

MINUTES 5 MARCH 2013



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 5 March 2013, commencing at 5.30pm.

PRESENT:

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

	No apologies were received.

042	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 12 February 2013 and Record of Meeting 26 February 2013 be confirmed.

	No Declaration of Interest were received.

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COUNCIL REPORTS

ITEM NO. 1

FILE NO: PSC 2006-659

BOUNDARY ROAD PLANNING PROPOSAL & PROPOSED DRAFT DCP

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the amended planning proposal at **(ATTACHMENT 1)** to include an additional clause for the environmental management and protection of conservation lands;
 - 2) Refer the amended Planning Proposal **(ATTACHMENT 1)** to the Department of Planning & Infrastructure with a recommendation that the Minister make the plan; and
 - 3) Place the draft *Development Control Plan Chapter 11- North Medowie Residential Area* **(ATTACHMENT 2)** on exhibition for a period of 28 days.
-

ORDINARY COUNCIL MEETING – 5 MARCH 2013

MOTION

	Councillor Geoff Dingle Councillor Ken Jordan
043	It was resolved that Council move into Committee of the Whole.

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 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.

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MOTION

045	Councillor Steve Tucker Councillor Chris Doohan
	It was resolved 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 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 review submissions received during exhibition of the Boundary Road, Medowie Planning Proposal and present an amended planning proposal (**ATTACHMENT 1**) and provide a proposed draft Development Control Plan *Chapter 11- North Medowie Residential Area* for public exhibition.

Boundary Rd Planning Proposal

Council, at its meeting of 24 November 2009 resolved to include "Site 1" – Boundary Road as part Rural Small Holdings and part Environmental Management in the Medowie Strategy, and to formally prepare a planning proposal for the site.

Subsequently, Council, at its meeting of 8 June 2011 further resolved to amend the Medowie Strategy to identify the subject land as part large lot residential and part Environmental Management and included a statement of strategic support.

The Minister issued the 'Gateway' Determination on 7 June 2011, requiring several matters to be resolved prior to exhibition of the Planning Proposal for a period of 28 days. These were flora and fauna, flooding and drainage, contamination assessment and access and mobility. Further information was provided and consultations occurred to resolve these issues and they were subsequently addressed in the exhibited planning proposal.

The Planning Proposal was exhibited from Thursday 18 October 2012 to Monday 19 November 2012 and attracted one submission (**ATTACHMENT 3**). This submission related primarily to potential traffic impacts associated with future lot layouts, which are matters to be considered during the exhibition of the draft DCP Chapter North Medowie Residential Area.

In accordance with Council's resolution and statement of strategic support included in the Medowie Strategy, consultation has occurred with the Office of Environment and Heritage (OEH) regarding the 'in-perpetuity' protection of environmentally sensitive land within the subject site, resulting in the proposed insertion of an

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additional Clause in the Planning Proposal rather than the preparation of a Voluntary Planning Agreement at this early stage. The planning proposal at **(ATTACHMENT 1)** has been amended to include the following additional clause within both the existing LEP 2000 and draft principal LEP respectfully.

Port Stephens Local Environmental Plan 2000

Consent must not be granted to development unless the consent authority is satisfied, whether by the imposition of a condition or otherwise, that arrangements acceptable to the Council and the Office of Environmental and Heritage have been made for the in-perpetuity protection and management of that part of the land within the 7(a) Environmental Protection zone

Draft Port Stephens Local Environmental Plan 2012

Consent must not be granted to development unless the consent authority is satisfied, whether by the imposition of a condition or otherwise, that arrangements acceptable to the Council and the Office of Environmental and Heritage have been made for the in-perpetuity protection and management of that part of the land within either the E2 Environmental Conservation Zone (or equivalent zone to the 7(a) Environmental Protection zone)

Draft Development Control Plan Chapter 11- North Medowie Residential Area

Draft Development Control Plan Chapter 11 North Medowie Residential Area has also been prepared in accordance with Council's resolution, which identifies the desired character of the area and various precincts throughout the site. The proposed draft DCP chapter is at **(ATTACHMENT 2)**.

The draft DCP Chapter provides guidelines to achieve the desired character and to maximise retention of vegetation and ecological outcomes, including Vegetation Management Principles for each Precinct. Furthermore, the draft DCP Chapter identifies development requirements in relation to access and movement, stormwater and water quality management, utility servicing, allotment design, building design and setbacks.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal has been assessed within the existing budget allocation (Stage 1 fees). Stage 2 fees are now required from the proponent in order to progress the planning proposal.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	-	Within existing budget
Reserve Funds	-	-	
Section 94	Yes	-	The proposed Planning Proposal will potentially result in 350+ additional lots created that will attract a s94 fee.
External Grants	-	-	
Other	Yes	\$127,478	Stage 1 (\$95,292 previously

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			paid) & 2 Rezoning Fees (\$32,186 owing)
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LEGAL, POLICY AND RISK IMPLICATIONS

The draft Development Control Chapter is required to be exhibited in accordance with Environmental Planning and Assessment Regulation 2000 for a period of 28 days.

The proposed planning proposal as amended and proposed draft DCP chapter is consistent with Council's resolution of 8th June 2011 and statement of strategic support included under the Medowie Strategy. That is to secure the conservation land as part of the planning proposal and provide a site-specific development control plan incorporating a master plan, to provide a transition to existing acreage development on the southern side of Boundary Road and encourage vegetation retention, and protection of conservation lands.

The proposed conservation clause will ensure development does not occur on the land before conservation protection measures are in place.

The land identified as Environmental Management is required to be retained, enhanced and placed into a conservation zone in recognition of the ecological values of the site. The intent is to transfer this land into public ownership to satisfy the additional clause provided.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of environmental impact	Low	Offset agreement due to the loss of vegetation being undertaken with OEH to retain the bulk of vegetation on site.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Amending the LEP to permit additional urban development will enable the site to provide additional housing opportunities for the future growth of the population, as identified in the LHRS and PSPS.

A significant portion of the site has been identified as environmentally sensitive land and will be conserved in perpetuity through the inclusion of the additional Clause in the Planning Proposal. Furthermore, the draft DCP Chapter seeks to protect additional environmental attributes where appropriate throughout the developable land.

CONSULTATION

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In accordance with the Gateway Determination, issued 07 June 2011, consultation was undertaken with the Department of Defence, Environment Protection Authority, Energy Australia, Hunter Water Corporation, Karuah Local Aboriginal Land Council, NSW Rural Fire Service, Office of Environment and Heritage – NSW National Parks and Wildlife Service, Transport for NSW – Roads and Maritime Services and Telstra.

Council staff have been engaged in lengthy consultation with the Office of Environment and Heritage (OEH) regarding the dedication of environmental protection lands, resulting in the inclusion of the additional Clause to overcome the need to prepare a draft Voluntary Planning Agreement at this early stage.

No other objections were received from the public authorities listed above.

One submission was received during exhibition period however, this submission relates primarily to potential traffic impacts associated with future lot layouts, which are matters to be considered during the exhibition of the draft DCP Chapter North Medowie Residential Area.

OPTIONS

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

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Boundary Rd Planning Proposal (as amended);
- 2) Proposed Draft Development Control Plan Chapter 11 – North Medowie Residential Area; and
- 3) Submission.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2

FILE NO: PSC2006-0191

PLANNING PROPOSAL FOR LAND WEST OF NEWLINE ROAD – KINGS HILL, NORTH RAYMOND TERRACE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **(ATTACHMENT 1)** to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010; and
 - 2) Submit the Planning Proposal to the Minister to be made under section 59 of the Environmental Planning and Assessment Act 1979.
-

ORDINARY COUNCIL MEETING – 5 MARCH 2013

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Steve Tucker 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 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

046	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that the recommendation be adopted.

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

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Those for the Motion: Mayor 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 review submissions received during exhibition of the Planning Proposal ("the Proposal") to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 in order to:

- a) Rezone land west of Newline Road from a rural to a conservation zone in order to protect the biodiversity significance of the land;
- b) Provide a basis for the vegetation removal on certain lands zoned R1 and B4 within the Kings Hill Urban Release Area;
- c) Specify minimum lot sizes for the rezoned land;
- d) Provide for a small number of conservation residential lots in order to facilitate limited development that will support economically viable private ownership and conservation management of the land;
- e) To ensure development does not occur on the land before conservation protection measures are in place.

This planning proposal was initiated at the request of the landholder to enable the land to be used as a potential offset for future development of Kings Hill.

Land description

The proposed rezoning includes rural lands to the west of Kings Hill, between Newline Road and the Williams River (refer to Figure 1, Attachment One). This land is largely flood prone, being affected by the 1% flood AEP. The land also contains areas of biodiversity significance adjacent to the Williams River. Most of the land is cleared and used for extensive grazing; however woodland and regeneration of native vegetation is also evident. A SEPP 14 wetland is located in the south-western part of the subject land (see Figure 3, Attachment One). An area of higher land adjacent to Newline Road is not flood prone and appears suitable for the location of conservation residential lots.

Proposal details

Planning Proposal:	Refer to (ATTACHMENT 1)
Subject land:	Part Lot 32 DP 586245, Part Lot 2 DP 37430, Part Lot 8 DP111433, and Part Lot 9 DP 111433
Proponent:	Hunter Land
Current zone:	1(a) Rural Agriculture
Proposed zones:	E2 Environmental Conservation and E4 Environmental Living
Other provisions:	as detailed below
Owner:	Windeyer

A locality plan showing the land subject to the Planning Proposal is contained in the Planning Proposal at Attachment 1.

The proposal seeks to amend both the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 and consequential amendments to the Draft Port Stephens Local Environmental Plan 2012.

Port Stephens Local Environmental Plan 2000

The Planning Proposal will rezone certain land between Newline Road and the Williams River from 1(a) Rural Agriculture, under the Port Stephens Local Environmental Plan 2000, to E2 Environmental Conservation and E4 Environmental Living under the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010. These zones are consistent with the Draft Port Stephens Local Environmental Plan 2012.

The proposed rezoning will enable the development of a small number of dwellings on land above the 1% flood AEP adjacent to Newline Road, and the conservation, rehabilitation and revegetation of land of biodiversity significance that is generally below the 1% AEP.

The land is proposed to remain in private ownership. The future owners of the land will be responsible for its conservation management in accordance with a proposed Voluntary Conservation Agreement with the Office of Environment and Heritage.

In order to achieve the above outcome, it is proposed to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010, or the Draft Port Stephens Local Environmental Plan 2012 if it has been made.

An additional clause '*Use of certain land west of Newline Road, Kings Hill, North Raymond Terrace*' ensures compensation for vegetation removal prior to granting consent for development of the land.

Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010

The Planning Proposal will amend the maps of the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 as follows:

- The Land Application Map (LAP 001) will be amended to include the subject land (Lot 32 DP 586245, Part Lot 2 DP 37430, Lot 8 DP111433, and Lot 9 DP 111433).
- The Land Zoning Map (LZN 001) will be amended to rezone Part Lot 32 DP 586245, Part Lot 2 DP 37430, Lot 8 DP111433, and Lot 9 DP 111433 to E2 Environmental Conservation, and Part Lot 2 DP 37430 to E4 Environmental Living.
- The Lot Size Map (LSZ 001) will be amended to show the land subject to this Planning Proposal with a 40 hectare minimum lot size excepting an area to be shown with a minimum lot size of 2500 square metres on the elevated area of land above the 1% flood AEP west of New Line Road (within Part Lot 2 DP 37430).
- The Acid Sulphate Soils Map (ASS 001) will be amended to include the land subject to this Planning Proposal.
- The Height of Buildings Map (HOB 001) will be amended to include the land subject to this Planning Proposal. No maximum building height is proposed.
- The Precincts Map (PRE 001) will be amended to include the land subject to this Planning Proposal. The subject land is to be shown as an additional Precinct of Kings Hill.
- An additional zone is included in Clause 2.3 (Zone objectives and land use table)- E4 Environmental Living.
- An additional Clause 7.7 is included to ensure that enforceable compensation measures are in place prior to granting consent for development on the land.

The Port Stephens Local Environmental Plan 2000 will be amended by virtue of Clause 1.8 of the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 which repeals all local environmental plans applying to the land to which the former Plan applies. The extension of the area covered by the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 over the subject land will achieve this.

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Draft Port Stephens Local Environmental Plan 2012

Should the Draft Port Stephens LEP 2012 be made prior to this amendment, the plan will be amended as follows:

- The Land Zoning Map (LZN 001) will be amended to rezone Part Lot 32 DP 586245, Part Lot 2 DP 37430, Lot 8 DP111433, and Lot 9 DP 111433 to E2 Environmental Conservation, and Part Lot 2 DP 37430 to E4 Environmental Living.
- The Lot Size Map (LSZ 001) will be amended to show the land subject to this Planning Proposal with a 40 hectare minimum lot size excepting an area to be shown with a minimum lot size of 2500 square metres on the elevated area of land above the 1% flood AEP west of New Line Road (within Part Lot 2 DP 37430).
- The Precincts Map (PRE 001) will be amended to include the land subject to this Planning Proposal. The subject land is to be shown as an additional Precinct of Kings Hill.
- An additional Clause will be included in Part 7 – Additional Permitted Uses in numerical order to ensure that enforceable compensation measures are in place prior to granting consent for development on the land.

Note: the draft Port Stephens Local Environmental Plan 2012 land use tables are generally consistent with the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010, with only minor, inconsequential differences.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal will be progressed using existing budget allocations and the rezoning fee for the Planning Proposal that has been paid by the proponent.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No	No	Within existing budget
Reserve Funds	No	No	n/a
Section 94	No	No	Additional lots will attract a \$94 fee subject to future development application.
External Grants	No	No	n/a
Other	Yes		Rezoning fees – Stage 1 paid.

LEGAL, POLICY AND RISK IMPLICATIONS

The Planning Proposal is to be progressed in a manner consistent with statutory and policy requirements. The Planning Proposal was developed at the landowners request. The risks associated with progressing the Planning Proposal are minimal.

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Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that due process is not followed	Low	Care is taken to ensure due process is followed.	Yes
There is a risk that the planning proposal does not proceed	Low	Ensure that planning issues are identified during the Planning Proposal process are addressed efficiently and effectively.	Yes
There is a risk that the planning proposal is amended during the decision making process	Low	Ensure that any amendments are consistent with ensuring that the objectives of the Planning Process are met.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal will conserve areas of biodiversity significance by facilitating an economically viable mechanism for their rehabilitation and conservation management in private ownership.

While the proposed development could be described as “rural lifestyle” it is located in an area that will have good access to services when Kings Hill develops. In the meantime, the services of Raymond Terrace are a relatively short distance away from the land. The characteristics of the land - largely flood prone and of biodiversity significance - support the concept of low intensity development on the higher areas above the 1% flood AEP, however more intensive development would not be desirable.

CONSULTATION

Government Agency consultation

Consultation was undertaken with the Office of Environment and Heritage, the Rural Fire Service, Environmental Protection Agency, Department of Primary Industries (Minerals and Petroleum) and the Worimi Local Aboriginal Land Council in accordance with the Gateway Determination.

Office of Environment and Heritage

OEH confirm that the land subject to the planning proposal is significant and warrants an environmental protection zoning and that they support the LEP amendment subject to the inclusion of the Additional Clause '*Use of certain land west of Newline Road, Kings Hill, North Raymond Terrace*'.

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Rural Fire Service

The RFS advised that future development of the site must be undertaken in accordance with either section 79BA of the Environmental Planning and Assessment Act 1979 or Section 100B of the Rural Fires Act 1997 and will be assessed against Planning for Bushfire Protection Guidelines.

Department of Primary Industries (Minerals and Petroleum)

The DPI advised that they do not have any objections to the planning proposal.

Environmental Protection Agency

No response received.

Worimi Local Aboriginal Land Council

No response received.

Public consultation

The planning proposal was exhibited for 28 days, in accordance with the Gateway Determination. One submission was received as detailed below.

The submission requests that the lot size map be amended so that the minimum lot size for the E2 Environmental Conservation Zone is 35 hectares in order for the landholder to achieve the proposed subdivision, which includes one lot that is approximately 37 hectares.

Comment

Council notes that it is intended to subdivide the proposed E2 Environmental Conservation zoned land into three lots, including one lot with an area of less than 40 hectares.

The planning proposal has not been amended as a result of this submission because Clause 4.6 of the Kings Hill LEP and draft Port Stephens LEP 2012 will allow for the 37.4ha lot as the proposed subdivision will not result in two or more lots of less than the minimum area, or create a lot that is less than 90% of the minimum area.

It is understood from discussion with the proponent that this provision will alleviate the concern raised in the submission.

