

MINUTES 12 FEBRUARY 2013

Port Stephens

C·O·U·N·C·I·L

... a community partnership

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 12 February 2013, commencing at 5.41pm.

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

001	Councillor Bruce MacKenzie Councillor John Nell
	It was resolved that the apologies from Crs Morello and Ken Jordan be received and noted.

002	Councillor Sally Dover Councillor Paul Le Mottee
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 11 December 2012 be adopted subject to an amendment to the Notice of Motion Item 1, 1 (s) replacing "Boat Harbour Reserve Committee with Boat Harbour Recreation Club Inc."

	Cr Paul Le Mottee declared a pecuniary conflict of interest in Item 1. The nature of the interest is that Cr Le Mottee has previously worked for the applicant.
	Cr Paul Le Mottee declared a pecuniary conflict of interest in Item 3. The nature of the interest is that the builder is a client of Cr Le Mottee's.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2005-1318

PERFORMANCE MANAGEMENT / GENERAL MANAGER CONTRACT

THAT COUNCIL:

- 1) Receive and note the Mayor's use of delegated powers.
-

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

003	Councillor Bruce MacKenzie Councillor Steve Tucker
	It was resolved that Council receive and note the Mayor's use of delegated powers.

BACKGROUND

The purpose of this report is to advise Council of the Mayors use of delegated powers.

Council has an agreed process for managing the General Managers performance that meets the NSW Government guidelines (**ATTACHMENT 1**).

With the timing of the 2002 Local Government Elections the agreed process was not able to be followed. The 2011-2012 Performance Management cycle was finalised by the previous Mayor in conjunction with the facilitator Mr Rob Noble in August 2012, at that time Mr Noble suggested that Council consider the future use of McArthur's SALMAC System. Macarthur's is a nationally based HR Company that has developed Performance Management system for CEO's with the former Mayor Bob Westbury's agreement, Council's Organisation Development section arranged preliminary discussions, and formal proposal was presented and accepted by I, Mayor Bruce MacKenzie in late 2012.

This was processed under delegation in early 2013 in accordance with the NSW Government guidelines, with the next action to occur in February 2013.

I, Mayor Bruce Mackenzie, invited Cr Ken Jordan, Cr John Nell to participate in the panel along with the Deputy Mayor, Cr Sally Dover and myself. Documentation for the review was finalised in early February 2013 and introductory session of the review panel was held on the 5 February 2013. Panel members have copies of the

documentation and are in the process of completing their assessment for the panel meeting on 19 February 2013.

The Council will consider primary information (six monthly report) at its Ordinary Council meeting of the 12 February 2013. Copies of the agreed SALMAC assessment will be distributed to all councillors for their information. In accordance with the guidelines any comments from councillors not on the panel should be forwarded to the Mayors Office for consideration by the panel.

Fees agreed with McArthur's will be met from the current operational budget.

Actions to date ensure Council meets its obligations under the General Managers contract and the Local Government Charter. The guidelines detail the confidentiality provisions and the means for all councillors involvement in the process.

ATTACHMENTS

- 1) Division of Local Government Department of Premier and Cabinet - Guidelines for the Appointment and oversight of the General Managers.

Reference Source:

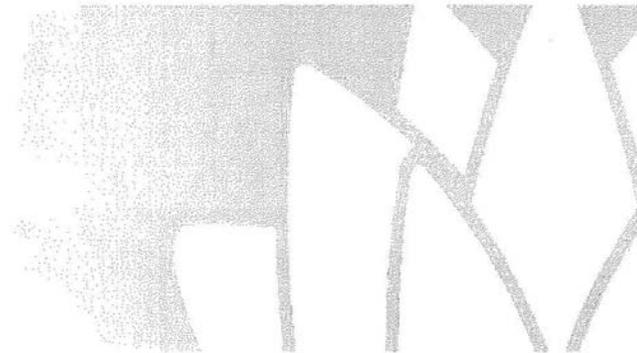
<http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Guidelines%20for%20the%20Appointment%20and%20Oversight%20of%20General%20Managers.pdf>)

ATTACHMENT 1



Division of Local Government
Department of Premier and Cabinet

GUIDELINES FOR THE
APPOINTMENT & OVERSIGHT OF
GENERAL MANAGERS



July 2011

These are Director General's Guidelines issued pursuant to section 23A of the *Local Government Act 1993*.

E. PERFORMANCE MANAGEMENT

1. General manager performance management framework

The general manager is made accountable to their council principally through their contract of employment.

The role of the governing body is to oversee the general manager's performance in accordance with the Standard Contract.

