-2000 the allotments could not have a dwelling built upon them due to aircraft noise constraints relating to the ANEF 2025 charts.

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 upon 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.

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

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

OPTIONS

- 1) Adopt the recommendation; or
- 2) Reject or amend the Recommendation. Noting the outstanding drainage detail that needs to be resolved prior to issuing a determination.

ATTACHMENTS

- 1) Locality Plan; and
- 2) Assessment.

COUNCILLORS ROOM

- 1) Subdivision Plans;
- 2) Statement of Environmental Effects;
- 3) Acoustic Report; and
- 4) Aircraft Noise Maps.

TABLED DOCUMENTS

Nil.

**ATTACHMENT 1
LOCALITY PLAN**



ATTACHMENT 2

ASSESSMENT

Site Description:

The subject site is known as Lots 1 & 2 DP 239141 or 2 Halloran Way and 153 Richardson Road Raymond Terrace.

Historically, 2 Halloran Way contained the Anseline plant nursery. Currently the site contains a residential dwelling and associated residential infrastructure.

153 Richardson Road is currently vacant and is heavily vegetated.

The allotments contain the following site areas;

- Lot 1 – 1.629 ha
- Lot 2 – 3.623 ha

To the west of the site is a residential subdivision known as Halloran Way. To the north of the site is Hunter Water land forming part of the Grahamstown Dam catchment. Richardson Road bounds the site to the south and rural residential dwellings are located to the east.

Site Constraints:

The site is constrained by;

- Aircraft Noise

CONSULTATION – COMMUNITY

In accordance with Council's Notification Policy, adjoining neighbours were notified of the proposed development. In response, one (1) submission was received supporting the proposal.

STATUTORY PROVISIONS

Environmental Planning and Assessment Act 1979.

Clause 91 – The development is identified as integrated under these provisions. A referral was made under the Rural Fires Act 197.

State Environmental Planning Policies (SEPP)

SEPP 55 – Contaminated Land

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Given the sites history as a plant nursery, an Environmental Site Assessment was undertaken by Coffey (Ref: ENAUWARA04271AA-R01a, dated: 25 May 2012).

The report concluded that three Areas of Environmental Concern (AEC) were identified. These were;

- Potential use of pesticides or insecticides in the former plant nursery areas and in run off to the site dam,
- Potential use of asbestos containing materials in buildings,
- Potential storage of chemicals and fuels and maintenance of small machinery in sheds.

It is concluded in this report that should the development proceed, further investigations should be undertaken to assess the potential impact of the AEC's on the development.

Should approval be granted, a phase 2 Environmental Site Assessment should be undertaken to satisfy SEPP55 and demonstrate the potential impacts of AEC on the development.

This assessment would include but not be limited to;

- Collection of surface soil samples in the former plant nursery areas, around the buildings and sheds.
- Collection of fibre board fragments,
- Analysis of the Chemicals of Concern identified,
- Sample of dam water and sediments.

SEPP (Infrastructure) 2007

SEPP (infrastructure) 2007 aims to facilitate the effective delivery of infrastructure across NSW. Of relevance to this proposal is Division 17 – Roads and Traffic.

Clause 101 references development with a frontage to a classified road. The subject site fronts Richardson Road which is identified as a Classified Road.

Clause 101 seeks to ensure that new developments do not compromise the effective and ongoing operation and function of classified roads, and to prevent or reduce the potential impact of traffic noise and vehicle emissions on development adjacent to classified roads.

Clause 101 states;

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the

*classified road to gain access to the land, and
(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The development proposes to utilise the existing intersection of Halloran Way and Richardson Road. The development will gain access of Halloran Way and no new access points with Richardson Road will be created.

As the development was referred to RMS under Clause 104, the safety and efficiency of the classified road has been addressed in the RMS referral.

Clause 104 and Schedule 3 – Traffic generating Development, sets the thresholds for developments that require referral to Roads and Maritime Services. The subdivision accesses Halloran Way at a distance of approximately 65m from the intersection with Richardson Road. Under the provisions of State Environmental Planning Policy (infrastructure) 2007, the development is identified within table 1 of Schedule 3, being the subdivision of land of 50 or more allotments with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road).

Port Stephens Local Environmental Plan 2000 (PSLEP 2000)

Clause 16 – Zone No 2(a) Residential “A” Zone

The 2(a) zone description states;

(1) Description of the zone

The Residential “A” Zone is characterised by one and two storey dwelling-houses and dual occupancy housing. Townhouses, flats and units up to two storeys may occur throughout the zone. Dwellings may also be erected on small lots in specially designed subdivisions. Small-scale commercial activities compatible with a residential neighbourhood and a variety of community uses may also be present in this zone.

It is considered that, notwithstanding the aircraft noise constraints, the allotment sizes to be created are consistent with the zone objectives and any subsequent development would also satisfy these objectives.