OPTIONS

- 1) Adopt the recommendations of this Report to submit the Planning Proposal to the Department of Planning and Infrastructure requesting that the plan be made;
- 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 to be made. This is not recommended. The Planning Proposal has been developed to achieve a balance between development and

conservation, and to provide biodiversity offsets to enable the development of urban land elsewhere at Kings Hill; or

- 3) Reject the recommendations of this Report and proceed with the rezoning process. This is not recommended because it will impede proposed conservation of lands of biodiversity significance as well as the development of conservation residential dwellings on the land. It will also impede the provision of biodiversity offsets that are necessary to enable the development of urban land elsewhere at Kings Hill.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Planning Proposal for Land West of Newline Road (Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace)) 2010.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

FILE NO: 16-2012-246-1

**DEVELOPMENT APPLICATION FOR DOG BOARDING KENNELS AT NO.
383 BUTTERWICK ROAD, BUTTERWICK – LOT 12 DP 243350**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2012-246-1 subject to the conditions contained in **(ATTACHMENT 3)**.
-

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COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Ken Jordan Councillor Chris Doohan
	<p>That Council refuse the application for the following reasons:</p> <ol style="list-style-type: none">1. That the development would result in offensive noise being generated from 100 dogs being housed and the likely impact on adjoining neighbours, specifically:<ol style="list-style-type: none">a) Offensive noise likely to be generated if kennels are not operated strictly in accordance with assumptions in the Global Acoustic Report submitted with the development application;b) Unfavourable weather conditions could result in noise criteria being exceeded;c) Dog barking not strictly considered "impulsive noise", but could fit definition in certain circumstances and result in generation of "offensive noise";2. The development will have animal welfare issues;3. The development will have effluent management issues on the site;4. The development is likely to have affect on the amenity of the rural area; and5. The development is likely to create road safety and traffic issues.

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

Those against the Motion: Mayor Bruce MacKenzie.

MOTION

047	Councillor Ken Jordan Councillor Peter Kafer
	It was resolved 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: 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: Mayor Bruce MacKenzie.

MATTER ARISING

048	Councillor Geoff Dingle Councillor John Nell
	It was resolved that Council be provided with a 2 way conversation on the development application for dog boarding kennels at 383 Butterwick Road, Butterwick, in preparation for any Court action.

BACKGROUND

The purpose of this report is to present a development application to Council for determination at the request of Cr Jordan.

The Application is for construction of Dog Boarding Kennels, with a maximum capacity of 100 dogs.

The key issue for this application is the potential for noise impacts on nearby residents. Six (6) dwellings will be within 500m of the proposed development, the closest being setback 250m. An adjoining property has also recently received

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development consent for a subdivision (DA 16-2012-466-1) which may result in a dwelling within 130m to 250m of the proposed dog kennels.

The DA has been publicly exhibited in accordance with Council policy. In addition a second exhibition period was provided as a result of the Councillor site inspection on 4 December 2012. In total, Council has received:

- A submission from HDB Planning and SLR Acoustic on behalf of the objectors;
- 26 individual submissions and a petition with 225 signatures;
- Advice from Bridges Acoustics on behalf of 2 objectors.

Key issues relate to noise, traffic, operational management, environmental impacts and inconsistency with the rural character. The combined submission also questions the applicant's noise report and the use of impulsive noise corrections, background noise calculations, weather impacts and the assumed "worst case scenarios".

These concerns raised in the submissions have been investigated at length by Council staff. However the information submitted by the applicant provides reasonable assurance that the acoustic report is accurate and reliable.

The development is recommended for approval as it is considered that the proposal can operate in accordance with the criteria recommended by the Local Government Noise Guidelines, and is consistent with LEP 2000 and DCP 2007.

It should be noted that nearby dwellings are likely to experience some noise impacts as a result of the development. The extent of these impacts will be highly dependant on operational management of the kennels. Further, there will likely be circumstances as identified by the objectors submission where the recommended parameters are exceeded, particularly during unfavourable weather conditions or when noise from the dog kennels could be classified as "impulsive".

A condition is recommended requiring ongoing noise monitoring as part of a detailed Management Plan at the applicants expense, which provides an opportunity to address noise issues or complaints that arise as part of the actual operation. Measures that could be implemented at that stage include improving management of the kennels, increasing the acoustic wall height, building modifications to the kennels and reducing the maximum number of dogs.

Council staff's assessment and recommendations are consistent with the approach used by the Land and Environment Court during its consideration of a DA for 42 dogs and 40 cats (Chipperfield v Maitland Council).

Council's current policy position is that "animal establishments" are permissible in the 1(a) Rural Agriculture zone under LEP 2000. Council has the ability to strategically consider the appropriateness of the policy position as part of the LEP 2012 process.

FINANCIAL/RESOURCE IMPLICATIONS

Noise generated by the proposed dog kennels has the potential to result in

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complaints from nearby residences, which would have both resource and financial implications for Council.

Council has received a large number of objections to the proposed development. There is the possibility that Council's decision will be subject to an appeal in the Land & Environment Court, which may have both resource and financial implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No	N/A	Any ongoing monitoring or compliance action will be met within existing staff & budgetary allocations. The costs associated with any legal appeal may not be met in their entirety.
Reserve Funds	No	N/A	N/A
Section 94	No	N/A	N/A
External Grants	No	N/A	N/A
Other	No	N/A	N/A

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's LEP. There is significant potential for Council's decision to be challenged in the Land & Environment Court.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the approval may have a noise impact on surrounding residents.	High	Condition use in accordance with appropriate acoustic conditions. Compliance action can also be taken to protect residents amenity	Yes
There is a risk that the decision may be challenged in Land & Environment Court	High	Condition use/development to meet current LEP controls. Defend Council's decision	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development is unlikely to have any significant social, economic or environmental implications for the organisation, in addition to the Council's role as a planning authority.

CONSULTATION

The DA has been public exhibited in accordance with Council policy. An additional exhibition period was provided as a result of the Councillor site inspection on 4 December 2012.

Councillors, objectors and the applicant were consulted in regards to extending this submission period. It was the general consensus, allowing more time and information to be compiled, would contribute to a more robust determination.

Council received 1 combined submission, 25 individual submissions and a petition with 225 signatures. These are discussed in the Attachments.

OPTIONS

- 1) Adopt the recommendation and approve the development subject to conditions;
- 2) Reject or amend the Recommendations.

ATTACHMENTS

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

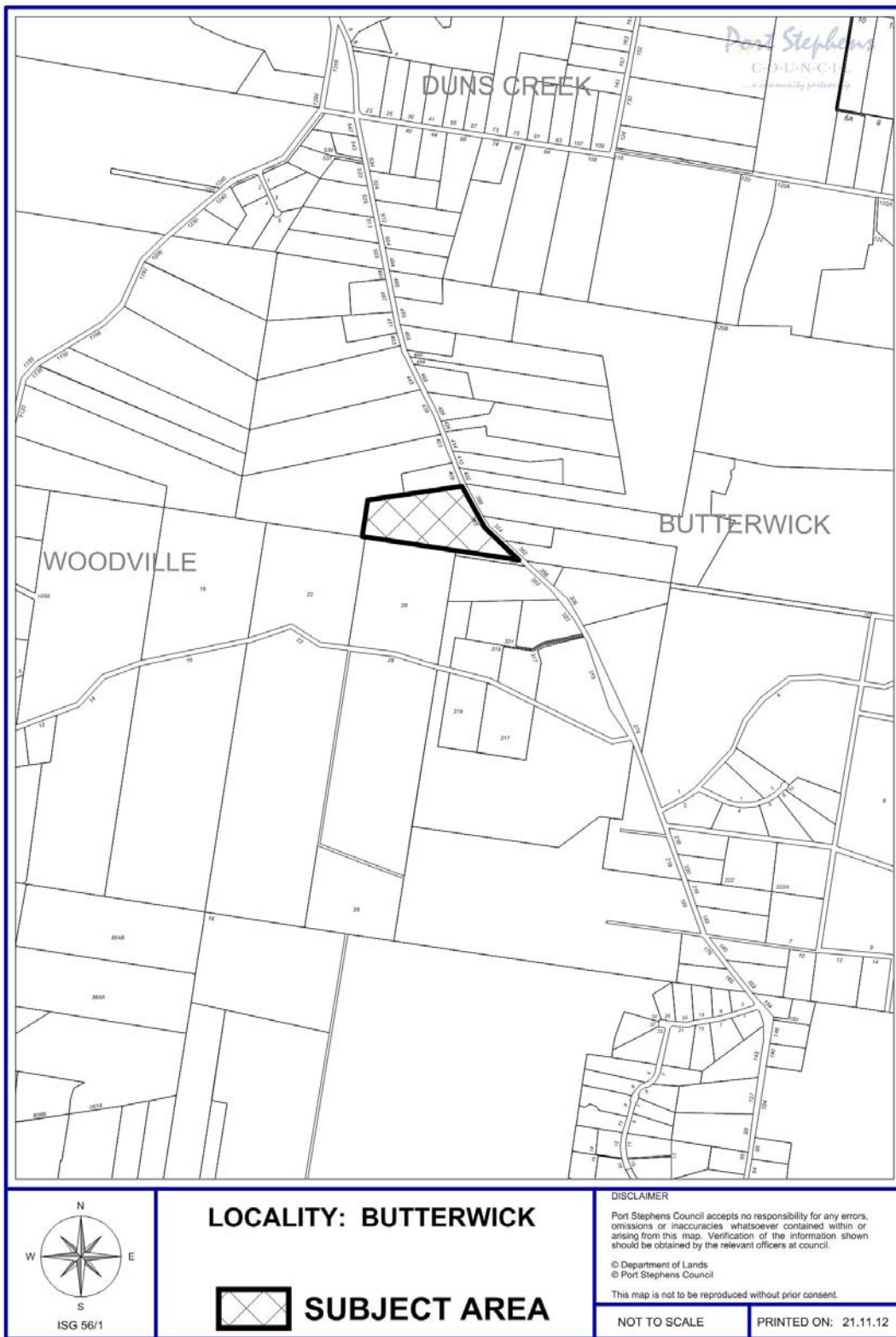
COUNCILLORS ROOM

- 1) Site Plan.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



ATTACHMENT 2

ASSESSMENT

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

THE PROPOSAL

Consent is sought for construction and operation of Dog Boarding Kennels.

The kennels will have a maximum capacity of 100 dogs, and will operate from 7am to 6pm, although customer pick up times will be 8am to 11am and 3pm to 6pm (plus an extra 30 minutes during holiday periods).

THE APPLICATION

Owner	Mr & Mrs Nichol
Applicant	Hill Top Planners
Detail Submitted	SoEE, Plans, Acoustic Report

THE LAND

Property Description	Lot 12 DP 243350
Address	383 Butterwick Road, Butterwick
Area	10.17 hectares
Dimensions	Approx 460m x 200m
Characteristics	Existing dwelling, majority of site vegetated with open forest

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	1(a) Rural Agriculture
Relevant Clauses	11 Rural Zonings
	47 Services
Development Control Plan	B2 Environmental & Construction Management
	B3 Parking & Traffic
Port Stephens Development Contributions Plan	
Environmental Planning & Assessment Act	Section 79BA Bushfire

1.1 Port Stephens Local Environmental Plan 2000

The site is zoned 1(a) Rural Agriculture. The proposed dog kennels are consistent with the definition of an *"Animal Establishment"* in LEP 2000.

Clause 11

Animal Establishments are permissible in the 1(a) zone, and the development is generally consistent with the zone objectives.

With regard to Objective (a), it is noted that noise generated by the development has the potential to adversely impact the existing amenity of the area.

Following assessment of the proposal, it is considered that the development is capable of operating within the parameters recommended by the Local Government Noise Guidelines, and that noise generated by the dog kennels and impacts on residential amenity can be maintained at a reasonable level.

Clause 47

Adequate services are available for the proposed development. Electrical services are available, and two water tanks (20,000L) will be provided for the kennels. Wastewater will be managed via on-site sewerage management system.

1.2 Port Stephens Development Control Plan 2007

Section B2 Environmental & Construction Management

Wastewater from the development will require on-site sewerage management. Council's Environmental Health Officer has reviewed the application and recommended a condition requiring a Section 68 Approval to Operate prior to the issue of a construction certificate.

Section B3 Parking & Traffic

The development will utilise an existing access off Butterwick Road and will provide 6 parking spaces within the site.

The access point has more than 200m sight distance in both directions and complies with DCP 2007, which requires 105m sight distance for 80km/hr zones. Council's Engineers have reviewed the application and recommended a condition requiring upgrade of the entry driveway.

Although DCP 2007 does not specify a parking requirement for animal establishments it is considered that 6 spaces will be sufficient for the proposed use. There is available area around the development should additional parking be required in the future.

1.3 Port Stephens Section 94 Development Contributions Plan

Section 94A contributions will be required for the proposed development, as per Council's Development Contributions Plan.

1.4 Environmental Planning & Assessment Act 1979 – Section 79BA Bushfire

The site is mapped as bushfire prone, however the development is not considered to be integrated development as animal establishments are not listed as a Special Protection Use under the Rural Fires Regulation 2008 or Planning for Bushfire Protection 2006. The DA has been assessed under Section 79BA of the EPA Act, and the following bushfire measures will be provided:

- 10m wide defensible space
- Building will be constructed from non combustible materials (steel/masonry)
- Erection of 3m high Hebel Panels 100mm thick around development.

It is noted that there is no evacuation plan in the event that a bushfire occurs. The SoEE states that the kennels will go into "lockdown" in the event of a bushfire, which raises animal welfare concerns.

The proposal is generally consistent with the aims and objectives of Planning for Bushfire Protection, however a condition will be imposed requiring submission of a more detailed emergency plan prior to the issue of any construction certificate.

2. Likely Impact of the Development

2.1 Built Environment

The most likely impact on the built environment will be noise impacts on nearby existing residences, as the dog kennels will not be clearly visible from the road or any adjoining properties.

Noise

Summary

Council staff considers the development to be capable of satisfying the noise criteria recommended by the *Local Government Noise Guidelines* (LGNG) and being managed in such a way as to avoid the generation of "offensive noise" as defined by the *Protection of the Environment Operations Act*.

In assessing this application, staff have applied an approach consistent with that used by a recent Land & Environment Court case, *Chipperfield v Maitland Council*, which approved dog kennels for 42 dogs and 40 cats on 14 May 2012 and is considered to provide some precedent.

The assessment has identified the following issues that may result in the actual noise levels exceeding the noise criteria recommended by the LGNG:

- Offensive noise likely to be generated if kennels are not operated strictly in accordance with assumptions in Global Acoustic Report submitted with DA
- Unfavourable weather conditions could result in noise criteria being exceeded

- Dog barking not strictly considered "impulsive noise", but could fit definition in certain circumstances and result in generation of "offensive noise"

The "offensive noise" test indicates that noise generated by the development has the potential to be "offensive noise". The available information indicates that the proposed mitigation measures (construction and operational) will be sufficient to meet the criteria recommended by the LGNG, and does not warrant refusal of the application in this instance.

In order to address the risk associated with modelling of impacts, a condition is recommended requiring ongoing noise monitoring at the applicants expense. This will provide an opportunity to address any noise issues or complaints that arise as part of the actual operation of the dog kennels.

Measures that could be implemented at that stage include improving management of the kennels, increasing the acoustic wall height, building modifications to the kennels and reducing the maximum number of dogs.

Relevant Guidelines

Staff have considered the proposal against the *Local Government Noise Guidelines* (LGNG), prepared by the NSW Department of Environment, Climate Change and Water, which provides the most appropriate method for determining the likely noise impacts from the development.

For assessing dog kennels, the LGNG recommends use of the "offensive noise" test (included below) and the *NSW Industrial Noise Policy* (intrusiveness and amenity criteria), *NSW Environmental Criteria for Road Traffic Noise* (sleep disturbance) and EPA Victoria Publication 1254 – Noise Control Guidelines.

Recommended Parameters

The following numerical criteria are relevant to the proposed development:

- Setback of 500m to any residential areas (Victorian EPA)
- Daytime criteria of 44dB (Global Report & INP)
- Night time criteria of 40dB (Global Report & INP)
- Sleep disturbance criteria of 52dB (Global Report & NSW Environmental Criteria for Road Traffic Noise)

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

Compliance

The development does not comply with the 500m setback recommended by the LGNG, as there are six (6) existing dwellings within that range.

The Global Report used acoustic modelling to determine that the likely noise generated by the dog kennels under the assumed "worst case scenarios" would comply with the identified criteria, detailed below:

Scenario	Criteria (dBA)	Projected Noise Levels (dBA)	Exceedance
Daytime (background + 5dBA)	44	44	Nil
Evening (Acceptable Amenity Criteria)	40	39	Nil
Sleep Disturbance (background + 15dBA)	52	43	Nil

Council has reviewed the methodology used in determining the background noise level and the projected noise modelling, and both are considered to be in accordance with the requirements of the LGNG. Based on the available information, it is considered that use of the data in the Global Report is appropriate in this instance.