The performance of the general manager must be reviewed at least annually against the agreed performance criteria for the position. Council may also choose to undertake more frequent interim reviews of the general manager's performance.

The agreed performance criteria are set out in an agreement that is signed within three months of the commencement of the contract. Development of the performance agreement is discussed below.

2. Establishing the framework for performance management

The council's governing body is to establish a performance review panel and delegate the task of performance reviews of the general manager to this panel. The extent of the delegation should be clear.

It is recommended that the whole process of performance management be delegated to the performance review panel, including discussions about performance, any actions that should be taken and the determination of the new performance agreement.

Performance review panels should comprise the mayor, the deputy mayor, another councillor nominated by council and a councillor nominated by the general manager. The council's governing body may also consider including an independent observer on the panel. Panel members should be trained in the performance management of general managers.

The role of the review panel includes:

- conducting performance reviews
- reporting the findings and recommendations of those reviews to council
- development of the performance agreement.

The governing body of council and the general manager may agree on the involvement of an external facilitator to assist with the process of performance appraisal and the development of new performance plans. This person should be selected by the governing body of council or the performance review panel. The LGSA and the LGMA can be contacted for assistance to identify suitable independent facilitators to assist in the performance management process.

All councillors not on the panel can contribute to the process by providing feedback to the mayor on the general manager's performance.

All councillors should be notified of relevant dates in the performance review cycle and be kept advised of the panel's findings and recommendations.

The panel should report back to the governing body of council in a closed session the findings and recommendations of its performance review as soon as practicable following any performance review. This should not be an opportunity to debate the results or re-enact the performance review of the general manager. The general manager should not be present when the matter is considered.

The performance management report of any council staff member, including the general manager, should not be released to the public and should be retained on the appropriate confidential council employment file. Release of such personal information to other than the Performance Review Panel, the general manager and the councillors in confidence may be a breach of privacy legislation.

3. *Establishing the performance agreement*

The performance agreement is the most important component of successful performance management. The performance agreement should include clearly defined and measurable performance indicators against which the general manager's performance can be measured.

As one of the general manager's key responsibilities is to oversee the implementation of council's strategic direction, it is important to align the general manager's performance criteria to the goals contained in the council's Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plan.

The performance agreement should also include the general manager's personal contribution to the council's key achievements and the general manager's core capabilities, including leadership qualities.

The performance agreement should contain but not be limited to key indicators that measure how well the general manager has met the council's expectations with respect to:

- service delivery targets from the council's Delivery Program and Operational Plan;
- budget compliance;
- organisational capability;
- timeliness and accuracy of information and advice to councillors;
- timely implementation of council resolutions;
- management of organisational risks;
- leadership etc.

4. *Performance Review Process*

The Standard Contract requires that the performance of the general manager must be formally reviewed at least annually. The governing body of council may also undertake interim performance reviews as appropriate.

The assessment should include:

- self assessment by the general manager
- assessment by the review panel of the general manager's performance against the performance agreement.

The performance review meeting should be scheduled with sufficient notice to all parties and in accordance with clauses 7.6 and 7.7 of the Standard Contract.

The meeting should concentrate on constructive dialogue about the general manager's performance against all sections of the agreed performance plan.

The meeting should identify any areas of concern and agree actions to address those concerns.

In undertaking any performance review, care must be taken to ensure that the review is conducted fairly and in accordance with the principles of natural justice and that the laws and principles of anti-discrimination are complied with. The

appointment by a council, in agreement with the general manager, of an external facilitator (see above) to advise on the process should assist council in complying with these laws and principles.

The council's governing body must advise the general manager, in writing, in clear terms, the outcome of any performance review.

The new performance agreement for the next period should be prepared as soon as possible after the completion of the previous period. The agreement should be presented to the governing body of council for discussion in a closed meeting together with the outcomes of the previous review period.

5. Contract Renewal or Separation

It is important that any decision by the governing body of council to renew a contract for the general manager and the term of that contract be reported back to an open meeting of council, together with the total amount of any salary package agreed to.

Termination of a contract on the basis of poor performance can only occur where there has been a formal review undertaken against the signed performance agreement where performance difficulties were identified and have not subsequently been remedied. For further discussion on separation or renewal of general managers' contracts, see section F, below.

6. Reward and Remuneration

An annual increase in the salary package, equivalent to the latest percentage increase in remuneration for senior executive office holders as determined by the Statutory and Other Offices Remuneration Tribunal, is available to the general manager under the Standard Contract on each anniversary of the contract.