The 2(a) zone objectives state;

(2) Objectives of the zone

The objectives of the Residential “A” Zone are:

(a) to encourage a range of residential development providing for a variety of housing types and designs, densities and associated land uses, with adequate levels of privacy, solar access, open space, visual amenity and

services, and

(b) to ensure that infill development has regard to the character of the area in which it is proposed and does not have an unacceptable effect on adjoining land by way of shading, invasion of privacy, noise and the like, and

(c) to provide for non-residential uses that are compatible with the area and service local residents, and

(d) to facilitate an ecologically sustainable approach to residential development by minimising fossil fuel use, protecting environmental assets and providing for a more efficient use of existing infrastructure and services, and

(e) to ensure that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk.

It is considered that the development is inconsistent with clause 16(2)(e) in that the development has not adequately taken into account the Aircraft Noise constraint that is present on the site.

It is not considered to be appropriate to create 53 new allotments in an aircraft noise zone within which dwellings are an unacceptable form of development.

Clause 41 – Direct access to certain roads is restricted.

The application does not propose any direct access to Richardson Road and as such is consistent with the requirements of clause 41.

Clause 42 – Development along arterial roads

Clause 42 states;

The consent authority shall not consent to an application to carry out development on land which has frontage to an arterial road unless:

(a) access to the land is provided by a road other than the arterial road, wherever practicable, and

(b) in the opinion of the consent authority, the safety and efficiency of the arterial road will not be adversely affected by the carrying out of the proposed development because of:

(i) the nature of the access to the land concerned, or

(ii) the emission of smoke or dust from that land, or

(iii) the nature, volume or frequency of vehicles gaining access to the land, and

(c) the proposed development will meet any relevant road traffic noise standards of the State or the Council.

The subject site does not gain direct access to Richardson Road, instead access is gained via Halloran Way.

Notwithstanding this, the application does trigger the requirements of SEPP (Infrastructure) 2007 in terms of Traffic Generating development. The application was referred to the Roads and Maritime Service under this legislation and General Terms

of Approval granted.

It is considered that the development is consistent with Clause 42 of LEP 2000.

Clause 44 - Appearance of land and buildings

The proposed development, following consideration of constraints, is not considered to result in any adverse visual impacts and is consistent with clause 44.

Clause 47 – Services

The site is currently serviced by all essential services.

Clause 51A - Development on land identified on Acid Sulfate Soils Planning Map

The site is identified as being in Class 5 Acid Sulfate Soils. In class 5 Acid Sulfate Soils any works within 500m of class 1, 2, 3 or 4 land which are likely to lower the water table below 1m AHD on the adjoining class 1, 2, 3, or 4 land would require further assessment and the submission of an Acid Sulfate Soils Assessment.

The works proposed are not within 500m of adjoining class 1, 2, 3 or 4 land, nor will it lower the water table. As such no further assessment is warranted under clause 51A.

Port Stephens Development Control Plan 2007

The application has been assessed against the relevant provisions of Port Stephens Development Control Plan, 2007, as follows:

B1 – Subdivision and Streets

The application has been assessed against the applicable provisions of Port Stephens Development Control Plan, 2007 – Environmental and Construction Management and is considered satisfactory with regards to B1 – Subdivision and Streets.

B2 - Environmental and Construction Management

The application has been assessed against the applicable provisions of Port Stephens Development Control Plan, 2007 – Environmental and Construction Management and is considered satisfactory with regards to B2 – Environmental and Construction Management.

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 aircraft noise zones

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

In its ordinary meeting dated 23 November 2010, Council resolved that assessment weight be given to the ANEC 2025 Maps (dated 1st September 2010).

Control C2 sets that all indoor design levels must comply with the indoor design levels specified by Table 2.1 and 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 they do 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 zone.

It is noted that 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.

It is considered that the green field development does not constitute an existing built up area and that the creation of 53 new residential allotments in an area "unacceptable" would result in the creation of allotments with poor residential amenity that are unable to be build on due to aircraft noise constraints.

Given the ANEF 2025 noise contours it is recommended that the application be refused. Any approval of the subdivision would result in the creation of fifty three (53) allotments intended for residential dwellings that could not have a dwelling built upon them due to aircraft noise constraints relating to the ANEF 2025 charts.