Areas of concern

Following review of the Global Report and submissions, Council has identified that following areas of concern that may impact compliance with the recommended noise criteria:

- Maximum Sound Power

This development applies a higher maximum sound power level (overall Lw of 116dB for 6 dogs) for dog barking than accepted in the Chipperfield v Maitland Council LEC case (overall Lw of 108dB for 16 dogs).

Based on the comprehensive data provided in the Global Report, it is considered that the maximum sound power level of Lw 116dB is likely to be more accurate.

However, the maximum sound power level used by the Global Report makes assumptions regarding the number and location of large dogs versus smaller dogs. This places a high level of responsibility on the operators of the kennels to ensure they are managed strictly in accordance with the assumptions from the Global Report. Any variance may result in the actual noise levels exceeding the criteria recommended by the LGNG.

▪ Weather

The modelling undertaken in the Global Report did not take into account weather conditions. Council has been advised that this is due to:

- Likelihood that any impact would be negligible
- Difficulty in accurately measuring any impacts due to the minor distances involved - less than 500m - and amount of vegetation around the site
- Peak operation of the kennels (November to February) correlates with most favourable weather conditions

Although data from the Chipperfield v Maitland Council LEC case tends to agree with the above advice, it is noted that the noise levels in that case were expected to increase some 2-3dB over distances of 300m. This data cannot be relied upon due to substantial differences between the subject sites, however any increase in noise levels from weather would likely result in the actual noise exceeding the recommended noise criteria.

▪ Impulsive Noise

The LGNG requires increases to projected noise levels if a noise source is considered to be "impulsive". The acoustic advice from SLR provided as part of the combined public submission includes data that suggests some dog barking could be considered impulsive noise.

However, the Chipperfield v Maitland Council LEC case did not consider dog barking to be an "impulsive noise" source, and considered measurements from a variety of dogs which indicated that the difference between fast and impulse responses was less than 1.4dB, and as such no increases to the projected noise levels were required.

In the absence of more detailed data demonstrating the dog noise is likely to be impulsive, it is considered that the information considered by the LEC should be relied upon.

Despite dog barking not being considered "impulsive noise", there does appear to be some instances where this may be the case and increases the risk of "offensive noise" being generated on adjoining properties.

▪ Background Noise

The objectors submission raised concern that the determination of background noise was not strictly in accordance with the LGNG, as there was no operator attended monitoring. The background noise level in the Global Report (39dB) has been used as the basis for determining the noise criteria.

The applicant has responded, advising that the unattended noise logging did not show any significant variations that would require attended monitoring to clarify.

Council considers the methodology used by the Global Report to be consistent with the requirements of the LGNG, and in the absence of any other background noise data is considered to be acceptable.

Discussion

The LGNG poses a number of questions (obtained from a 2009 LEC case) to consider whether any noise will be offensive in nature. The following comments are provided:

Following consideration of the available data, the "offensive noise test" was applied to the development, included below.

- Offensive Noise Test
 - Noise from the development has been assumed to have a maximum sound power level of 116dB. This noise level, if unmanaged, is considered to be loud both in an absolute sense and relative to other noise sources in the surrounding rural area.
 - Noise from barking dogs has the potential to generate frequent and repetitive noise on adjoining properties. Dog barking is not generally considered to be tonal or impulsive noise, but there are circumstances (species, type of bark etc) which could result in impulsive noise being generated. As a result, the development could generate noise that is particularly irritating to nearby residences.
 - Noise will most likely occur between 7am and 6pm, when the kennels are open. Although people are most likely to expect quiet in the evening/morning, it is reasonable to assume that there will be some conflict with periods where neighbours are seeking peace and quiet given the duration of the noise window (11 hours).
 - Noise from dogs is typical in a rural area, and submissions advised that there are existing dog boarding kennels in the area, but the scale of the proposal (capacity of 100 dogs) generally exceeds what would be typical expected in most rural areas.
 - Noise from the dog kennels is likely to be audible from adjoining properties on a frequent basis each the day.
 - There are six (6) dwellings within 500m of the proposed development, who are most likely to be impacted by the development. The closest dwelling, 409 Butterwick Road, is 250m from the proposed development. A recent development approval on an adjoining property will likely result in a dwelling in a range of 130m to 250m away from the development.

Following consideration of the offensive noise test, the volume, character and frequency of noise likely to be created on adjoining properties by the development clearly has the potential to be offensive noise, particularly as a result of the available setback to existing residential properties.

The construction measures and operational management of the kennels will be a key contributing factor in whether actual noise generated by the development is "offensive noise" or not.

2.2 Natural Environment

Flora and Fauna

The vegetation on the site is mapped as an Endangered Ecological Community, Lower Hunter Spotted Gum Forest. The application does not propose any additional tree clearance as the development will be located within an existing cleared area.

The application states that dogs will be kept within the kennels, except for instance where walks are taken with staff using dog leads. Following assessment of likely noise impacts, it is considered that the proposed measures are capable of keeping noise within the parameters recommended by the Local Government Noise Guidelines.

Based on the above, the dog kennels are considered unlikely to have a significant impact on local fauna,

Water Quality

The proposed development is unlikely to impact water quality, subject to compliance with recommended conditions regarding management of wastewater and stormwater.

2.3 Social & Economic Impacts

The proposed development is unlikely to have any social or economic impacts on the local community.

3. Suitability of the Site

The proposed development is considered suitable for the site, subject to compliance with the Global Acoustic report and recommended conditions of consent.

4. Submissions

This application has been advertised and notified above the requirements of Council Policy. The initial submission period was extended due to public and political concern regarding the notification procedure. A second submission period was extended to objectors following a Councillor site inspection so that they could provide additional information regarding planning and acoustic concerns.

Council received one (1) combined submission from the objectors, with comment from HDB and SLR consultants. In addition, twenty six (26) submissions, including a petition with 225 signatures and advice from Bridges Acoustic consultants was received. The total number of submissions does not include multiple submissions from the same individual.

The issues raised in the submissions have been considered during Council's assessment and although they raise relevant and significant issues, they do not warrant refusal of the application.

The concerns raised in public submissions are included below, along with the relevant assessment comments.

- Noise impacts

Comment

It is agreed that noise from the dog kennels will be audible on nearby properties, which will result in an amenity impact.

However, Council's assessment of the proposal has identified that the development is capable of satisfying the criteria recommended by the relevant noise guidelines, subject to recommended conditions and effective management of the dog kennels.

It is considered unreasonable to refuse the application solely on this basis, but staff have recommended a condition requiring ongoing acoustic monitoring of the dog kennels.

In discussing this issue with the applicant, there are a number of measures that can be taken to reduce the impact if the dog kennels are exceeding the noise criteria and unreasonably impacting nearby residences, including:

- Improving management of dogs in outside runs during the day
 - Increasing the run barrier heights (day impacts)
 - Building modifications, particularly around kennel doors (night impacts)
 - Increasing height of external barrier (proposed at 3m)
 - Reducing the maximum number of dogs
- Development's inconsistency with the area's rural character and reduction of the existing amenity

Submissions stated that the development was not consistent with the rural character of the area, and that it would impact residential amenity and be incompatible with existing rural activities (particularly keeping of livestock).

Comment

The site and surrounding area is zoned 1(a) Rural Agriculture which generally contains a wide variety of agricultural activities. It is noted that the majority of properties surrounding the site are used for residential purposes only.

The main concerns from the submissions relate to the scale of the development, not the nature of the activity. Providing the dog kennels are appropriately managed, it is considered unlikely that there will be any significant impact on keeping of livestock, as the Global Acoustic report indicates that the noise can be kept within a reasonable level and dogs will be kept within the kennels except when being walked around the site on a leash.

- Traffic impacts

Submissions raised concern that the development would increase traffic issues, particularly due to traffic generation from the development and the existing inadequacy of Butterwick Road.

Comment

It is considered that the existing road and property access are capable of catering for the additional traffic generated by the development and that the road quality and available sight distance are adequate. A condition has been imposed requiring an upgrade of the entry driveway between the road and property boundary.

- Quality of information submitted by the applicant

A high percentage of submissions questioned the validity of information provided with the development application, particularly the Acoustic Report prepared by Global Acoustics. The principle concern was that acoustic modelling underestimated the likely impact on nearby residents.

Comments

Council staff have reviewed the Global Acoustic report and investigated claims made in the submissions. Additional advice regarding this matter has been sought from the applicant on three separate occasions.

In response to concerns raised in the submissions, the following comments are made:

- Noise from barking dogs is not considered to be tonal or impulsive (as defined in the INP), and does not require any noise correction in that regard.
- Council has been advised that the daytime scenario (6 dogs in outside runs), does not consider dogs within the kennels, but that this is considered to be a secondary noise source that would not significantly increase the overall noise levels. Additionally, individual kennels can be closed if required during the day.
- The night time scenario (20 dogs in kennels, 10 dogs in suites) requires the kennels to be closed. It is considered that air conditioning can be provided to the kennels through a variety of methods that will not create additional noise problems.

- Decreased property values

Concern was raised that impacts from the development would result in decreased property prices in the surrounding area.

Comment

Based on the available information, it is considered that the development is capable of maintaining a reasonable level of amenity around the site, subject to proper

management and compliance with recommended conditions. There is no basis to assume that the development will have a likely or significant impact on property prices in the area.

- Environmental impact

The majority of submissions raised concern that noise and dog attacks on animals would impact native fauna and result in reduction in areas environmental quality.

Comment

It is considered that there are sufficient measures in place to minimise any environmental impact. There is no information that suggests any specific or likely impact.

- Management of the dog kennels

A wide variety of concerns were raised relating to the management and operation of the dog kennels. Recurring concerns included the feasibility of the acoustic requirement for keeping windows and doors closed during the night, air conditioning, animal welfare (of dogs kept in the kennels), odours, waste, drainage and hours of operation.

Comment

It is acknowledged that management of the dog kennels is a key factor in the likelihood and extent of any impacts on nearby properties.

Based on the information provided to Council, it is considered that appropriate management measures can be put in place to manage likely impacts from the development. A condition is recommended requiring submission of a detailed management plan prior to the issue of any construction certificate.

5. Public Interest

As a result of the Section 79C assessment above, it is considered that the proposed development is unlikely to significantly impact the wider public interest.

**ATTACHMENT 3
CONDITIONS**

STANDARD CONDITIONS

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.

PLANNING CONDITIONS

3. Development consent is granted for an "animal establishment" (dog boarding kennels). The maximum number of dogs to be kept at the premises at any one time shall not exceed 100 dogs.
4. The use and occupation of the premises shall not give rise to any "offensive noise" as defined under the Protection of the Environment Operations Act, 1997.
5. The development is to be constructed and operated in accordance with the details and recommendations of the Global Acoustic Report dated 12 April 2012.
6. In accordance with the recommendations of the Global Acoustic Report dated 12 April 2012, the kennels are to be closed (including all doors and windows) between the hours of 6pm and 7am.
7. The maximum number of dogs in the exercise yards (outdoor runs) at any one time must not exceed six (6) dogs.
8. The exercising of dogs in outdoor runs or around the property shall be between the hours of 9am and 5pm.
9. Within 18 months of commencement of the operation of the kennel facility the owner must have prepared, at its cost, a report by a suitably qualified and experienced Acoustic Consultant as nominated and instructed by the Council that measures noise levels against those predicted by the Global Acoustic Report dated 12 April 2012. If the actual noise levels exceed those predicted the consultant is to specify measures to reduce noise levels to those predicted and the Owner is to carry out those works within 28 days.

ENGINEERING CONDITIONS

10. The access driveway shall be constructed 4 metres wide with a compacted granular pavement 200 mm thick. All associated under road drainage, table drains and tail out drains shall be included during construction.
11. Driveways, parking and turning areas shall be constructed of a suitable compacted granular pavement at least 200 mm thick. These areas shall be maintained in perpetuity by existing or future owners and occupiers of the property.
12. All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level in a manner that does not create concentrated or nuisance flows for nearby buildings or neighbouring properties. The discharge location shall be a minimum of 3 metres down slope of any building or structure and a minimum 6 metres from receiving down slope property boundaries.
13. Prior to any road opening work, a Road Opening Application and accompanying fee must be submitted to and approved by Council's Facilities and Services Section.
14. The applicant shall restore, replace or reconstruct any sections of footpath, cycleway, kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve that occur as a result of construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Certifying Authority.

An Occupation Certificate (final or interim) shall not be issued until the Certifying Authority has inspected the public infrastructure located within the Road Reserve and is satisfied that all necessary remediation and repair works have been completed.

15. You are advised that under the Building and Construction Industry Long Service Payments Act (1986), contractors performing approved works on this site are liable to pay a levy to the Long Service Payments Corporation.

BUILDING CONDITIONS

16. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
17. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.

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

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

When the construction site is in operation the L₁₀ level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

19. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
20. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.

21. The principal certifying authority shall only issue an Occupation Certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate. Note: if an Accredited Certifier approves occupation, the accredited certifier is to immediately notify council in writing.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

22. A detailed Management Plan for the operation of the dog kennels is to be submitted to Council **prior to the issue of any construction certificate**. This is to include a detailed Bushfire Management Plan with details of emergency and evacuation procedures, and address Animal Welfare best practice guidelines.
23. A Section 68 Approval to Operate an On Site Sewerage Management System shall be obtained from Council **prior to the issue of a Construction Certificate**.

24. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94A Development Contributions Plan, a contribution of the cost of development shall be paid to Council **prior to the issue of a Construction Certificate**, as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and as outlined in Table 1 below.

Table 1

Development Cost and Levy Rate

Proposed cost of carrying out the development is up to and including \$100,000
Nil

Proposed cost of carrying out the development is more than \$100,000 and up to and including \$200,000
0.5% of that cost

Proposed cost of carrying out the development is more than \$200,000
1% of that cost

A Cost Summary Report Form (**attached**) setting out an estimate of the proposed cost of carrying out the development in accordance with Schedule 1 of the Port Stephens Section 94A Development Contributions Plan, must be approved by Council **prior to issue of the Construction Certificate**. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors."

25. Driveway access shall be a minimum of 6 metres wide for the first 15m off the road pavement, consisting of a granular pavement having a minimum compacted depth of 200 mm and bitumen sealed with a two coat flush seal from the property boundary to the edge of the existing road. This shall include 15 metre radius splays at the junction with the road in accordance with Access entry exit treatment as per Port Stephens Council Standard Drawing S145.

The Construction Certificate cannot be issued until full details of driveway access are provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

ITEM NO. 4

FILE NO: PSC2012-04766

REVIEW AUSTRALIA DAY AND COUNCIL CIVIC FUNCTIONS

**REPORT OF: ROSS SMART - ECONOMIC DEVELOPMENT AND COMMUNICATIONS
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the information provided;
 - 2) Conduct a sustainability review of civic functions, ceremonies and events and report back to Council by 30 June 2013 with recommendations for improvements, efficiencies and continued future operations.
-

ORDINARY COUNCIL MEETING – 5 MARCH 2013

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Ken Jordan Councillor Steve Tucker
	<p>That Council:</p> <ol style="list-style-type: none">1. Receive and note the information provided;2. Conduct a sustainability review of civic functions, ceremonies and events and report back to Council by 30 June 2013 with recommendations for improvements, efficiencies and continued future operations; and3. That the Council disband the Raymond Terrace Australia Day Sub-Committee and call for expressions of interest from the community.

The motion on being put was carried.

AMENDMENT

Cr Peter Kafer left the meeting at 6.08pm.
Cr Peter Kafer returned the meeting at 6.09pm.

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

	Councillor John Nell Councillor Geoff Dingle
	That Council: <ol style="list-style-type: none">1. Receive and note the information provided;2. Conduct a sustainability review of civic functions, ceremonies and events and report back to Council by 30 June 2013 with recommendations for improvements, efficiencies and continued future operations.

The amendment on being put was lost.

MOTION

049	Councillor Ken Jordan Councillor Steve Tucker
	That Council: <ol style="list-style-type: none">1. Receive and note the information provided;2. Conduct a sustainability review of civic functions, ceremonies and events and report back to Council by 30 June 2013 with recommendations for improvements, efficiencies and continued future operations; and3. That the Council disband the Raymond Terrace Australia Day Sub-Committee and call for expressions of interest from the community.

The motion on being put was carried.

Cr Peter Kafer called for a division, seconded by Cr John Nell.

Those for the Motion: Mayor MacKenzie, 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.