Discretionary increases to the general manager's total remuneration package under the provisions of the Standard Contract may only occur after a formal review of the general manager's performance has been undertaken by the governing body of council and the governing body of council resolves to grant such a discretionary increase because of better than satisfactory performance.

Discretionary increases are intended to be an incentive for general managers to perform at their maximum throughout the life of the contract. Discretionary increases are also intended to encourage contracts of the maximum duration.

Any discretionary increases should be modest and in line with community expectations.

All discretionary increases in remuneration, together with the reasons for the increase, must be reported to an open meeting of council.

MOTIONS TO CLOSE

MOTION TO CLOSE

ITEM NO. 1

FILE NO: PSC2013-00034

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: LISA MARSHALL – ACTING EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(c) of the Local Government Act 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary meeting agenda namely **Purchase of 3A Evans Road Medowie for Drainage Purposes**.
 - 2) That the reason for closing the meeting to the public to consider this item be that it contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
 - 3) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it may prejudice Council's commercial position and Council should have the same protection of its confidential commercial activities as that applying to other persons.
 - 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.
-

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

004	Councillor John Nell Councillor Sally Dover
	It was resolved that the recommendation be adopted.

COUNCIL REPORTS

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

Cr Paul Le Mottee left the meeting at 5.54pm prior to Item 1 in Committee of the Whole.

ITEM NO. 1

FILE NO: 16-2012-544-1

DEVELOPMENT APPLICATION FOR THE COMPLETION OF A PARTLY CONSTRUCTED RURAL SHED AND ONGOING USE AT 2209 PACIFIC HIGHWAY HEATHERBRAE

REPORT OF: MATTHEW BROWN - MANAGER DEVELOPMENT ASSESSMENT AND COMPLIANCE

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the proposed conditions of consent.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

	Councillor John Nell Councillor Steve Tucker
005	It was resolved that Council move into Committee of the Whole.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Bruce MacKenzie Councillor Steve Tucker
	That the recommendation be adopted.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Steve Tucker and Sally Dover.

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

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

Cr Paul Le Mottee left the meeting at 7.16pm prior to Item 1 in the Ordinary Council meeting.

007	Councillor Bruce MacKenzie 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 Bruce MacKenzie, Crs Chris Doohan, Steve Tucker 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 proposed conditions of consent in accordance with council meeting resolution of 11 December 2012;

"That Council support the development application for the completion of a partly constructed rural shed and ongoing use at 2209 Pacific Highway, Heatherbrae, in principle and conditions of consent be brought back to Council."

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal financial / resource implications of the draft conditions.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The conditions could potentially be appealed in the Land and Environment Court, hence legal and risk implications may exist.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Statutory issues addressed satisfactorily in conditions.	Medium	Develop appropriate conditions	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are minimal sustainability implications resulting from the proposed conditions.

CONSULTATION

The draft conditions were compiled and consulted internally. They are now provided to Council for endorsement.

OPTIONS

- 1) Adopt proposed conditions;
- 2) Amend proposed conditions.

ATTACHMENTS

- 1) Locality Plan;
- 2) Proposed conditions of consent for application 16-2012-544-1 in accordance with council resolution 334 of 11 December 2012.