INTERNAL REFERRALS

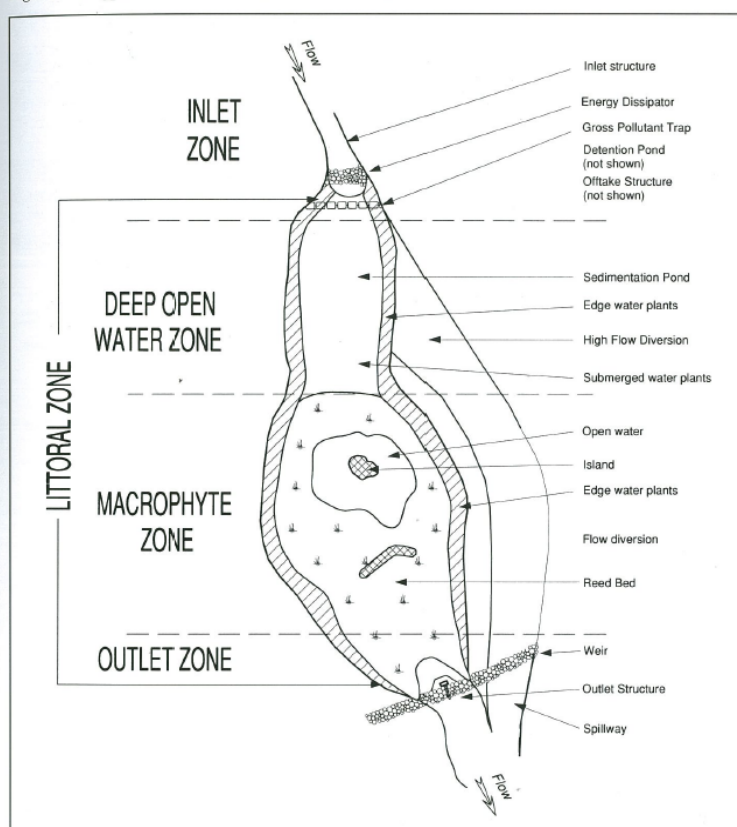
Engineering

Comments: received 20/02/2013

Following a review of the most recently submitted information, the following detail is required to allow continued assessment of the application from an Engineering/Drainage context.

- It is noted that the storm water report recognises the need for directing storm water to the existing Halloran Way detention basin and is seen as a positive approach.
- From the submitted report and drawings, it is difficult to assess the impact of this development on the existing drainage system and the properties. The following items are required:
 - Existing catchment size contributing runoff to the existing Halloran Way Basin.
 - Catchment size proposed to be re-directed to the existing basin
 - Demonstrate how all flows up to the 100yr ARI event are directed to the proposed basin and adequately conveyed to the existing basin
 - Provide details to demonstrate the existing detention basin along with the proposed detention basin have sufficient capacity.
 - Demonstrate how machinery access is gained to carry out maintenance on both the existing and proposed basins. Access is required to both basins and all inlet and outlet structures. Please provide details including cross-sections of the two basins.
 - There are concerns that the basins may create safety hazards to the general public and as such fencing shall be installed around the basins to minimise the risk. Please provide a concept plan as to how this will be incorporated into maintenance access points.
 - There is no proposed sediment and erosion control for inlet pipes discharging into the basins. Please demonstrate that sediment and erosion control is in accordance with the 'Erosion and Sediment Control Regional Policy and Code of Practice for Managing Urban Storm water – Soils and Construction (Landcom 2004).
- The existing and proposed storm water basins are proposed to be used for the combination of water quality treatment and detention. This is not designed in accordance with the 'Constructed Wetlands Manual' by the Department of Lands and Water Conservation of NSW. As seen below in figure 16-1 there are a number of critical components missing from the current design.

Figure 16-1 Typical on-stream urban stormwater wetland.



Development Engineering's view is that the existing basin be modified and used as a dry basin solely for detention purposes. Reason for this is there is insufficient width to create sufficient depth for a wet basin.

Council requires the following modification to the existing detention basin (sheet 7 dated 2/11/12):

- Excavate the base of the basin to RL 14.75 as proposed to be utilised as a dry basin
- Remove the existing low flow pipe
- Delete both proposed timber walls
- Reconstruct the existing outlet pit as proposed however, the orifice size will need to be redesigned for the concept of detention as opposed to water quality treatment

The proposed basin is required to be re-designed in accordance with 'The Constructed Wetlands Manual' and should include features such as; a offline from the high flow path, deep open water zone , etc. Stage 1 lots, south of Halloran Way may need to be re-configured as to allow for the re-design of the basin. The long, skinny nature of the proposed drainage reserve does not appear practical to allow for a re-design in accordance with 'The Constructed Wetlands Manual'. It should be noted a minimum depth for the deep open water zone should be between 1.5m – 2.5m.

Please provide amended plans for review.