AMENDMENT

	Councillor Geoff Dingle Councillor John Nell
	That Council: <ol style="list-style-type: none">1. Receive and note the information provided;2. Conduct a sustainability review of civic functions, ceremonies and events and report back to Council by 30 June 2013 with recommendations for improvements, efficiencies and continued future operations.

The amendment on being put was lost.

BACKGROUND

The purpose of this report is to provide information on the recent Australia Day activities and Council managed award ceremonies conducted in the last twelve months.

AUSTRALIA DAY 2013

Raymond Terrace: The annual celebration in Raymond Terrace was held at Riverside Park on from 8.45am until 3.30pm. The event was run by the Raymond Terrace sub-committee of the Australia Day 355c Committee with support from Council staff. The event had approximately 1000 attendees. The sub-committee received \$12,300 in financial support from Council to host the event.

Nelson Bay: The annual celebration in Nelson Bay was held at Fly Point Park and commenced with a street parade at 9am. The event was run by the Nelson Bay subcommittee of the Australia Day 355c Committee with support from Council staff. The event had approximately 3500 attendees. The sub-committee received \$12,300 financial support from Council and also sourced various cash and in-kind sponsorship and community grants for the event.

For many years, Council has conducted a civic ceremony at both locations which is attended by the Mayor, the Australia Day ambassador and relevant Council staff. The purpose of the civic ceremony is to conduct a citizenship ceremony, announce citizen of the year awards and other formalities.

In 2012, Graeme Jordan of Hinton was awarded Citizen of the Year and Beke Holt was awarded Young Citizen of the Year. No nominations were called for Event of the Year due to a continual decline in nominations in previous years.

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

AWARDS AND CEREMONIES 2012/13

Ceremonies conducted as part of Australia Day celebrations form one pillar of Council's overall schedule of civic functions.

In August 2012, Council hosted its annual Community Awards night at the Council chamber. The event, normally held in September, was traditionally timed to coincide with the end of the one-year Mayoral term. The award nominations process and the event are run by Council's Communications unit,

The purpose of these awards is to honour various community awards as well as the title of Freeman of Port Stephens. In 2012, Glenys Francis and Helen Ryan were titled Freeman of Port Stephens. Bernie Fitzsimons received the Port Stephens Medal and Terrance Corcoran the Port Stephens Award. Approximately 100 people attended the awards night and it is generally very well received. However, nominations received in 2012 were significantly down on previous years.

The Port Stephens Sports Star Awards were not run in 2012 as a result of cost saving decisions made during the sustainability review process. This recommendation was made on the proviso the junior and senior Sports Star Awards would be incorporated into other Council-run awards functions in future.

Given declining interest and consistent drops in nominations across all categories, and the shift to a popularly-elected Mayor serving a four-year term, an opportunity exists to conduct a strategic review of Council's civic functions programme.

It is recommended that a 'civic functions' service package be created and that staff involved conduct a sustainability review of that package. This will allow opportunity for improvement and benchmarking with other Council's and LGA's. It is recommended that this review be conducted by 30 June, 2013.

FINANCIAL/RESOURCE IMPLICATIONS

The sustainability review will be undertaken using existing budget allocations.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The only mandated civic function Council has to provide by legislation is the citizenship ceremony, with the Mayor and General Manager the only individuals in the Local Government Area with the power to conduct said ceremonies as delegated by the Department of Immigration and Citizenship.

All other civic ceremonies are conducted under the direction of the Mayor and General Manager.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
The decision to review, continue or discontinue civic events, functions and associated activities represents a reputational risk to Council.	Low	Conduct sustainability review to better understand communities expectations.	Yes
Declining nominations and interest from the community represents a risk to the sustainability of non-mandated civic events in the future.	Low	Survey the community and affected stakeholders to determine expectations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications.

A review of the delivery and content of civic functions would likely result in efficiencies and cost savings for the organisation.

Social factors also need to be considered. Civic functions and awards remain important to a community, as recognition of civic effort by individuals provides a source of pride for that community and the people within it, as well as the individuals themselves. However, the relevance of these functions needs to be reviewed and assessed to ensure they remain valued into the future.

CONSULTATION

Nothing formal to date. Consultation with community leaders and affected stakeholders will be undertaken to inform the review of the service.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: A2004-0852

108 MAGNUS STREET, NELSON BAY CLASSIFICATION OF LAND

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Classify the land acquired by Council on 18 December 2012, situated at 108 Magnus Street, Nelson Bay as 'Operational Land' in accordance with the Local Government Act 1993 No. 30, Section 31, subsection (2).
-

ORDINARY COUNCIL MEETING – 5 MARCH 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 prepare a report on linking Yacaaba Street and Victoria Parade, Nelson Bay.

MOTION

050	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that the recommendation be adopted

MATTER ARISING

051	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that Council prepare a report on linking Yacaaba Street and Victoria Parade, Nelson Bay.

BACKGROUND

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

The purpose of this report is to recommend that Council classify Lot 71 DP 573006 being 108 Magnus Street, Nelson Bay as 'Operational Land'.

The Local Government Act 1993 provides for in Section 31, subsection (2):

"Before a council acquires land, or within 3 months after it acquires land, a council may resolve (in accordance with this Part) that the land be classified as community land or operational land".

A business paper for the purchase of this property went before Council at the Ordinary Council Meeting – 23 October 2012. It was resolved that Council:

- a) Purchase Lot 71 in Deposited Plan 573006 being 108 Magnus Street, Nelson Bay to the value determined in the valuation report.
- b) Authorise the General Manager and the Mayor to sign and affix the seal of Council to any related documentation.

Contracts for Sale of the property were duly entered into, with settlement occurring on Tuesday 18 December 2012.

The above mentioned property has been for many years identified as a key piece of land to provide a vehicle and or pedestrian link from Magnus Street to Victoria Parade, Nelson Bay. This link has been identified in the Nelson Bay Strategy and Traffic study documents as an important link from the commercial Magnus/Donald Streets precinct to the Nelson Bay foreshore.

Details of the design of a vehicle and or pedestrian link have yet to be determined and therefore it is essential that the land be classified as Operational to allow for the potential opportunity to incorporate some form of commercial development within the link.

The adjoining property at 106 Magnus Street is owned by Council and is classified as 'Operational Land'. This land also forms part of the link to the foreshore.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications with classifying this land.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	Nil	There are no costs associated with classifying the land under the provisions of the LGA.
Reserve Funds	No	Nil	
Section 94	No	Nil	

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

External Grants	No	Nil	
Other	No	Nil	

LEGAL, POLICY AND RISK IMPLICATIONS

As provided in the Local Government Act 1993 section 31, subsection (2A):

"Any land acquired by a council that is not classified under subsection (2) is, at the end of the period of 3 months referred to in that subsection, taken to have been classified under a local environment plan as community land."

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that should Council not classify the land as Operational within three months of acquisition, the land will automatically be classified as Community and may restrict commercial development, should that be identified as an appropriate use for the residual land.	High	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Since the late 1990's the land at 106 and 108 Magnus Street, Nelson Bay has been identified as a key link from the commercial business centre of Nelson Bay to the foreshore. As Council now holds the title to both properties, classifying 108 Magnus Street as Operational will align it with the classification of 106 Magnus Street, providing a good strategic outcome for Council.

CONSULTATION

- 1) Group Manager Corporate Services;
- 2) Civil Assets Manager;
- 3) Property Services Manager;
- 4) Property Development Coordinator.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: A2004-0242

QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2012

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 – December 2012.
-

ORDINARY COUNCIL MEETING – 5 MARCH 2013**COMMITTEE OF THE WHOLE RECOMMENDATION**

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

MOTION

052	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that the 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 – December 2012. This Statement sets out the details of variations between Council's original budget and the proposed budget as part of the December Quarterly Budget Review.

Council adopted its Integrated Strategic plans on 26 June 2012 (Council Minute No. 151) these Plans include the budget estimates for the 2012/2013 financial year.

FINANCIAL/RESOURCE IMPLICATIONS

Council's underlying results are expected to improve by \$191,000 with the adoption of the recommended changes.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	Nil	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?
There is a risk that the underlying operating result may increase.	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 – December 2012;
- 2) Document 2 2012-2013 Quarterly Budget Review Statement – December 2012.

ITEM NO. 7

FILE NO: A2004-0945

**COMPULSORY ACQUISITION OF EASEMENT OVER LOT 3 DP 340555,
BOBS FARM**

REPORT OF: JOHN MARETICH - CIVIL ASSETS SECTION MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Rescind Item 7 "Compulsory Acquisition of Easement over Lot 3 DP 340555, Bobs Farm", Minute number 063 adopted 8 March 2011;
 - 2) Authorises the acquisition of the proposed easement to drain water, right of access and maintenance variable width consisting of the existing drainage channel plus five (5) meters over the property Lot 3 in Deposited Plan Numbered 340555 by compulsory process;
 - 3) Registers at Land & Property Management Authority a plan of acquisition of an easement to drain water, right of access and maintenance variable width consisting of the existing drainage channel plus five (5) meters over the property Lot 3 in Deposited Plan Numbered 340555;
 - 4) Authorises the making of an application for consent to the Minister of Local Government and approval of the Governor for the compulsory acquisition of an easement to drain water, right of access and maintenance variable width consisting of the existing drainage channel plus five (5) metres over the property Lot 3 in Deposited Plan Numbered 340555.
-

ORDINARY COUNCIL MEETING – 5 MARCH 2013**COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Geoff Dingle
	That the recommendation be adopted.

MOTION

053	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that the recommendation be adopted

BACKGROUND

This is a revised report which was deferred from Council meeting December 2012. A site inspection of drainage channel was undertaken on the 5th February 2013 which resulted in the agreement of location and width of easement between Council and the owner. The agreement is the existing drain width plus five (5) meters.

The purpose of this report is make an amendment to the original Council report ITEM 7, minute number 063, 8th March 2011, where approval was given to the compulsory acquisition of a drainage 14m wide easement over a Bobs Farm property. The previous recommendations were:

- 1) Authorises the acquisition of the proposed easement to drain water, right of access and maintenance 14 meters wide and variable over the property Lot 3 in Deposited Plan Numbered 340555 by compulsory process.
- 2) Registers at Land & Property Management Authority a plan of acquisition of an easement to drain water, right of access and maintenance 14 meters wide and variable over the property Lot 3 in Deposited Plan Numbered 340555.
- 3) Authorises the making of an application for consent to the Minister of Local Government and approval of the Governor for the compulsory acquisition of an easement to drain water, right of access and maintenance 14 meters wide and variable over the property Lot 3 in Deposited Plan Numbered 340555.

Original report was to create an easement over property to permit the legal discharge of water from Nelson Bay Road. In the absence of a full drainage study, the original Council report proposed an easement width that was calculated on simplistic drainage calculations. This easement included the provision of future drainage upgrade and an area adjacent to the drain for maintenance. The Roads and Maritime Services (RMS) at that time had not provided Council with any drainage reports as the Nelson Bay Road Duplication design was not yet complete.

The RMS have now provided Council with the drainage report and stated the road duplication will not have an affect on the existing drainage system. The RMS have noted they will pay for an easement of the existing drainage channel width plus five (5) meters for maintenance access. A drainage easement wider than this will be at the cost of Council.

Property Owner does not agree with the original 14m easement width and is requesting the easement be the existing channel width plus 5m for access and boundary clearance. The drain varies in width from the front of the property to the rear.

With the confirmation of the drainage requirements from the RMS and the expressed concerns from the property owner, this report has been prepared to change the originally proposed from 14m wide easement to drain water to an easement width of the existing drainage channel plus 5m wide to match the varying drainage width.

FINANCIAL/RESOURCE IMPLICATIONS

The cost of the easement acquisition is funded through the Nelson Bay Road Duplication Project.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget		Nil	
Reserve Funds		Nil	
Section 94		Nil	
External Grants		Nil	
Other			Easement funded through the RMS Nelson Bay Road Duplication Project.

Future maintenance of this drain will continue to be covered by Council's existing drainage budget.

LEGAL, POLICY AND RISK IMPLICATIONS

The acquisition of the easement is a vital step in the Nelson Bay Road Duplication Project proceeding.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the resident will be displeased with original proposed 14m wide easement. Resident does not want a 14m wide easement to place a blight on the property or reduce proposed amenity.	Medium	Amend the easement width.	Yes
There is a risk that the property owner may appeal through the Land and Environment Court and hence hold up the Nelson Bay Road Duplication Project if this easement width is not amended.	High	Amend the easement width.	Yes

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

There is a risk that if the easement is not gained it will result in a delay of the Nelson Bay Road Duplication Project.	High	Adopt recommendation	Yes
There is a risk that if the easement is not obtained it will limit Council's ability to access the drain without the property owner appealing.	Medium	Gain easement and adopt recommendation which then allows Council to access the drain.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The drainage easement will allow Council access for maintenance of the drainage channel. Routine maintenance of this open drain is required to ensure it functions and allows passage of water from the properties on the southern side of Nelson Bay Road and the road itself. Lack of maintenance on the drain will result in storm water backing up the drainage catchment into neighbouring properties.

CONSULTATION

Consultation has taken place with Roads and Maritime Services, the affected Resident, and Council's Legal Officer.

OPTIONS

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

ATTACHMENTS

- 1) Easement Plan;
- 2) Copy of Item 7 "Compulsory Acquisition of Easement over Lot 3 DP 340555", Minute number 063 adopted 8 March 2011.

COUNCILLORS ROOM

Nil.

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ATTACHMENT 2**MINUTES ORDINARY COUNCIL – 8 MARCH 2011**

ITEM NO. 7

FILE NO: A2004-0945

COMPULSORY ACQUISITION OF EASEMENT OVER LOT 3 DP 340555

REPORT OF: PETER AVIS – PROJECT SERVICES, MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorises the acquisition of the proposed easement to drain water, right of access and maintenance 14 metres wide and variable over the property Lot 3 in Deposited Plan Numbered 340555 by compulsory process.
- 2) Registers at Land & Property Management Authority a plan of acquisition of an easement to drain water, right of access and maintenance 14 metres wide and variable over the property Lot 3 in Deposited Plan Numbered 340555.
- 3) Authorises the making of an application for consent to the Minister of Local Government and approval of the Governor for the compulsory acquisition of an easement to drain water, right of access and maintenance 14 metres wide and variable over Lot 3 in Deposited Plan Numbered 340555.

COUNCIL COMMITTEE MEETING – 1 MARCH 2011**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor John Nell	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 8 MARCH 2011

063	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that the Council Committee recommendation be adopted.
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COUNCIL COMMITTEE – 1 MARCH 2011

ITEM NO. 7

FILE NO: A2004-0945

COMPULSORY ACQUISITION OF EASEMENT OVER LOT 3 DP 340555

REPORT OF: PETER AVIS – PROJECT SERVICES, MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorises the acquisition of the proposed easement to drain water, right of access and maintenance 14 metres wide and variable over the property Lot 3 in Deposited Plan Numbered 340555 by compulsory process.
- 2) Registers at Land & Property Management Authority a plan of acquisition of an easement to drain water, right of access and maintenance 14 metres wide and variable over the property Lot 3 in Deposited Plan Numbered 340555.
- 3) Authorises the making of an application for consent to the Minister of Local Government and approval of the Governor for the compulsory acquisition of an easement to drain water, right of access and maintenance 14 metres wide and variable over Lot 3 in Deposited Plan Numbered 340555.

BACKGROUND

The purpose of this report is to recommend the completion of the actions of Council resolution minute number 1425 from Council Report of 18 December 1990 :-

"That Council take the following steps in relation to drainage in Main Road, Bobs Farm:

Steps be taken to obtain drainage easements to allow drainage from the Main Road to be discharged through private property to a suitable point of discharge. The easement to be obtained by negotiation, or if this fails, by resumption.

Negotiations be entered into with landowners to allow for the temporary discharge of water, pending the resolution of 1. above."

One of the properties referred to in the Report is the subject property which is currently known as Lot 3 Deposited Plan Numbered 340555 No. 3933 Nelson Bay Road, Bobs Farm.

Negotiations have continued since the Council meeting of 18 December 1990 without agreement being reached. Earlier negotiations were conducted by Council's Principal Property Advisor and more recently by Council's Senior Survey and Land Information Manager.

COUNCIL COMMITTEE – 1 MARCH 2011

Council's drainage section has investigated the drainage through the subject property and advise that the original easement of 5 metres wide and variable determined in 1995 would be inadequate.

As access to the property has been an issue for maintenance in the past, an easement of 14 metres wide and variable will be required to accommodate the drain and provision of access. See Attachment 1 for the plan of the proposed easement.

FINANCIAL/RESOURCE IMPLICATIONS

Funding for the acquisition is available from the Civil Assets budget. Regular maintenance will be conducted and funded as part of the Drainage Maintenance Program.