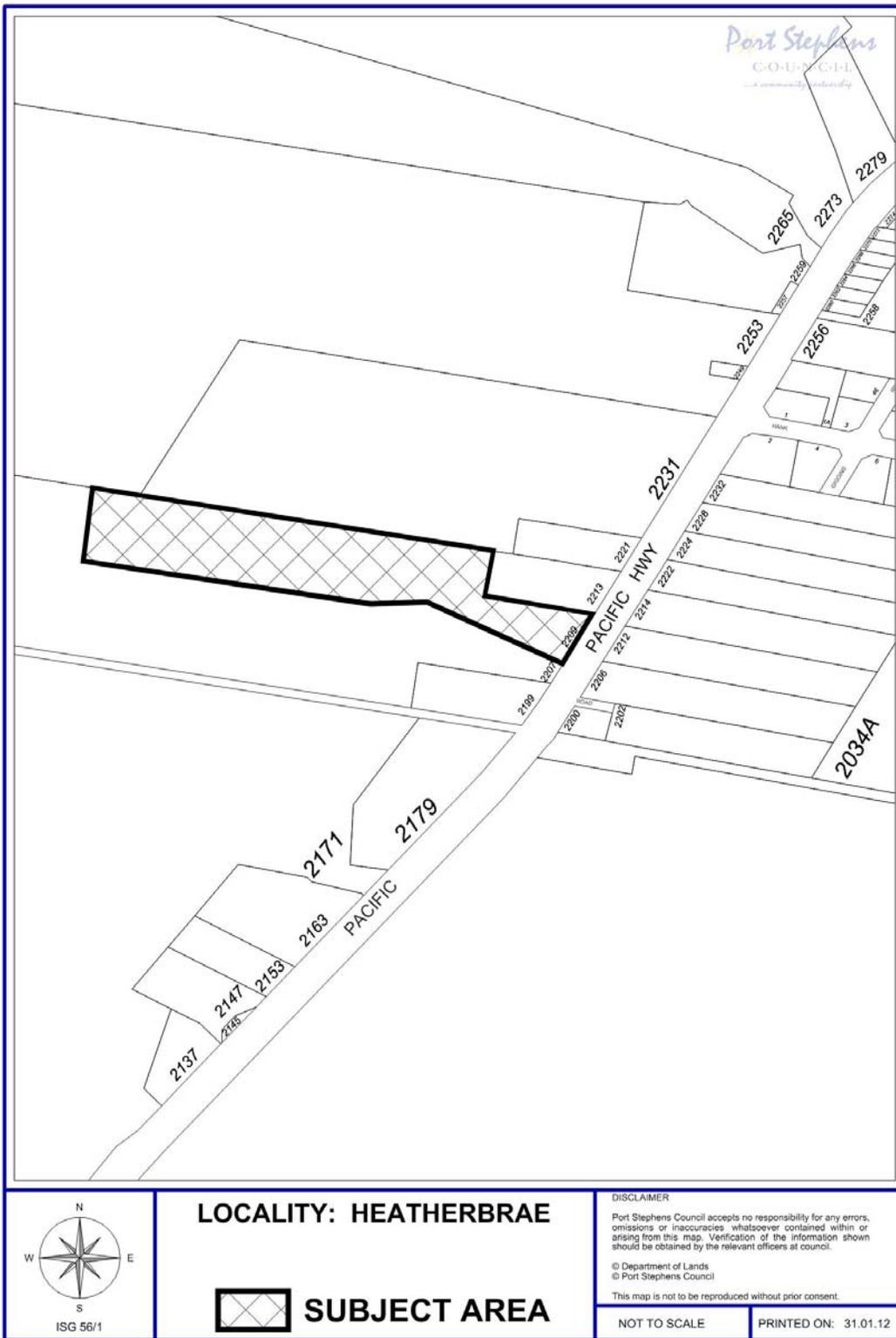
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
PROPOSED DRAFT CONDITIONS OF CONSENT.**

1. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
2. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
3. 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.

4. 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.
5. Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property.
6. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.
7. 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.

8. 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.
9. Collected stormwater runoff shall be piped to an infiltration trench located in the landscaped area(s) in accordance with Council's Standard Drawing S 136, with an overflow pipe connected to the existing easement/system.
10. The structure, the subject of this application shall not be used for any purpose other than that prescribed in the consent document and as defined under the provisions of Port Stephens Local Environmental Plan 2000. The development shall not be used for commercial purposes unless separate approval for that use has been granted.
11. A colour scheme providing full details of the colours and character of all external building materials and finishes to be used shall be approved by Council prior to the issue of the Construction Certificate.

Cr Paul Le Mottee returned to the meeting at 5.58pm in Committee of the Whole.

ITEM NO. 2

FILE NO: 16-2011-507-2

SECTION 96 MODIFICATION INVOLVING THE DELETION AND MODIFICATION OF BUSHFIRE CONSTRUCTION REQUIREMENTS FOR PROPOSED DWELLING AT NO. 144 ROCKY POINT ROAD FINGAL BAY

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

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

Refuse the Section 96 development application (DA 16-2011-507-2) for the building design modification to reduce the extent of bushfire construction requirements and deletion of bushfire condition 21 of development consent (DA 16-2011-507-1) for the construction of a single storey dwelling dated 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay for the following reasons:

- 1) The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, for the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and intensity of the bushfire attack on the proposed building;
- 2) The proposal is not supported by the NSW Rural Fire Service;
- 3) The development is inconsistent with the provisions of clause 16 (2)(e), Residential Zoning 2(a) – Residential "A" Zone of Councils Local Environmental Plan 2000, namely to ensure that the design of residential areas takes into account environmental constraints including bushfire risk; and
- 4) The development does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009 – Construction of Buildings in Bushfire Prone Areas.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Paul Le Mottee Councillor Sally Dover
	That Council: <ol style="list-style-type: none">1. Defer the report to allow for consultation with the NSW State Government;2. Write to the NSW State Government (Office of Environment & Heritage) and request provision of an Asset Protection Zone on the rear of all properties along Rocky Point Road, Fingal Bay within 3 months or Council will undertake the work.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

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

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

Those against the Motion: Crs Geoff Dingle.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

008	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted and that Item 22 be dealt with in confidential session.