- Two storm water lines are proposed beneath Halloran Way (High flow and low flow pipes) conveying water from the proposed basin to the existing basin. A single pipe line is the preferred option where low flows are governed by an orifice plate and high flows overflow into the grated inlet pit. Please provide amended details.
- Please provide a preliminary geotechnical analysis for the suitability of roads, drainage and other structures including indicative road pavement designs. As the roads and drainage structures will be dedicated to Council, Council needs to have some certainty that the proposed infrastructure is suitable in their proposed locations. The following are items that are of concern:
 - The suitability of drainage structures (storm water basin) on the top of a road cutting and any considerations that will need to be addressed at Construction stage.
 - Whether the site has any history of landslips or instability
 - Whether the proposed development will alter the present state of stability of the site
 - Whether any portion of the site should be excluded from the development and included in natural, undisturbed or rehabilitated area
 - Whether the proposed development will adversely affect the current state of stability of adjoining land
 - Whether the proposed development should allow cuts and fills and if so, to what depth
 - Whether retaining structures are required and if so, provide necessary preliminary foundation design parameters, including drainage requirements
 - Whether any special surface and/or subsurface drainage measures need to be taken to improve or maintain the stability of the site, or portions of the site
 - Whether the proposed roadworks, services development earthworks will not adversely affect the natural seepage of water from the slopes; and
 - Each roadway cutting or fill can be retained or treated to maintain long-term stability;
 - All necessary services (water mains, stormwater drains and sewer lines and the like) can be installed within the natural slopes or fills without detrimentally affecting the long-term stability of the natural or altered slopes;
- LATM provisions are still required as per council's last correspondence. Given the curve is an isolated curve in an otherwise straight road network the justification that council specification recommends such a tight curve is not shared by council. Please provide proposed location and typical detail of LATM's.
- The development is proposed as a 5 stage subdivision. The following items were requested previously but not supplied. Please provide the items

below:

- o Drainage catchment plans and indicative staging of drainage works i.e. required timing and delivery of storm water basin works

Recommendation: deferred

Building

Comments: received

Recommendation: Approved

Traffic

Comments: Received 26 July 2012

Recommendation: Approve subject to conditions.

EXTERNAL REFERRALS

Roads and Maritime Service

The application was referred to the Roads and Maritime Service under the provisions of SEPP (Infrastructure) 2007.

RMS provided General Terms of Approval on the 21st June 2012

Rural Fires Act 1997

Under the provisions of clause 91 of the Environmental Planning and Assessment Act 1979, the application is considered to be "Integrated Development". A referral to the NSW Rural Fire Service was made on the 19/05/2011 under s100B of the Rural Fires Act 2000.

A Bushfire Safety Authority was issued on 13 June 2012 indicating support from the Rural Fire Service.

Section 94 Contribution

The application will attract Section 94 Contributions and will be conditioned accordingly should an approval be issued.

Likely Impact of the Development

The development as proposed is not considered to result in any adverse environmental impacts.

Of particular concern though is the impact on potential future lot owners of the aircraft noise contours should the development be approved. Approval of the subdivision would result in the creation of fifty three (53) allotments intended for the future development of residential dwellings. Under the provisions of DCP2007 and Australian Standard 2021-2000 the allotments could not have a dwelling built upon

them due to aircraft noise constraints relating to the ANEF 2025 charts.

It is considered that any approval would create an unreasonable expectation that the allotments could be built upon for residential purposes.

Suitability of the Site

The development site is not considered to be suitable for the proposed subdivision given the constraints on the site in relation to Aircraft Noise. The site is identified as being within the 25-30ANEF noise contour under the ANEF 2025 maps. Within this noise zone, subdivision is classified as an “unacceptable” form of development under the Australian Standard 2012-2000.

The provisions of Australian Standard 2021-2000 do not expressly discuss development for the purposes of subdivision, however they do 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 zone.

Given the ANEF 2025 noise contours it is recommended that the application be refused. Any approval of the subdivision would result in the creation of fifty three (53) allotments intended for residential dwellings that could not have a dwelling built upon them due to aircraft noise constraints relating to the ANEF 2025 charts and the Australian Standard 2021-2000.

Public Interest

It is considered to be contrary to the public interest to create additional allotments of Residential land that will be constrained by the 25-30 ANEF Noise Contour. Under the provisions of the Port Stephens Development Control Plan 2007 and Australian Standard 2021-2000, dwellings are “unacceptable” on land constrained by the 25-30 ANEF noise contour.

Approval of the development would create an unreasonable expectation that dwellings could be constructed on the proposed allotments.

Conclusion

It is recommended that the application be refused. The creation of 53 additional allotments of Residential land that will be constrained by the 25-30 ANEF Noise Contour.

Under the provisions of the Port Stephens Development Control Plan 2007 and Australian Standard 2021-2000, dwellings are “unacceptable” on land constrained by the 25-30 ANEF noise contour.

Approval of the development would create an unreasonable expectation that dwellings could be constructed on the proposed allotments.

There being no further business the meeting closed at 7.27pm.

MINUTES FOR ORDINARY COUNCIL – 28 MAY 2013

I certify that pages 1 to 170 of the Open Ordinary Minutes of Council 28 May 2013 were confirmed by Council at its meeting held on 11 June 2013.

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Bruce MacKenzie
MAYOR