LEGAL, POLICY AND RISK IMPLICATIONS

Negotiations have been in progress since 1990 without agreement and compulsory acquisition will be the most effective way to complete the acquisition. Under the compulsory acquisition process the valuation of the compensation is assessed in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 by the Valuer-General.

Actions for this matter fall under the Local Government Act 1993, Roads Act 1993, Land Acquisition (Just Terms Compensation) Act 1991, Conveyancing Act 1919 and Real Property Act 1900. There are no Council Policies involved. Risks implications are that an objection to the Valuer-General's valuation could be lodged with the Land and Environment Court by the owner.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The acquisition of the easement will provide a social benefit to surrounding properties with the controlled drainage of stormwater to reduce the possibility of inundation.

There are no economic or environmental implications with the acquisition of the easement.

CONSULTATION

Consultation has involved the owners of the land, their legal, survey and valuation representatives, Roads and Traffic Authority, Land and Property Management Authority, Council Staff and Council's Legal Consultant's.

COUNCIL COMMITTEE – 1 MARCH 2011

OPTIONS

- 1) Adopt recommendations.
- 2) Not acquire easement and cease maintenance.

ATTACHMENTS

- 1) Plan of proposed easement.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8

FILE NO: PSC2012-03659

CLASSIFICATION OF LAND AT 416 NEWLINE ROAD RAYMOND TERRACE**REPORT OF: STEVEN BERNASCONI – COMMUNITY AND RECREATION SERVICES
SECTION MANAGER****GROUP: FACILITIES AND SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Classify the land acquired by Council on 20 December 2012, situated at 416 Newline Road Raymond Terrace as 'Operational Land' in accordance with the Local Government Act 1993 No. 30, Section 31, subsection (2).

ORDINARY COUNCIL MEETING – 5 MARCH 2013**COMMITTEE OF THE WHOLE RECOMMENDATION**

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

MOTION

054	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that the recommendation be adopted

BACKGROUND

The purpose of this report is to recommend that Council classify Lot 51 DP 839722 being 416 Newline Road Raymond Terrace as 'Operational Land'.

The Local Government Act 1993 provides for in Section 31, subsection (2):

"Before a council acquires land, or within 3 months after it acquires land, a council may resolve (in accordance with this Part) that the land be classified as community land or operational land".

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

A business paper for the purchase of this property went before Council at the Ordinary Council Meeting – 27 November 2012 (Minute 321, 27 November 2012). It was resolved that Council:

- a) Purchase Lot 51 in Deposited Plan 839722 being 416 Newline Road Raymond Terrace to the agreed value of one dollar (\$1.00)
- b) Authorise the General Manager and the Mayor to sign and affix the seal of Council to any related documents for the Contract of Sale of Lot 51 of Deposited Plan 839722 being 416 Newline Road Raymond Terrace

Contracts for Sale of the property were duly entered into, with settlement occurring on Thursday 20th December 2012.

The property was previously leased by Council for use as a municipal waste landfill and waste transfer station. Landfilling ceased at the site in 2000 and the waste transfer station ceased in 2005. The site has not been capped or fully rehabilitated. Council is required to monitor and manage the environmental impacts of the past waste landfilling in perpetuity or until monitoring data shows continuous compliance with licensed levels of off site impacts.

The site forms part of the Kings Hill development and is identified in the master plan for Kings Hill as future recreation land. Council owns other land in the local government area that is classified as 'Operational Land' yet used entirely for community and recreation purposes – for example 2 Engel Avenue Karuah includes the Community Hall, Community Preschool, skate park and passive open spaces; 36 Ferodale Road Medowie includes Ferodale Oval and sporting complex.

The site is also identified as a "deferred matter" from the Department of Planning's assessment of Kings Hill on the basis of potential odour impacts.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications with classifying this land.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	Nil	There are no costs associated with classifying the land under the provisions of the LGA.
Reserve Funds	No	Nil	
Section 94	No	Nil	
External Grants	No	Nil	
Other	No	Nil	

LEGAL, POLICY AND RISK IMPLICATIONS

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

As provided in the Local Government Act 1993 section 31, subsection (2A):

"Any land acquired by a council that is not classified under subsection (2) is, at the end of the period of 3 months referred to in that subsection, taken to have been classified under a local environment plan as community land."

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that should Council not classify the land as Operational within three months of acquisition, the land will automatically be classified as Community and may restrict the use options of the land that may be identified as appropriate uses in the future.	High	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation has no adverse implications for the social, economic or environmental aspects of the land in question.

CONSULTATION

- 1) Group Manager Facilities and Service;
- 2) Community and Recreation Planning Coordinator;
- 3) Waste Management Coordinator;
- 4) Property Services Manager.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9

FILE NO: A2004-0284

REVIEW OF THE CODE OF MEETING PRACTICE

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

RECOMMENDATION IS THAT:

- 1) Receive and note the submissions;
 - 2) Remove the reference to the webcasting from the Code of Meeting Practice;
 - 3) Adopt the revised Code of Meeting Practice.
-

ORDINARY COUNCIL MEETING – 5 MARCH 2013**COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Peter Kafer
	That Item 9 be deferred to the Ordinary Council meeting.

Cr Paul Le Mottee left the meeting at 6.50pm during the Ordinary Council meeting and did not return.

MOTION

055	Councillor Ken Jordan Councillor Steve Tucker
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1. Receive and note the submissions;2. Remove the reference to the webcasting from the Code of Meeting Practice;3. Adopt the revised Code of Meeting Practice; and4. Re-vist the use of webcast at Council meetings, if local government becomes recognised in the Australian Constitution.

BACKGROUND

The purpose of the report is to provide Council with any submissions received from the community following public exhibition of the Code of Meeting Practice.

Council at its meeting on 11 December 2012, resolved to cease webcasting Council meetings. As a result Council was required to public exhibit the changes to the Code of Meeting Practice. In effect the following "note" is required to be removed from the Code:

"Note: Port Stephens Council now broadcasts its Ordinary Meetings of Council over the internet to provide a greater level of openness, transparent and access to the decision making process. This does not include the confidential session of the Ordinary Council meeting.

Port Stephens Council accepts no liability for any defamatory remarks that are made during the course of the meeting. The quality of the webcast will depend on the viewers' memory and internet connection bandwidth."

Public exhibition was from 20 December 2012 to 31 January 2013.

Nine (9) submissions were received and are shown at **(ATTACHMENT 1)**. It should be noted that one individual submitted two submissions.

Council is now asked to consider the adoption of the Code.

FINANCIAL/RESOURCE IMPLICATIONS

The Code will be implemented within current human resources.

Once adopted, the Code of Meeting Practice must be available for public inspection free of charge at the office of the Council during ordinary office hours. Copies of the Code must be available free of charge or, if the Council determines, on payment of the approved fee.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The costs directly related to this resolution are covered within the existing budget
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

The Risk Matrix identifies those risks associated with the adoption of the Code of Meeting Practice.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of breaching of the Local Government Act 1993, if Council does not adopt a Code of Meeting Practice in accordance with the Act and Regulations.	Low	Adopt the amended Code	Yes

Under Section 361 of the Local Government Act, the draft Code must be placed on public exhibition for not less than 28 days. The Council must consider all submissions received before determining the Code.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Code allows Councillors to effectively carry out their responsibilities at meetings of the Council and committees of which all the members are councillors.

CONSULTATION

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

OPTIONS

- 1) Adopt the recommendation;
- 2) Retain the existing Code of Meeting Practice.

ATTACHMENTS

- 1) Submissions.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Page 1 of 2

E-mail Message

From: [REDACTED]@om.au]
To: SwitchPC [EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=SWITCHPC]
Cc: Craig Baumann MP [SMTP:portstephens@parliament.nsw.gov.au], Cr Steve
Tucker [EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=STEVE TUCKER], Cr Paul Le
Mottee [EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=PAULLE], Cr Chris Doohan
[EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=CHRISTOPHERD], Mayor
[EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=MAYOR], Cr Ken Jordan
[EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=KENETHJ], Cr John Morello
[EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=JOHNMO], Cr Sally Dover
(SMTP) [EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=CRSALLYDOVERSMTP]
Sent: 28/01/2013 at 7:47 PM
Received: 28/01/2013 at 7:47 PM
Subject: Code of Meeting Practice - Webcast Discontinuation

Could this objection be registered into the Council system and referred to the officer handling submissions relating to the change in Code of Meeting Practice - Internet Broadcasting.
I declare that have not made any political donations in the past 2 years and I'm not filling out the form ... yet again!

On 11 December 2012, Port Stephens Council took a backward step in democracy. The disconnection without notice left interested East Ward voters without a broadcast of that meeting. Had we known it was going to be cut off so suddenly, we would have been there!

Most resolutions of Council don't come into effect until the next meeting. The plug was pulled instantly so one was left to wonder "What did they want to hide?"

Now the ratepayers of East Ward need to leave Nelson Bay at 4 pm to attend a meeting that starts at 5.30 pm not knowing whether the particular item we have an interest in will be moved up or down the agenda.

Some meetings have gone until 9.30 pm and, without a dinner break for attendees, is unfair on the ratepayers of the Tomaree Peninsula to be locked out of hearing just what our elected Councillors have to say on items for discussion.

The cost of transport is discriminatory for East Ward electors if they are to see and hear what is actually going on at Council for themselves.

Time is not a free commodity either and it takes a fair commitment to attend a Council meeting, particularly when many agenda items are irrelevant and involves a lot of driving to get there.

Council had already invested \$10,000.00 in this. Is it to be thrown in the cupboard with the last lot of recording gear? What an absolute waste.

The likelihood of a Councillor being sued for something they inadvertently said in a Council meeting would have to be very small and already other Councils are webcasting their Council meetings. This is an absolute furphy put up by some Councillors who didn't really like what they were seeing - themselvesand the unintelligent, condescending and insulting discussions which are now on the

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record.

The Mayor is on the record prior to the election as supportive of the webcast .
In answer to "Q 5. Port Stephens was the first to live stream council meetings, did you support that move and will it help the public make their vote now that the Mayor is now popularly elected?

I supported and continue to support live streaming of Council meetings and I can only hope that people have used this means of interacting with Council to form a judgment on performance."

(30 Aug NBN News (website))

A A few other facts:-

A lot more people were watching the webcasts than ever actually physically attended the Council meetings in Raymond Terrace.

Quite a few people were watching it later, rather than live in real time, or referring back to the recording for reference.

The note in the report tabled at the meeting about people accessing the webcast from three different computers is interesting, but unlikely

There is no reason why these recordings should not be archived as a permanent 'living record' given the cost of storage today.

The technology should be investigated further to allow access by Mac Computers and Mobile devices like iPads that could not access it when the plug was pulled.

There are a few technical problems with the transmission being frequently interrupted. The council should have fixed this..

This equipment would have raised the standard of debate in the chamber, if Councillors know that it is being recorded.

The positive side for Councillors is that if they make a well informed, passionate speech about something, they can refer back to it in the future when their views were vindicated.


Phone:

E-mail Message

From: [REDACTED] t W [SMTP: [REDACTED]@som.au]
To: SwitchPC [EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=SWITCHPC]
Cc:
Sent: 20/01/2013 at 11:59 AM
Received: 20/01/2013 at 11:58 AM
Subject: Code of Meeting Practice - Webcast Withdrawal Objection

I wish to object to the change in the Council's Code of Meeting Practice relating to the cessation of Webcasting (Section 13).

This webcast was the best initiative Council had come up with and was supported by previous Councillors, including the Mayor MacKenzie and Cr Tucker and public statements are on record to that effect.
It is now a costly exercise for the ratepayers and residents of the East Ward to make the journey to Raymond Terrace for each meeting to actually hear and see what our newly elected Council is doing.
The notion that Councillors could be somehow legally liable for their comments is not acceptable if they are acting as responsible elected Councillors.
Other Councils throughout NSW now have this facility available. Why the secrecy for Port Stephens?

I believe this is a blatant move to cover up what is really happening with 7 of the elected Councillors and how they vote in a bloc. Already we have seen pages of recommendations from Council officers as to why a project should NOT be approved. All this is disregarded if the 7 are instructed to vote that way. We in the community are left in the dark as to their reasons for actually approving these. Does this mean we'll have more legal challenges in the future and undesirable precedents set? Definitely.

We cannot depend on the reporters from either Newcastle Herald or the Examiner to provide the full facts. The webcast was really showing the public what their elected Councillors are really like and it is obvious that some just don't like that. This has nothing to do with legal action. It's all about hiding from the public what they are really up to. The final paragraph in the existing code of practice covers the legal side.

Why has Council wasted so much money on the equipment for it to be tossed in a cupboard somewhere, all because these Councillors want to hide.

What kind of legacy will these Councillors leave behind in the obvious disregard for any planning that has been carefully done by Council, and mountains of reports/plans paid for by the ratepayers of Port Stephens.

The electors of Port Stephens may have spoken (not quite as loudly as the Mayor had hoped!), Now the huge \$\$ spent on campaigning and preferencing is paying personal dividends to some Councillors, regardless of any pecuniary interest declarations they are supposed to make.

Why wouldn't they want to hide?

Thank you

[REDACTED]
[REDACTED]
[REDACTED]

E-mail Message

From: [REDACTED] [SMTP:[REDACTED]@bigpond.com]
To: SwitchPC [EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=SWITCHPC]
Cc:
Sent: 1/02/2013 at 3:23 PM
Received: 1/02/2013 at 3:23 PM
Subject: web cast cessation

I have been away over Christmas but was really disappointed to come back and find that the web cast is no more. How can people keep up with council if they have to drive to find out what is going on. This was a very enlightened project of council and it is a shame it is short lived.

It will be missed.

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E-mail Message

From: [REDACTED] [SMTP: [REDACTED]@bigpond.com]
To: SwitchPC [EX/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=SWITCHPC]
Cc:
Sent: 30/01/2013 at 6:04 PM
Received: 30/01/2013 at 6:04 PM
Subject: re Webcast Meetings of Council meetings.

Dear Councillors,

I am writing to protest concerning the discontinuation of the webcast of the council meetings. As a rate payer I feel we are entitled to be kept up to date with the discussions and decisions made by our elected members. It would be stupid not to take advantage of modern technology and simply and openly inform the public what is going on and being planned for the community. We do live in a democracy.

I would like to hear of your reasons for considering abandoning this excellent method of communication.

Yours sincerely,

[REDACTED]

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

Page 1 of 2

E-mail Message

From: [REDACTED]@bigpond.com
To: SwitchPC [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=SWITCHPC], Peter Gesling [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=PETER2G], Mayor [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=MAYOR], Cr John Morello [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=JOHNMO], Cr Sally Dover (SMTP) [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=CRSALLYDOVERSMTP], Cr John Nell [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=JOHNN], Cr Geoff Dingle [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=GEOFFDI], Cr Steve Tucker [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=STEVETUCKER], Cr Chris Doohan [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=CHRISTOPHERD], Cr Ken Jordan [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=KENETHJ], Cr Peter Kafer [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=PETERK], Cr Paul Le Mottee [EX:/O=PORT STEPHENS COUNCIL/OU=PSC/CN=RECIPIENTS/CN=PAULLE]
Cc:
Sent: 29/01/2013 at 3:30 PM
Received: 29/01/2013 at 3:30 PM
Subject: P.S. COUNCIL'S CESSATION OF WEBCASTING

To: The General Manager, Port Stephens Council Mayor and Councillors.

Dear Peter and Councillors,

I wish to strongly object to the cessation of internet webcasting and also of the lack of transparency where our Council no longer records committee and/or ordinary meetings of council.

I witnessed the resolution of the full council meeting on December 11th, where paltry arguments were presented to discontinue the internet webcasting, including the Mayor's statement: "Shut it down", and to amend the Code of Meeting Practice.

From first-hand experience I know full-well that keeping our community informed is the most important requirement of the peoples' Local Government.

Failure to keep community ratepayers and residents truthfully informed will only see the demise of our Council, including senior managers and staff members.

Please encourage all councillors and senior managers to reverse their decision of December 11th and also reintroduce tape recordings as is required under the Local Government Act.

If it is not a legal requirement under this Act then for the sake of complete transparency of our Council, I implore you all to insist on an open and accountable Council.

Yours sincerely,

[REDACTED]
[REDACTED] N.S.W. 2315
Telephone: (02) [REDACTED]

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By email: peter.gesling@portstephens.nsw.gov.au

General Manager
Port Stephens Council
28 January 2013

**OBJECTION – Amendment to Code of Meeting Practice –
Cessation of Broadcasting Council Meetings via
Webcasting (Submission made to Public Consultation
on this matter)**

Dear Mr Gesling

At its meeting on 11 December Port Stephens Council voted to abandon public Webcasting of Council meetings and to return to its old schedule which provides for Council Committee Meetings to be held immediately before the Ordinary Council Meeting.