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

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

Those against the Motion: Crs Geoff Dingle.

BACKGROUND

This application was called to Council by Mayor MacKenzie "as the Rural Fire Service conditions are not realistic for the location". As a result of Councils 24 July 2012 Ordinary Meeting, the motion was passed to refuse the Section 96 Application. Refer to attachment 1 for the Council report and attachment 2 for the Council resolution of 24 July 2012.

A rescission motion was lodged by Councillor Tucker and Councillor Jordan at Council's meeting of 25 September 2012. It was resolved that Council rescind its decision at the Ordinary Council Meeting of 24 July 2012, namely the Section 96 Modification involving the deletion and modification of a bushfire construction requirements for the proposed dwelling at number 144 Rocky Point Road, Fingal Bay. Refer to attachment 3 for this Council resolution.

To fulfil the resolution of Council, a meeting was held with the Mayor, the NSW Rural Fire Service (RFS) and Council Officers on 20 November 2012.

This report outlines Council officer's assessment and recommendation following this meeting and subsequent recommendations of the RFS.

The RFS advised that ultimately its Council's decision, however they were unwilling to change their view and would continue to not support the proposal. The RFS confirmed that two separate and independent officers have reviewed the site and their current position is maintained. The site is flame zone and should be developed according to the current Australian Standard. This is based on extensive policy and science with the intent of reducing the risk to life and property.

The RFS also mentioned that their primary aim was to make sure that people are safe, as the property may be on sold in the future, and there is an expectation from future purchasers that the product they purchase is safe and complies with the standards at the time. The RFS advised if the dwelling was not built to the current Australian Standard, Council would be inheriting a significant risk, to which in their view, Council would not be indemnified or covered by insurance and someone would need to be accountable should there be property damage or loss of life.

Subsequent to this meeting with the RFS, they submitted further correspondence to Council, dated 27 November 2012, that stated;

"It is my view, that in the event of the consent authority failing to incorporate the NSW RFS recommendations into the development consent, the liability exemptions provided to local government under Section 733 of the Local Government Act 1993, may be null and void as it could be proven that Council did not act in good faith.

Additionally, it is important that Port Stephens Council understands that in a circumstance where the NSW RFS is aware of blatant disregard for essential fire safety provisions, which may result in increased risk to the owner / occupier and emergency service personnel, the Department of Planning who is responsible for the legislation will be advised.

In closing, it concerns me greatly that a person moving into a recently constructed home located in a bush fire prone area has every right to assume that it has been constructed to the current Australian Standard. A failure on the part of Council to ensure this occurring will, in my opinion, leave Council open to possible litigation, as well as setting an unwelcome precedent".

It is acknowledged that the proposal consists of a set of unusual circumstances of which have been validly raised by the Applicant. For example, the allotment is essentially an infill site and the last undeveloped block in the estate, nearby structures are already built to a lesser standard, the application has unfortunately been disadvantaged by the timing of changing legislation at a point in time, and the costs of construction to comply with the current standards make the dwelling construction unviable. Whilst this information is appreciated and provided for Councillors information to form a balanced view, it does not negate Council's role as the planning authority to correctly apply the legislation point in time.

FINANCIAL/RESOURCE IMPLICATIONS

Should the Council decision be a refusal in accordance with the recommendation, the Applicant may choose to complete the building as per the original DA approval which is compliant with the relevant construction standards for the bushfire prone site, however the development costs will be increased. The Applicant also has the option to appeal Council's decision in the Land and Environment Court; defending such would have financial implications for Council.

Should the Council decision be to approve the application contrary to the recommendation, consideration should be given to the impacts on the locality and Councils ability to service the community in a financially/socially responsible manner. In the worst case scenario, the Council may need to be represented at a Coronial enquiry/court should a significant bushfire result in damage to the local community, death of occupants and/or damages to the proposed building, adjoining or adjacent buildings. It is also important to note the associated risk exists for the life of the building not just the current applicant / owner / tenant.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	Yes	Existing staff & legal budget allocations
Reserve Funds	No	No	
Section 94	N/A	N/A	
External Grants	N/A	N/A	
Other	N/A	N/A	

LEGAL, POLICY AND RISK IMPLICATIONS

As the proposal is not 'integrated development' Council has the legal capacity to approve the application as submitted by the Applicant. Whilst the RFS strongly object to the approval of the application, the RFS acknowledge that ultimately it is a decision for Council.

The development application is inconsistent with the objectives of the Residential 2(a) zoning within the Port Stephens Local Environmental Plan 2007. The development also does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009. Along with these proposed policy departures, should Council endorse such, significant risk may be incurred by Council.

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

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

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

“Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating.”

A review of the assessment report, the Applicant's submission and the RFS advice, details that a decision contrary to the recommendation presents an unacceptable risk to Council as per Council's standard risk management matrix. These unacceptable risks relate to Council and the local community in respect to public safety, Council reputation and legal exposure. In this instance, a refusal of the application is the only viable or comprehensive risk treatment.

The RFS state in their correspondence that a decision contrary to their advice may waiver the good faith provisions in the Local Government Act 1993 and suggest Council seeks its own legal advice. This could result in individuals being personally accountable / responsible for any subsequent implications resulting from the decision. Further, discussions with Councils Corporate Risk Unit confirmed that it is likely Council's insurers may not cover Council should a decision be made contrary to State Government agency advice (the RFS who are the recognised experts in their field) and relevant standards etc.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources ?
People- Multiple fatalities or extensive long term injuries.	High	Determined by way of Refusal	Yes
Reputation- Extensive external criticism by Government and national media	High	Determined by way of Refusal	Yes
Legal- Extensive fines and litigation with possible class action; threat to viability of program or service; extensive financial loss; indictable offences.	High	Determined by way of refusal	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There may be potential adverse social, economic and environmental impact given the proposal does not adequately address the bushfire safety threat in the building construction design.

Whilst empathy is shown towards the Applicant and the situation, the proposal effectively lowers the construction standards the community can reasonably expect to be provided under the provisions of the NSW State policies and the Building Code of Australia and as such is not in the public interest.

Should the Section 96 Modification be approved there may be a possible economic benefit for the existing/current landowner, in particular that they will be able to construct their dwelling in a cost effective manner. However this is largely offset by the possible adverse impacts on adjoining properties and the wider community, including future owners who would rightly expect that a dwelling approved and constructed in 2013 would incorporate the appropriate bushfire construction requirements of the legislation at the time.

CONSULTATION

The application was not required to be notified or otherwise exhibited in accordance with Council policy being a single storey dwelling.

The RFS were consulted extensively in relation to this application. As referred to elsewhere in this report they do not support the application.

OPTIONS

- 1) Adopt the recommendation; or
- 2) Amend or reject the recommendation.

ATTACHMENTS – All listed below are provided under separate cover

- 1) 10/7/12 Council report;
- 2) 24/7/12 Council resolution;
- 3) 25/9/12 Rescission motion resolution;
- 4) Locality Plan;
- 5) Aerial photograph locality plan;
- 6) Section 96 Application and Applicant's submission letter;
- 7) The Assessment officers' assessment report;
- 8) Extracts from the existing approval including the RFS letter dated 12/9/2012, the Parker Scanlon Bushfire Assessment Report dated 16/7/2010 (Amended 18/8/2011), and the approved site plan DA 16/2011/507/01;
- 9) Rural Fire Service referral letter dated 19/6/2012; and
- 10) RFS letter dated 27/11/12.

COUNCILLORS ROOM

- 1) Copy of the existing approved plans.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

FILE NO: 16-2012-639-1

MODIFICATION OF THE RURAL FIRE SERVICE CONSTRUCTION REQUIREMENT CONDITIONS FOR PROPOSED DWELLING AT NO. 14 RUTILE ROAD, OYSTER COVE

REPORT OF: **MATHEW BROWN – MANAGER DEVELOPMENT ASSESSMENT AND COMPLIANCE**
 GROUP: **DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

Refuse the development application (DA 16-2012-639-1) for the erection of a Single Storey Dwelling (Manufactured Home) dated 18 October 2012 to reduce the extent of bushfire construction requirement conditions at Lot 3 DP 364923, 14 Rutile Road, Oyster Cove for the following reasons:

- 1) The proposal as submitted does not, to the degree necessary, reduce the risk of ignition from a bushfire, for the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and intensity of the bushfire attack on the proposed building;
- 2) The proposal is not supported by the NSW Rural Fire Service;
- 3) The development is inconsistent with the provisions of clauses 11 (e) Rural Agriculture "A" of Councils Local Environmental Plan 2000, namely to ensure reducing the incidence of loss of life and damage to property; and
- 4) The development does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009 – Construction of Buildings in Bushfire Prone Areas.