Webcasting was only installed earlier this year at a cost of \$20,000 and has provided a much valued means for ratepayers and residents to view Council meetings from home or on portable devices. The webcast has attracted a significant audience especially among those who are located in outlying areas of the LGA, such as the Tomaree Peninsula and those who have other commitments on Tuesday nights.

Tomaree Ratepayers and Residents Association Inc. strongly believes that webcasting is a vital window on our democratic process through which all voters are able to follow the debate of issues by their elected representatives and which increases accountability of Councillors.

Of particular value is the record of the proceedings, the precise text of motions and amendments as well as the voting by councillors captured in the webcasts. These records should be retained in Council archives and made accessible to the public.

Councillors raised the prospect of exposure to legal proceedings as a reason for dropping this service. Councillors who stick to the facts and refrain from insulting



A: Po Box 290, Nelson Bay 2315 **T:** 4981 2881 **E:** secretary@trra.com.au

and demeaning language have nothing to fear. Many other progressive NSW Councils webcast their meetings and are not daunted by this prospect !

The meeting schedule whereby Committee Meetings were held two weeks in advance of the Ordinary Council meeting allowed councillors and residents to evaluate background information and to consult with affected parties before proposals are put to the vote. Why return to the former schedule where Agenda papers are circulated at 5 pm on a Friday with only 4 days to research, consider and consult?

These backflips on innovations taken by the previous Council stifle public input and seriously reduce the public accountability of Port Stephens Council.

Recommendation: That Port Stephens Council reinstate its webcasting of Council meetings as a matter of urgency and that the recordings be archived and made available for public access.

Geoff Washington
President
Tomaree Ratepayers & Residents Association Inc.



A: Po Box 290, Nelson Bay 2315 **T:** 4981 2881 **E:** secretary@trra.com.au

ATTENTION:

General Manager
Port Stephens Council

SUBMISSION FOR "CODE OF MEETING PRACTICE"

I would like to bring to your attention the following excerpts from Port Stephens Council documents that are pertinent to the above issue.

1. PSC 2007-2001

COMMUNITY ENGAGEMENT (Amended: 22/09/2009 Minute No: 318)

RESPONSIBLE OFFICER: MANAGER COMMUNICATIONS AND CUSTOMER RELATIONS

PRINCIPLES.

1. Commitment to community participation.

Leadership and strong commitment to information, consultation and active participation of the community in planning and decision making. *The Council is committed to actively overcoming barriers that may exclude some parts of the community from engaging with Council.*

2. Rights.

The people of Port Stephens have the right to access information, provide feedback, be consulted and actively participate in planning and decision-making.

8. Accountability.

The Council has an obligation to account for the use it makes of inputs received through feedback, public consultation and active participation.

2. PSC2005-3231

ASSET MANAGEMENT POLICY (Amended: 8 March 2011 Minute No. 064)

REPORT OF GROUP MANAGER FACILITIES AND SERVICES

1. Port Stephens Council is responsible for a large and diverse asset base.

- bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible.

3. COMMUNITY ENGAGEMENT

(A guide to COMMUNITY ENGAGEMENT at Port Stephens Council April 2012)

Port Stephens Council's commitment to community engagement is a core principal of the organisation and exceeds any legislative obligations that we may have.

WHAT ARE COUNCIL'S COMMUNITY ENGAGEMENT OBJECTIVES?

- Increase our engagement reach through the use of social media and continually promote the Residents Panel as a means of engaging with the Council.

4. Councillor's Induction Handbook 2012

2.2 COUNCIL'S CHARTER

*- To bear in mind that it is the custodian and **trustee of public assets** and to effectively account for and manage the assets for which it is responsible;*

*- To keep the community and the State government (and through it the wider community) **informed** about its activities; and*

*- To be a **responsible employer**.*

3.2 THE ROLE AND RESPONSIBILITIES OF COUNCILLORS

Councillors are elected by the community to represent the interests of that community as well as being a member of the governing board.

this role requires a Councillor to:

*- **Represent the interests of residents and ratepayers***

- Provide leadership and guidance to the community;
- Facilitate communication between the Council and the community;

6.7 Liability as a Councillor

THE ACT PROTECTS MAYORS AND COUNCILLORS FROM CIVIL LIABILITY FOR UNDERTAKING COUNCIL RELATED AND COUNCIL ENDORSED ACTIVITIES. HOWEVER, THE MAYOR AND COUNCILLORS HAVE TO HAVE ACTED IN GOOD FAITH TO BE COVERED BY THIS INDEMNITY.

DEFAMATION LAW APPLIES TO BOTH COUNCIL, THE MAYOR AND COUNCILLORS. THE MAYOR AND COUNCILLORS MAY, HOWEVER, SEEK TO CLAIM QUALIFIED PRIVILEGE. THIS IS DISTINCT FROM ABSOLUTE PRIVILEGE AVAILABLE TO MEMBERS OF PARLIAMENT. COUNCILLORS DO NOT HAVE THIS LEVEL OF PROTECTION. THEY HAVE QUALIFIED PRIVILEGE, WHICH SEEKS TO BALANCE THE RIGHT OF FREE EXPRESSION AS AN ELECTED REPRESENTATIVE WITH THE PROTECTION OF THE INDIVIDUAL'S REPUTATION AGAINST DEFAMATORY STATEMENTS. THE MAYOR AND COUNCILLORS NEED TO BE CAUTIOUS IN CLAIMING QUALIFIED PRIVILEGE. IT ONLY EXTENDS TO STATEMENTS MADE IN GOOD FAITH, WHILE IN THE DISCHARGE OF OFFICIAL DUTY AND AT OFFICIAL MEETINGS ON BUSINESS RELATED TO COUNCIL.

5. Becoming a Councillor

This is a 2011 interim update.

Am I suited to the role of a councillor

- Good communication skills
- Good problem solving skills and analytical skills
- Good teamwork skills
- Good organisational skills
- Knowledge or understanding of strategic planning and financial planning and reporting processes
- Ability to engage with your community
- This includes why this important and ways to consult such as through meetings, the internet, public forums, debates and surveys.
- Knowledge or understanding of social justice principles
- this includes why it is important to make sure all people in the community are treated equally, have the right to be heard and are able to participate in public forums and events if they choose to.
- Knowledge of relevant State Government legislation
- Leadership qualities
- Ethical and accountable behaviour
- This includes being able to follow a code of conduct that involves, among other things, ACTING IN THE BEST INTERESTS OF THE COMMUNITY AS A WHOLE, TRANSPARENT DECISION-MAKING AND ACCOUNTABILITY.

6. What is the legal framework within which councils operate?

- A council may also be liable for actions carried out negligently that result in damage or injury to people or property.
- Councils therefore need to take care to exercise their powers properly and in accordance with the law.

7. What is the Council's Charter?

- to have regard to the long term and cumulative effects of its decisions.
- to bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets which it is responsible.
- to keep the local community and the State government (and through it, the wider community) informed about its activities.

8. What services and functions do councils provide?

Providing and maintaining infrastructure

- Councils must consult with their local community about providing and maintaining these public assets.

9. What is the role of a councillor?

1. as a member of the governing body of the council to:

- participate in the optimum allocation of the council's resources for the benefit of the area.

2. as an elected person to:

- *represent the interests of residents and ratepayers*

- *provide leadership and guidance to the community*

- *facilitate communication between the community and the council.*

10. How are councils held accountable to the community

THE NEEDS OF THE COMMUNITY SHOULD BE REFLECTED IN THE DECISIONS OF COUNCIL.

COUNCILS ARE ACCOUNTABLE TO THEIR COMMUNITY THROUGH CONSULTING, MAKING OPEN AND TRANSPARENT DECISIONS THROUGH REGULAR REPORTING.

11. How are councillors expected to conduct themselves?

The role of a councillor is a public one. Whenever councillors appear in public, even though they may not be doing anything related to their council position, they are usually seen as acting in their councillor role and judged in this light. This means that the position of councillor is really a '24/7' one.

12. Is a councillor protected from legal action taken against them?

Generally speaking, councillors at meetings of council (or council committees) are protected from defamation by the defence of "qualified privilege", but only to enable them to speak freely and publicly in undertaking their duties in council meetings. Any comment or statement a councillor makes at a council meeting must be relevant to the council business, made in good faith and without malice.

I looked through the council website for information to use for my submission against turning off the webcasting of council meetings. The above information is from council minutes or papers readily available to potential and current councillors.

I wholeheartedly am against the rewording of the "code of meeting practice". I am wholeheartedly against the removal of the webcasting of council meetings and the removal of archived copies of the council meetings.

As a ratepayer of Port Stephens Council, though a resident of Queensland, I am unable to attend council meetings. I, therefore, rely on the webcasting of the meetings to ensure that I have the full information from the meetings to keep myself up to date with the Council's future plans.

As you can see from the information that I have been able to find to inform myself of the requirements of both Council and Councillors, I was then very upset to hear that the Councillors have concerns about being sued for defamation. I was able to find this information so therefore this information has been and was available to the current Councillors. They made the decision to stand to be elected as Councillors and so therefore they are now required to undertake the commitment that they made to the Community and Ratepayers.

If the current serving Councillors are not prepared to undertake the role that they were elected to do then I call for their resignation and that the Council hold a by-election to replace the Councillors that are not able to perform the role that they were elected to do.

I attended meetings in person before the webcasting, I moved to Queensland and then watched the webcasts live and from the archive. I noticed that with webcasting that the Councillors spoke with much more decorum and with less disparaging comments. This has been a most pleasant side effect of webcasting.

I look forward to the Council revisiting this issue as one of the requirements of both Council and Councillors is to be open, transparent and accountable to the Ratepayers of the Port Stephens Area.

Yours sincerely,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

E-mail Message

From: [REDACTED] [SMTP: [REDACTED]@net.au]
To: SwitchPC [EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=SWITCHPC]
Cc: Peter Gesling [EX:/O=PORT STEPHENS
COUNCIL/OU=PSC/CN=RECIPIENTS/CN=PETER2G]
Sent: 28/01/2013 at 7:54 PM
Received: 28/01/2013 at 7:54 PM
Subject: Submission regarding Code of Meeting Practice - webcast

General Manager

I wish to object to the change in the Council Code of Meeting Practice with regard to the removal of the web casts.

This was a great innovation as stated in the Councils own words

"Note Port Stephens Council now broadcasts its ordinary meetings of Council over the internet to provide a greater level of openness, transparent and access to the decision making process"

What more do I need to say to keep this great service!

In regard to the liability for any defamatory remarks, it should be remembered that Council meetings are open to the public, hence anything said is in the "public" therefore there is no difference to remarks being on the web or not.

Could you please confirm receipt of this submission?

Regards

[REDACTED]
[REDACTED]
[REDACTED]

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Tony Wickham

From: Kathy Stokes on behalf of Peter Gesling
Sent: Monday, 25 February 2013 12:52 PM
To: Faye Johnstone
Subject: FW: Amendments to Code of Meeting Practice - Objection

From: [REDACTED] [mailto:[REDACTED].com]
Sent: Tuesday, 29 January 2013 8:38 PM
To: Peter Gesling; Cr John Nell; Cr Sally Dover; Cr John Morello; Cr Geoff Dingle; Cr Peter Kafer
Subject: Amendments to Code of Meeting Practice - Objection

The General Manager
Port Stephens Council

29 January 2013

I strongly object to the proposed amendment to the Code of Meeting Practice concerning cessation of webcasting Council Meetings

Since the election, Port Stephens Council has voted to abandon public Webcasting of Council meetings and to return to its old schedule which provides for Council Committee Meetings to be held immediately before the Ordinary Council Meeting.

Webcasting was only commenced in 2012 at the reported minor cost of \$20,000 and has provided a valued means for members of the public to view Council meetings from home or on portable devices. The webcast has attracted a significant audience especially among those who are located in outlying areas of the LGA, such as the Tomaree Peninsula and those who have other commitments on Tuesday nights. The marginal cost of each webcast must be insignificant.

Webcasting is a vital window on our democratic process through which all voters are able to follow the debate of issues by their elected representatives and which increases accountability of Councillors. It also provides a valuable record of the proceedings, the precise wording of motions and amendments as well as the voting by councillors. These records should be retained in Council archives and made accessible to the public.

We note that several of the current Councillors expressed their support for webcasting in their recent election campaigns, only now to apparently change their minds. Some councillors raised the prospect of exposure to legal proceedings as a reason for dropping this service. Councillors who stick to the facts and refrain from insulting and demeaning language have nothing to fear. Many other NSW Councils webcast their meetings and are not daunted by this prospect – it is a furphy!

The meeting schedule whereby Committee Meetings were held two weeks in advance of the Ordinary Council meeting allowed councillors and residents to evaluate background information and to consult with affected parties before proposals are put to the vote. Returning to the former schedule where Agenda papers are circulated at 5 pm on a Friday with only 4 days to research, consider and consult is a major backward step in terms of participatory democracy.

These proposed reversal of valuable innovations by the previous Council stifle public input and seriously reduce the public accountability of Port Stephens Council.

26/02/2013

I strongly urge Council to resume webcasting of Council meetings to archive the webcasts permanently for public access. Council should also revert to the meeting cycle observed in the last term.

[REDACTED] and [REDACTED]
[REDACTED]@[REDACTED].com

26/02/2013

ITEM NO. 10

FILE NO: PSC2012-05068

COMMUNITY GRANTS DECEMBER 2012/JANUARY 2013 – FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from Mayoral and Ward Funds as detailed below:

EAST WARD

- a) Tomaree Community College (Community Garden) – Contribution towards the extension of an irrigation system - \$750.
- b) 1st Nelson Bay Sea Scouts – Contribution towards the upgrade of the boad shed - \$750.
- c) Tomaree Family Group Nelson Bay – Contribution towards the "Pioneers of the Tomaree Peninsula Pioneer index" - \$750.
- d) Rotary Club of Nelson Bay – Contribution towards the Rotary Youth Driver Awareness Program - \$750.
- e) Tomaree Youth Community Action Inc. – Contribution towards weekly youth workshops - \$1,000.
- f) Port Stephens Writers & Readers Circle – Contribution towards operating costs - \$750.
- g) Nelson Bay Croquet Club Inc. – Contribution towards the installation of a new hot water system - \$500.
- h) Lions Club of Port Stephens – Contribution towards upgrade of equipment - \$500.
- i) Integrated living Australia – Contribution towards seniors activities - \$250.

CENTRAL WARD

- a) Rotary Club of Williamtown - Contribution towards the 2013 Christmas Carols - \$500.
- b) Port Stephens Young Christian Outreach – Contribution towards the upgrade of the youth hall - \$500.
- c) Port Stephens Veteran Golfers Assoc. – Contribution towards golf tournament - \$500.
- d) Tanilba Bay Baptist Church – Contribution towards a new kitchen - \$2,000.
- e) 1st Tilligerry Scout Group – Contribution towards a new sprinkle system - \$1,000.
- f) The Combined Probus Club of Medowie – Contribution towards the purchase of new computer equipment - \$ 1,000.
- g) Tilligerry Habitat Assoc. Inc. – Contribution towards deck cover - \$250.
- h) Integrated living Australia – Contribution towards seniors activities - \$250.

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

WEST WARD

- a) Woodville School of Arts Inc. – Contribution towards production of a booklet documenting the history of Woodville - \$925.
- b) Raymond Terrace Combined P&C Art Show Committee – Contribution towards the Art Show prize - \$1,500.
- c) Karuah Oyster & Timber Festival Inc. – Contribution towards the upcoming festival operations - \$1,000.
- d) Raymond Terrace Public School – Lifestyle program - \$500.
- e) St. Brigid's Playgroup Association – Contribution towards expansion of the playgroup - \$1,000.
- f) Raymond Terrace Markets – Contribution towards the markets - \$825.
- g) Integrated living Australia – Contribution towards senior's activities - \$250.

ORDINARY COUNCIL MEETING – 5 MARCH 2013

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Nell Councillor Peter Kafer
	That the recommendation be adopted.

MOTION

056	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that the recommendation be adopted

BACKGROUND

Council's Financial Assistance Policy provides for Community Grants to be called in July and January each year. This is the fifth round of funding under this Policy.

Council called for Community Grant applications from 6 December 2012 to 31 January 2013. All applications received are shown at **(ATTACHMENT 1)**. A total of 35 applications were received.

The total value of the Grants received is:

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

East Ward	\$ 20,850 – shown in blue in attachment
Central Ward	\$ 10,700 – shown in yellow in attachment
West Ward	\$ 24,279 - shown in green in attachment
Whole of LGA	<u>\$ 8,500</u> – shown in white in attachment
	\$ 62,888

The applications received were assessed by the panel comprising of the Mayor MacKenzie, the General Manager, Councillors Nell, Doohan, Jordan, in accordance with the criteria under the Financial Assistance Policy.