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Paul Le Mottee left the meeting at 6.22pm in Committee of the Whole.

	<p>Councillor John Nell Councillor Steve Tucker</p>
	<p>That Council:</p> <ol style="list-style-type: none"> 1) Defer the report to allow for consultation with the NSW State Government; 2) Write to the NSW State Government (OEH) and request provision of an Asset Protection Zone surrounding 14 Rutile Road, Oyster Cove within 3 months or Council will undertake the work.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

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

Those for the Motion: Crs Mayor Bruce MacKenzie, Crs Peter Kafer, Chris Doohan, Steve Tucker, John Nell and Sally Dover.

Those against the Motion: Crs Geoff Dingle.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

009	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

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

Those for the Motion: Crs Mayor Bruce MacKenzie, Crs Peter Kafer, Chris Doohan, Steve Tucker, John Nell and Sally Dover.

Those against the Motion: Crs Geoff Dingle.

Cr Paul Le Mottee returned to the meeting at 7.18pm in the Ordinary Council meeting.

BACKGROUND

This application was called to Council by Mayor MacKenzie. The reason for this call-up is as stipulated on the call up form is "Conditions of RFS." The purpose of this report is to present a development application to council for determination.

Development consent has been sought for the erection of a Single Storey Dwelling (Manufactured Home) dated the 18 October 2012 at Lot 3 DP 364923, 14 Rutile Road, Oyster Cove.

The site is zoned 1(a) Rural Agriculture "A"/Part 7(a)-Environmental Protection "A" which is defined in Port Stephens Environmental Plan 2000 (LEP). The subject allotment has a site constraint of bushfire prone land, BAL-Flame Zone. (Site Location Plan Attachments 1 & 2)

North Point Surveys (NSW) P/L Bushfire Threat Assessment report dated November 2012 was included in the Development Application submission (attachment 3), indicating a Bushfire Attack Level 29 (BAL 29) which was referred to the NSW Rural

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

Fire Service (RFS) for comment in accordance with Section 79BA of The Environmental Planning and Assessment Act 1979.

In addition to the bushfire threat assessment report the applicant G.K Lindsay submitted additional supporting documentation (attachment 4) titled 'Recommendations & Conclusions item 6' which was also forwarded to the RFS dated 27 November 2012 for the proposal as follows;

"Landscaping & Maintenance – an ongoing maintenance regime along with suitably planned landscaping should be implemented.

If strict adherence to Planning for Bushfire protection is adopted and the existing cleared area is ignored as part of the Asset Protection Zone thereby adopting the fire source at the boundary, the proposed residence would be considered to be in the Flame Zone. However, due to the site specific mitigating circumstances and strategic advantages we believe this not to be applicable in this instance and BAL 29 construction to be more appropriate for the following reasons:

Clearing

A cleared/managed area is maintained on the adjoining property to the East and South by the owner of the subject property. Unsuccessful attempts have been made to obtain an Easement for Asset Protection Zone over this land via the Department of Primary Industries who currently administer Crown Lands.

Construction Type

The proposed house to be constructed is a transportable home. This type of house has been chosen due to flooding issues and the potential for rising sea levels, given the proximity to the tidal Tilligerry Creek, giving the ability to raise the house in the future if necessary. As the proposed house is a transportable house, Flame zone construction is not achievable.

Escape Route

The position of the residence and the site, relative to the threat provide an escape route either on foot along the waterfront reserve or by boat along Tilligerry Creek.

Water Supply

A static Water Supply of 20000 litres will be supplied.

Infill Development

The subject site is an existing lot and the proposed development is therefore infill development which should be afforded some flexibility. Provided the recommendations detailed in this report are adhered to, the proposed development will provide appropriate measures to ensure the protection of human life and property in the event of a bushfire.

It is therefore requested this matter be referred to RFS for consideration."

The returned documentation from the RFS indicated that:

"The Rural Fire Service does not support the determination of Bushfire Attack Level (BAL) on the eastern aspect as outlined in the 'Bushfire Threat Assessment' prepared by North Point Surveys (NSW) PTL LTD dated November 2012. It has been determined that the proposed dwelling is located in the Flame Zone.

The RFS requires the applicant to demonstrate that a Plan of Management exists on the Crown Lands to the east of the subject land to establish and ensure the management of any Asset Protection Zone offsite in perpetuity. Please refer to Fast Fact 6/07:Plans of Management at www.rfs.nsw.gov.au for further details."

The Rural Fire Service response dated 3 January 2012 is attached for Council's due consideration (Attachment 5)."