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act. This would mean that the financial assistance would need to be included in the Community Strategic Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

FINANCIAL/RESOURCE IMPLICATIONS

Council Ward Funds are the funding source for all financial assistance. Council has provided for \$36,000 per year, with \$18,000 being available on each occasion Grants are called. These Grants are limited to \$2000 per grant.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	\$18,000	
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of Council being liable for capital projects on land other than community land should Council provide funding for such works	Low	Council's current policy restricts such provision of funding.	Yes
There is a risk of Council not complying with Section 356 of the Local Government Act 1993	Low	Council's current policy provides specific requirements for compliance.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The provision of the Community Grants allows organisations and groups to build relationships and provide events to the local community whilst further developing the cultural, social and economic aspects of the local government area.

CONSULTATION

- 1) Mayor;
- 2) Councillors;
- 3) General Manager;
- 4) Port Stephens community.

OPTIONS

- 1) Adopt the recommendation;
- 2) Vary the dollar amount before granting each or any request;
- 3) Decline to fund all the requests.

ATTACHMENTS - All listed below are provided under separate cover.

- 1) Community Grants applications received.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 11

FILE NO: PSC2011-01024

LGMA – NATIONAL CONGRESS & BUSINESS EXPO, HOBART, MAY 13 2013

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

- 1) Endorse Mayor MacKenzie, Cr Ken Jordan and Cr Paul Le Mottee's attendance at the Local Government Management Association's National Congress & Business Expo 2013.
-

ORDINARY COUNCIL MEETING – 5 MARCH 2013**COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Chris Doohan
	That Council endorse Mayor MacKenzie, Cr Ken Jordan, Steve Tucker, Peter Kafer, and Cr Paul Le Mottee's attendance at the Local Government Management Association's National Congress & Business Expo 2013.

MOTION

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

BACKGROUND

The purpose of this report is to inform Council of the Local Government Management Association's National Congress & Business Expo 2013.

The National Conference will be held from 19 to 22 May 2013 in Hobart.

Other Councillors are also able to elect to attend this Conference.

The programme is shown at **(ATTACHMENT 1)**.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation would be covered from the budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$1,775	Registration costs – accommodation and travel costs will be additional
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of a negative impact on Council's reputation	Low	Attendees to observe Council's Code of Conduct	Yes

As Councillors would be aware the Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending this conference to ensure the local government area has a voice in the national development of policy and initiatives.

CONSULTATION

Nil.

OPTIONS

Nil.

ATTACHMENTS

- 1) Conference Programme.


COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

 NATIONAL CONGRESS
& BUSINESS EXPO

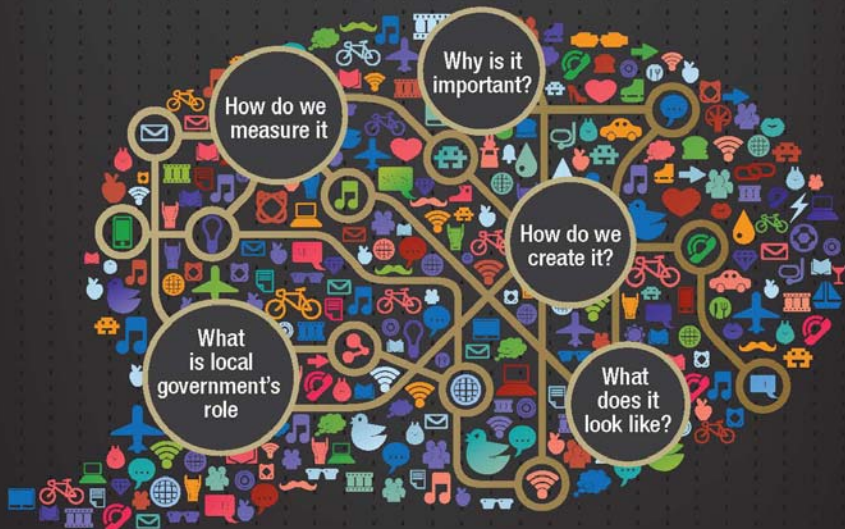
19 - 22 May 2013
Hobart Tasmania

Great Society

What is local government's role?


LGMA's annual National Congress & Business Expo will take the high road in 2013 and challenge delegates to think about great society.


What is the role of local government in the creation of great societies?
Do we know what our communities want? What makes residents happy?
We collect rates, pave roads and shift rubbish, but what else do we do, and do we do it well?



Join Keynote speakers Bob Brown, Mark Pesce and Thérèse Rein in Hobart, Tasmania in May 2013.
Register now for the early bird rate.
Discounts available for Management Challenge and Mentee Program participants.

For more information and to
register online, visit www.lgma.org.au

PRESENTED BY:  LOCAL GOVERNMENT MANAGERS AUSTRALIA NATIONAL OFFICE

IN ASSOCIATION WITH PRINCIPAL PARTNER: 

Emerging leaders – make your mark!

LGMA National has built a number of new initiatives into Congress in 2013, to give emerging leaders more opportunities to take part.

An invigorated **Raymond West Award** will feature, with three stand-out Australasian Management Challenge performers invited to take the main stage and undergo the ultimate professional development test.

LGMA National is also offering a **Mentee Program** registration rate for CEOs who want to nurture the talent in their organisations.

Keynote Speakers

BOB BROWN

Great Society and
Local Government's Role

Former leader of the Greens, Bob Brown will deliver the keynote address on Monday morning and set the scene for two days of discussion and debate around great societies.

A life-long activist, Bob has first-hand experience in advocating on a range of environmental, social and civic issues and reforms aimed at improving community wellbeing. Bob's work includes initiatives such as Freedom of Information, Death with Dignity and gay law reform. During his years in the Australian Senate, Bob led the national debate on climate change, Australia's involvement in war, the green economy, preventative healthcare, conservation and human rights.

Whether or not you agree with Bob's policies, he is an incredibly effective advocate and reformer with plenty of experience and insight to share with delegates on the development of great societies.

MARK PESCE

Modern Democracy and
Community Engagement

Mark Pesce is a well-known media commentator on issues relating to the future of technology and how individuals, governments and organisations engage with it.

Mark is a panelist and judge on the ABC's *The New Inventors*, a regular guest on James Valentine's ABC 702 radio program, and he writes for NETT magazine, the *Sydney Morning Herald*, ABC's *The Drum*, and ABC's *Technology & Games*.

Mark will lead the Congress discussions around modern democracy and community engagement. He will deliver the keynote address on these themes, and facilitate the corresponding concurrent session to workshop the outcomes of the Australasian Management Challenge pre-Challenge task.

THÉRÈSE REIN

The Value of a CEO

Thérèse Rein is the Founder and Managing Director of Ingeus, an Australian company that helps socially and financially excluded people find employment. Thérèse is also the CEO of Assure Programs, a business psychology services company operating in Australia and New Zealand.

A passionate advocate for enhancing community wellbeing, Thérèse plays an active role in a huge number of organisations committed to a range of issues including disability support services, indigenous literacy, homelessness and maternal health. She has been awarded a number of accolades including the Telstra Queensland Business Woman of the Year and the Commonwealth Bank Business Owner Awards in 2012, and the Australian Human Rights Medal in 2010. A member of Chief Executive Women of Australia and a former Director of the National Employment Services Association Board (Australia), Thérèse will use her years of experience to lead the Congress discussions around the value of a CEO.



You will explore ...

What the Future Looks Like



Aging baby boomers, new immigrants, population growth, the new digital economy - few local governments will escape some kind of demographic or dynamic shift in the years ahead. This session will commence by setting the scene for the major trends and expectations for the coming years and a number of organisations will share their experiences in dealing with major changes in their community.

Who should attend:

Emerging leaders, executives, elected members, strategic planners, communications staff.

Indicators of a Great Society



How do you measure 'greatness' in society? Do the existing indicators do a good job? According to the Economist Intelligence Unit (EIU), Melbourne has been the world's most liveable city two years in a row. In addition to the EIU there are a number of other indexes, such as the Mercer Quality of Living Survey, which seek to measure livability and community quality of life. This session will challenge participants to consider these various measurements and whether they are an accurate account of the indicators of a great society.

Who should attend:

Executives, elected members, strategic planners, engineers, policy staff.

The creation of a Great Society; local government's role



Local government is going through a period in which it is being asked to redefine itself. Various states have recently or are currently undertaking reviews and the constitutional recognition debate continues. Congress will bring together a roundtable of the key players in this process, including representatives from NSW, QLD and WA councils, academics, and leaders from international professional associations experiencing similar transformations.

The discussions and outcomes from this session will be included in an LGMA green paper.

Who should attend:

Elected members, executives, those involved in the current review processes, emerging leaders.

Thank you

LGMA National is pleased to continue its association with Civica as the Principal Partner of the 2013 National Congress.

civica



For more information and to register online, visit www.lgma.org.au

ITEM NO. 12

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 5 March, 2013.

No:	Report Title	Page:
1	CASH AND INVESTMENTS HELD AT 31 DEC AND 31 JAN 2013	
2	BUSINESS IMPROVEMENT DATABASE	
3	DOG LEASH FREE AREA IN FINGAL BAY	

ORDINARY COUNCIL MEETING – 5 MARCH 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

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

	Councillor Steve Tucker Councillor Paul Le Mottee
044	It was resolved that Council move in Ordinary Council meeting.

MOTION

058	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that the recommendation be adopted.

INFORMATION PAPERS



INFORMATION ITEM NO. 1

**CASH AND INVESTMENTS HELD AT 31 DECEMBER 2012 AND 31
JANUARY 2013**

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

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 31 December 2012 and 31 January 2013.

ATTACHMENTS

- 1) Cash and investments held at 31 December 2012;
- 2) Cash and investments held at 31 January 2013;
- 3) Monthly cash and investments balance January 2012 to January 2013;
- 4) Monthly Australian term deposit index January 2012 to January 2013.

MINUTES FOR ORDINARY COUNCIL – 5 MARCH 2013

ATTACHMENT 1

CASH AND INVESTMENTS HELD AS AT 31 DECEMBER 2012									
ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE	
TERM DEPOSITS									
RURAL BANK LTD	FIGG	A-/A2	TD	5.03%	122	4-Jan-13	1,000,000	1,000,000	
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	5.01%	120	5-Jan-13	1,000,000	1,000,000	
RURAL BANK LTD	FIGG	A-/A2	TD	5.02%	120	9-Jan-13	1,000,000	1,000,000	
ING BANK (AUSTRALIA) LTD	CURVE	A1/A	TD	5.07%	150	10-Jan-13	1,000,000	1,000,000	
SUNCORP-METWAY LTD	SUNCORP	A1/A+	TD	5.10%	123	14-Jan-13	1,000,000	1,000,000	
ME BANK	CURVE	A2/BBB	TD	4.93%	120	22-Jan-13	1,000,000	1,000,000	
ING BANK (AUSTRALIA) LTD	CURVE	A1/A	TD	5.03%	150	25-Jan-13	1,000,000	1,000,000	
WIDE BAY AUSTRALIA	FIGG	A2	TD	4.98%	120	31-Jan-13	1,000,000	1,000,000	
HERITAGE BANK	CURVE	P-2/A3	TD	4.76%	122	4-Feb-13	1,000,000	1,000,000	
BENDIGO AND ADELAIDE BANK LTD	FARQUHARSON	A-/A2	TD	4.85%	150	15-Feb-13	1,000,000	1,000,000	
BEIRUT HELLENIC BANK LTD	BHB	N/R	TD	4.75%	90	12-Mar-13	1,000,000	1,000,000	
BANK OF QUEENSLAND LTD	BOQ	A2/BBB+	TD	4.75%	150	15-Mar-13	1,500,000	1,500,000	
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	4.66%	120	15-Mar-13	1,000,000	1,000,000	
ME BANK	CURVE	A2/BBB	TD	5.01%	181	18-Mar-13	1,000,000	1,000,000	
BEIRUT HELLENIC BANK LTD	BHB	N/R	TD	5.00%	90	18-Mar-13	1,000,000	1,000,000	
WAW CREDIT UNION COOPERATIVE LTD	FIGG	N/R	TD	4.66%	152	25-Mar-13	1,000,000	1,000,000	
HERITAGE BANK	CURVE	P-2/A3	TD	4.66%	152	25-Mar-13	1,000,000	1,000,000	
PEOPLES CHOICE CREDIT UNION	CURVE	A2/BBB+	TD	4.41%	120	10-Apr-13	1,000,000	1,000,000	
BANK OF QUEENSLAND LTD	CURVE	A2/BBB+	TD	4.76%	150	19-Apr-13	1,000,000	1,000,000	
POLICE CREDIT UNION LTD	RIM	N/R	TD	4.67%	150	22-Apr-13	1,000,000	1,000,000	
SUB TOTAL (\$)							20,500,000	20,500,000	
OTHER INVESTMENTS									
HELIUM CAP. LTD "ESPERANCE AA+"	GRANGE	CCC-(sf)	CDO	4.28%	7yrs	20-Mar-13	1,000,000	578,500	
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	211,400	
GRANGE SEC. "COOLANGATTA AA" *	GRANGE	C	CDO	0.00%	7yrs	20-Sep-14	1,000,000	0	
DEUTSCHE BANK TELSTRA LNK DEP. NTE	FIGG SECURITIES	A+	FRN	4.43%	7yrs	30-Nov-14	500,000	500,000	
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	357,328	
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,876	856,054	
SUB TOTAL (\$)							5,930,376	3,503,282	
INVESTMENTS TOTAL (\$)							26,430,376	24,003,282	
CASH AT BANK (\$)							4,524,450	4,524,450	
TOTAL CASH AND INVESTMENTS (\$)							30,954,826	28,527,732	
CASH AT BANK INTEREST RATE				2.95%					
BBSW FOR PREVIOUS 3 MONTHS				3.22%					
AVG. INVESTMENT RATE OF RETURN				4.36%					
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE				
CDO = COLLATERALISED DEBT OBLIGATION					FRSD = FLOATING RATE SUB DEBT				
* LEHMAN BROTHERS IS THE SWAP COUNTERPARTY TO THIS TRANSACTION AND AS SUCH THE DEAL IS BEING UNWOUND									
NO VALUATION INFORMATION IS AVAILABLE									
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER									
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE									
LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND									
COUNCIL'S CASH INVESTMENT POLICY									
P GESLING									

ATTACHMENT 2

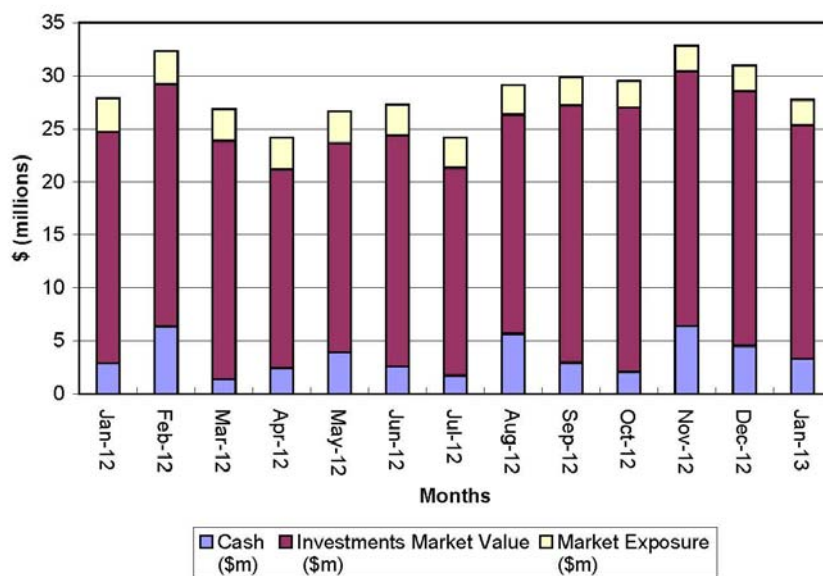
CASH AND INVESTMENTS HELD AS AT 31 JANUARY 2013									
ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE	
TERM DEPOSITS									
HERITAGE BANK	CURVE	P-2/A3	TD	4.76%	122	4-Feb-13	1,000,000	1,000,000	
BENDIGO AND ADELAIDE BANK LTD	FARQUHARSON	A-/A2	TD	4.85%	150	15-Feb-13	1,000,000	1,000,000	
BEIRUT HELLENIC BANK LTD	BHB	N/R	TD	4.75%	90	12-Mar-13	1,000,000	1,000,000	
BANK OF QUEENSLAND LTD	BOQ	A2/BBB+	TD	4.75%	150	15-Mar-13	1,500,000	1,500,000	
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	4.66%	120	15-Mar-13	1,000,000	1,000,000	
ME BANK	CURVE	A2/BBB	TD	5.01%	181	18-Mar-13	1,000,000	1,000,000	
BEIRUT HELLENIC BANK LTD	BHB	N/R	TD	5.00%	90	18-Mar-13	1,000,000	1,000,000	
WAW CREDIT UNION COOPERATIVE LTD	FIIG	N/R	TD	4.66%	152	25-Mar-13	1,000,000	1,000,000	
HERITAGE BANK	CURVE	P-2/A3	TD	4.66%	152	25-Mar-13	1,000,000	1,000,000	
SUNCORP-METWAY LTD	SUNCORP	A1/A+	TD	4.60%	91	8-Apr-13	1,000,000	1,000,000	
PEOPLES CHOICE CREDIT UNION	CURVE	A2/BBB+	TD	4.41%	120	10-Apr-13	1,000,000	1,000,000	
BANK OF QUEENSLAND LTD	CURVE	A2/BBB+	TD	4.76%	150	19-Apr-13	1,000,000	1,000,000	
POLICE CREDIT UNION LTD	RIM	N/R	TD	4.67%	150	22-Apr-13	1,000,000	1,000,000	
B & E LTD	RIM	N/R	TD	4.40%	90	22-Apr-13	1,000,000	1,000,000	
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	4.53%	120	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	
ING BANK (AUSTRALIA) LTD	FIIG	A1/A	TD	4.30%	122	26-Jun-13	1,000,000	1,000,000	
SUB TOTAL (\$)							18,500,000	18,500,000	
OTHER INVESTMENTS									
HELIUM CAP. LTD "ESPERANCE AA+"	GRANGE	CCC-(sf)	CDO	4.28%	7yrs	20-Mar-13	1,000,000	578,500	
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	211,400	
GRANGE SEC. "COOLANGATTA AA" *	GRANGE	C	CDO	0.00%	7yrs	20-Sep-14	1,000,000	0	
DEUTSCHE BANK TELSTRA LNK DEP. NTE	FIIG SECURITIES	A+	FRN	4.43%	7yrs	30-Nov-14	500,000	500,000	
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	354,750	
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,876	848,003	
SUB TOTAL (\$)							5,930,376	3,492,653	
INVESTMENTS TOTAL (\$)							24,430,376	21,992,653	
CASH AT BANK (\$)							3,290,729	3,290,729	
TOTAL CASH AND INVESTMENTS (\$)							27,721,105	25,283,382	
CASH AT BANK INTEREST RATE				2.95%					
BBSW FOR PREVIOUS 3 MONTHS				3.16%					
AVG. INVESTMENT RATE OF RETURN				4.16%					
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE				
CDO = COLLATERALISED DEBT OBLIGATION					FRSD = FLOATING RATE SUB DEBT				
* LEHMAN BROTHERS IS THE SWAP COUNTERPARTY TO THIS TRANSACTION AND AS SUCH THE DEAL IS BEING UNWOUND									
NO VALUATION INFORMATION IS AVAILABLE									
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER									
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE									
LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND									
COUNCIL'S CASH INVESTMENT POLICY									
P GESLING									

ATTACHMENT 3

Cash and Investments Held at 31 January 2013

Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Jan-12	2.909	21.781	3.150	27.839
Feb-12	6.372	22.787	3.143	32.303
Mar-12	1.391	22.465	2.965	26.821
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

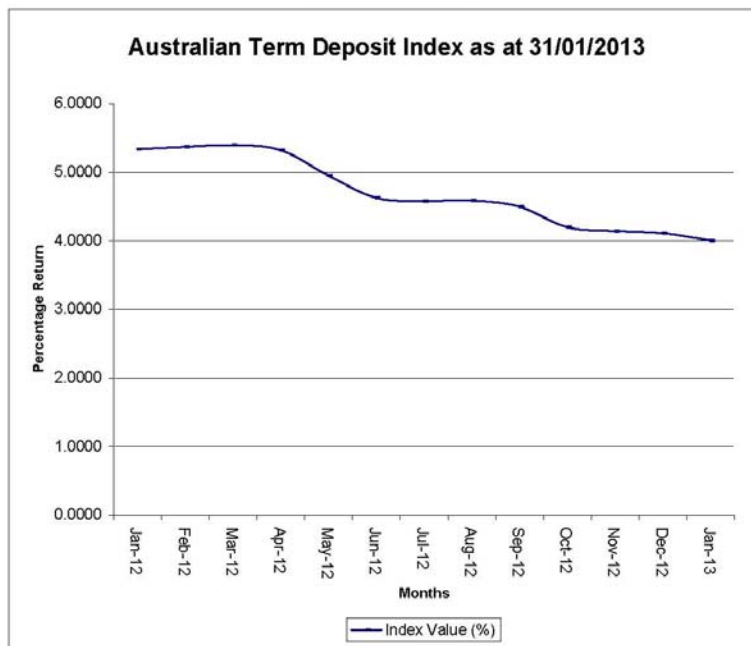
**Cash and Invested Funds for the Period ended
31/01/2013**



ATTACHMENT 4

Australian Term Deposit Accumulation Index at 31 January 2013

Date	Index Value (%)
Jan-12	5.3389
Feb-12	5.3715
Mar-12	5.3972
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



INFORMATION ITEM NO. 2

BUSINESS IMPROVEMENT DATABASE

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

FILE: PSC2011-04300

BACKGROUND

The purpose of this report is for Council to receive and note the Business Improvement Process Quarterly Report's, given the Local Government Election of 2012 the cycle was interrupted during this time.

Council has a long history of continuous improvement of its activities and issues.

A copy of the database for the period April 2012 –January 2013 will be placed in the Councillors Room for information and a copy shall be tabled at the meeting.

Work is continuing on ensuring that all sections of Council are recording their improvement action.

ATTACHMENTS

Nil.

TABLED DOCUMENTS

- 1) Business Improvement Database Report April 2012 –January 2013.

INFORMATION ITEM NO. 3

DOG LEASH FREE AREA IN FINGAL BAY

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

FILE: PSC2005-3695

BACKGROUND

The purpose of this report is to advise Councillors that a Petition has been received from Fingal Bay Dog Walkers calling for Port Stephens Council to recognize and acknowledge the need for a dog off leash area in Fingal Bay.

The petition contains 884 signatures.

ATTACHMENTS

- 1) Letter & Petition;
- 2) Justification in Support Letter.

ATTACHMENT 1



Fingal Bay Dog Walkers



Peter Gesling
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace

8th February 2013

Dog Leash Free Area in Fingal Bay

On behalf of the enclosed 884 signatories (879 supported and 5 not supported) which constitutes a mixed percentage of Fingal Bay residents and dog owning holiday visitors, we call upon Port Stephens Council to recognize and acknowledge the need for a dog off leash area in Fingal Bay, (please refer to the enclosed petition and covering letter for suggested details).

You will note that a number of signatures are from outside Port Stephens, please do not discount these as they include:

- Holiday property owners
- Family members of local residents
- Regular holiday makers

As outlined in your Community Consultation Guidelines –

“Port Stephens is active in listening to the community”

Fingal Bay residents accordingly ask that you honour your commitment by requesting that our application be given due consideration.

We therefore formally apply for a meeting to discuss with interested council representatives the principle and objectives behind this submission.

On behalf of the enclosed signatories we look forward to a positive response from you and the suggestion of a mutually convenient meeting time and date(s),

With regards,

CC:

Andrew Weekes
Acting Environmental Health and Regulations Team Leader
Development Assessment and Compliances
Port Stephens Council

Brendan Callander
Community and Research Planning Coordinator
Facilities and Services
Port Stephens Council

ENCLOSURES:

- Petition (56 pages)
- Justification Letter
- Fingal Bay Dog Walkers Pack showing our campaign process

SIGNATURE PAGE

Petition to Port Stephens Council

Subject Matter

A leash free dog area in Fingal Bay Port Stephens NSW 2315

Statement of the Subject

Matter and Action Requested

Approximately 40% of Fingal Bay residents own a dog. Currently all open spaces in the Fingal Bay area are dog prohibitive. (Oval and Beach Area)

We request Port Stephens Council acknowledge this fact and recognise the need for residents and visitors to exercise their dogs. To meet this we ask PSC to designate the southern part of Fingal Bay beach for a distance of approximately 400 metres North West along the beach from a point locally known as kiddies' corner, as a leash free dog area subject to the following conditions:

- *Dogs allowed ONLY between 530pm and 730am*
- *Excluding School and Public Holidays*
- *Comply with the Companion Animals Act 1998 (NSW):*
 - *No Dangerous or Restricted dogs*
 - *Owners are responsible for their dogs, and must pick up*
 - *No person may have more than four dogs under their control*

<i>Print Name</i>	<i>Print Address</i>	<i>Signature</i>
-------------------	----------------------	------------------

ATTACHMENT 2

Fingal Bay Dog Walkers



8th February 2013

Justification in Support of a Dog Leash Free Area in Fingal Bay

We wish to highlight the purpose and justification for our request to Port Stephens Council for a dog leash free area in Fingal Bay.

The Bay has a predominantly matured populace with an estimated 30-40% of them caring dog owners.

Currently Fingal Bay has no approved dog off leash area with both the oval and the beach being dog prohibitive; the nearest dog friendly area on the Tomaree Peninsula is Bagnals Bay Beach, which, from Fingal Bay is an 18km round trip and considered neither realistic nor practical for a majority of the residents. It should be recognized that dogs play an important role in both the Australian family and community; they are considered companions and close working partners of humans.

A lack of adequate socialization can frequently lead to behavioral related problems whereas highly socialized and regularly exercised dogs are healthier and generally happier thus less likely to bark (neighbourhood nuisance) or be destructive (through boredom).

Providing an off leash area where people can gather and socialise that offers dogs a safe space for free play and canine companionship is extremely important, particularly for the elderly, many of whom are unable to exercise their dogs.

A recognized dog off leash area would have increased benefits to the community by promoting responsible dog ownership as well as accommodating dogs and their owners in a public open space.

It appears perplexing that as a holiday resort, Fingal Bay has an outstanding camping and caravanning site which welcomes dogs, but ironically there is nowhere to exercise and socialize your dog.

Paradoxically, as councils in New South Wales, including top holiday resorts, recognize the need for dog friendly areas Port Stephens Council doesn't appear to. Examples include:

- Port Macquarie have a realistic and workable policy within the boundaries of the Hastings Local Government area minimizing conflict between dogs and beach users under the three category rule yet still observing other statutory authorities such as the National Parks and Wildlife Services.
- Nearer to home, Newcastle City Council Compliance Services have actually produced a 14 page guide called "Off Leash Areas", available on their website which gives dog owners comprehensive details, including maps, of off leash areas, times and restrictions, thus promoting a positive and constructive relationship between Newcastle City Council and its residents.

Accordingly, Fingal bay residents respectfully request that Port Stephens Council give due consideration to our proposal for a designated dog friendly off leash area enabling the opportunity for canine integration and allowing residents and visitors to enjoy outside social and community activities.

As responsible dog owners we not only respect the rights of other people, but further qualify our application by asking that, if it is approved, the following recommended restrictions be applied to the nominated location:

- 1) Dogs allowed ONLY between 530pm and 730am
- 2) Excludes School and Public Holidays
- 3) As per the Animals Act 1998 (NSW)
 - No dangerous or restricted dogs
 - Owners are responsible for their dogs
 - No person may have more than 4 dogs under their control

BEM, MSM, Grad Cert Ed (Portsmouth University), Royal Navy (Retd).

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 + PSC2005-3695

OPEN SPACE AREA FOR DOG EXERCISE - THE TOMAREE PENINSULA

COUNCILLOR: JOHN NELL & SALLY DOVER

THAT COUNCIL:

- 1) Review its policy on the provision of open space area for dog exercise on the Tomaree Peninsula.

BACKGROUND REPORT OF: STEVE BERNASCONI – COMMUNITY & RECREATION SECTION MANAGER

ORDINARY COUNCIL MEETING – 5 MARCH 2013 MOTION

	Councillor John Nell Councillor Sally Dover
059	It was resolved that Council review its policy on the provision of open space area for dog exercise on the Tomaree Peninsula, with Fingal Bay be the first area to be reviewed as soon as possible.

BACKGROUND

The NSW Companion Animal Act is the overall guide and statutory basis in Councils management of companion animals. This Act permits and also prohibits companion animals from certain areas eg. schools and playgrounds. In 2005, Port Stephens Council adopted (Council meeting 4 October 2005 Min No. 305) a Companion Animal Management Plan, which acts as Councils policy on this matter.

One of the actions shown in the plan is to "Investigate the creation of additional leash free areas in suburbs where such facilities are currently not provided".

The Tomaree Peninsula currently has 17 approved dog exercise areas with 4 of those being off leash.

RESCISSION MOTIONS

RESCISSION MOTION

ITEM NO. 1

FILE NO: PSC2011-02748

COUNCIL MEETING WEBCASTING - IMPLEMENTATION STATUS REPORT

COUNCILLORS: GEOFF DINGLE, JOHN NELL, PETER KAER

That Council rescind its decision of 11 December 2012 on Item 18 of the Ordinary Council Meeting Report, namely Council Meeting Webcasting – Implementation Status Report.

ORDINARY COUNCIL MEETING – 5 MARCH 2013 MOTION

	Councillor Peter Kaer Councillor John Nell
	That Council rescind its decision of 11 December 2012 on Item 18 of the Ordinary Council Meeting Report, namely Council Meeting Webcasting – Implementation Status Report.

The motion on being put was lost.

ITEM NO. 18

FILE NO: PSC2011-02748

COUNCIL MEETING WEBCASTING - IMPLEMENTATION STATUS REPORT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the report.

ORDINARY COUNCIL MEETING – 11 DECEMBER 2012

MOTION

329	Councillor Steve Tucker Councillor Ken Jordan
	It was resolved that Council immediately cease broadcasting Council meetings via the internet.

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A division was called.

Those for the Motion: Crs Bruce Mackenzie, 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.

BACKGROUND

The purpose of this report is to provide Council with a status report on the implementation of the webcasting of Council meetings.

Council commenced webcasting Council meetings "live" via the internet on the 27th March 2012.

The statistics shown at **ATTACHMENT 1** provide details of the number of people accessing the "live" broadcast during a Council meeting and also the number of viewers accessing the archived recording.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with the "live" broadcast have increased as a result of the change in the Council meeting cycle. Council resolved to hold two Ordinary Council meeting at its meeting in September 2012.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No	\$9,900	These costs are not included in the existing budget as this service was introduced after the 2012/13 draft budget was finalised. It is anticipated that these costs will be able to be covered by saving from the changes to Council meeting cycle.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

As Council is aware a number of Councils across Australia are moving towards broadcasting meetings of Council. This however does come with an element of legal risk. Any person speaking at a meeting would need to ensure that they do not

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breach the privacy legislation and also defamation is a factor. As Council would appreciate, generally speaking once the files are available on the internet they can be difficult to completely remove should there be a breach of legislation. Councillors do not have parliamentary privilege, unlike Federal and State members of Parliament.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a legal risk that needs to be considered with broadcasting Council meeting "live" via the internet. Council maybe liable for any breaches of legislation such as the Privacy & Personal Information Protection Act 1998 and also any defamatory comments or statements made during the meeting.	High	Councillors have been previously advised of the legal risk associated with broadcasting "live" meetings.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The provision of broadcasting via the internet does allow members of the community who are not allowed to attend the meeting, or who reside a distance from the Council Chambers, to view the proceedings. This does provide for greater level of openness and transparency.

CONSULTATION

Nil.

OPTIONS

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

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ATTACHMENTS

- 1) Viewer statistics

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

The table below provides the statistics of the number of "live" viewers and the number of viewers in the archived state.

Meeting date	Number of views in "live" state	Number of views in archived state
27.3.2012	Data not available due to technology problems from an external supplier	26
24.4.2012	Data not available due to technology problems from an external supplier	40
29.5.2012	Data not available due to technology problems from an external supplier	51
26.6.2012	Data not available due to technology problems from an external supplier	105
24.7.12	No broadcast due to technology problems from an external provider	No broadcast due to technology problems from an external provider
August	No meetings due to the local government election	No meetings due to the local government election
25.9.2012	90	88
9.10.2012	23	146
23.10.2012	40	94
27.11.2012	72	13

Note: Council should be mindful that the number of views can be increased by the same individual accessing the recordings from different computers. (ie. if a person has 3 computers and the same person accessed the recording from each computer it would be counted as 3 views).

There being no further business the meeting closed at 7.21pm.

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I certify that pages 1 to 118 of the Open Ordinary Minutes of Council 5 March 2013 were confirmed by Council at its meeting held on 26 March 2013.

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Bruce MacKenzie
MAYOR