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be unsatisfactory due to the unreasonable risk it presents to property and the future occupants and adjoining properties. Therefore, it is recommended that the application be refused for the reasons as listed.

FINANCIAL/RESOURCE IMPLICATIONS

Should the Council decision be a refusal in accordance with the recommendation the Applicant may choose to amend their design to be more compliant with the relevant construction standards for the bushfire prone site, however the development costs will be increased. The Applicant also has the option to appeal Council's decision in the Land and Environment Court, defending such would have financial implications for Council.

Should the Council decision be to approve the application contrary to the recommendation, consideration should be given to the impacts on the locality and Council's ability to service the community in a financially/socially responsible manner. In the worst case scenario, the Council may need to be represented at a Coronial enquiry/court should a significant bushfire result in damage to the local community, death of occupants and/or damages to the proposed building, adjoining or adjacent buildings. It is also important to note the associated risk exists for the life of the building not just the current applicant / owner / tenant.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	Yes	Existing staff & legal budget allocations
Reserve Funds	No	No	
Section 94	N/A	N/A	
External Grants	N/A	N/A	
Other	N/A	N/A	

LEGAL, POLICY AND RISK IMPLICATIONS

As the proposal is not "integrated development" Council has the legal capacity to approve the application as submitted by the Applicant. Whilst the RFS advice strongly recommends to not approve the application, the RFS acknowledge that ultimately it is a decision for Council.

The development application is inconsistent with Council Policy and it is inconsistent with the objectives of the 1(a) Rural Agriculture "A" zoning within the Port Stephens Local Environmental Plan 2007. The development does also not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009.

The RFS have stated in similar development applications such as this that in their view, a decision contrary to their advice may waiver the good faith provisions in the Local Government Act 1993. This could result in individuals being personally accountable / responsible for any subsequent implications resulting from the decision. Further, discussions with Councils Corporate Risk Unit confirmed that it is likely Council's insurers may not cover Council should a decision be made contrary to state government agency advice (the RFS who are the recognised experts in their field) and relevant standards etc.

A review of the assessment under the provisions of the EP&A Act coupled with the potential risk indicated in the below table identify a decision contrary to the recommendation presents an unacceptable risk to Council as per Council's risk management matrix. There are unacceptable risks to council in relation to public safety, Council reputation and legal exposure such that a refusal of the application is the only viable risk treatment.

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

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

“Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating.”

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
People– Multiple fatalities or extensive long term injuries.	High	Determined by way of Refusal	Yes
Reputation- Extensive external criticism by Government and national media	High	Determined by way of Refusal	Yes
Legal- Extensive fines and litigation with possible class action; threat to viability of program or service; extensive financial loss; indictable offences.	High	Determined by way of refusal	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There may be potential adverse social, economic and environmental impact given the proposal does not adequately address the bushfire safety threat in the building construction design. One of the intentions of the Environmental Planning and Assessment Act and Regulations is that over time improved developments will provide a safer and higher quality built environment better able to cope with the known bushfire threat. Council must recognise this responsibility and apply current standards.

Whilst empathy is shown towards the Applicant and the situation, the proposal effectively lowers the construction standards the community can reasonably expect to be provided under the provisions of the NSW state policies and the Building Code of Australia and as such is not in the public interest.

Should the Application be approved there may be a possible economic benefit for the existing/current landowner and a small increase in the provision of affordable housing provision. However this is largely offset by the possible adverse impacts on adjoining properties and the wider community, including future owners who would rightly expect that a dwelling approved and constructed in 2013 would incorporate the appropriate bushfire construction requirements of the legislation at the time.

CONSULTATION

The application was not required to be notified or otherwise exhibited in accordance with Council Policy being a single storey dwelling and located on rural zoned land.

The RFS were consulted in relation to this application. As referred to elsewhere in this report they do not support the application.

OPTIONS

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

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Locality Plan;
- 2) Aerial photograph locality plan;
- 3) GK Lindsay additional supporting letter;
- 4) Rural Fire Service response letter;
- 5) DA assessment report.

COUNCILLORS ROOM

- 1) Application plans & North Point Surveys (NSW) Bushfire Assessment Report;

TABLED DOCUMENTS

Nil.

ITEM NO. 4

FILE NO: 9740-094; S9735-001;
9680-005

REPEAL COUNCIL POLICIES: ACID SULFATE SOILS; EROSION & SEDIMENT CONTROL; AND INTERIM ROOF TOP TERRACE.

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Rescind Council's Policies for:
 - a. Acid Sulfate Soils;
 - b. Erosion & Sediment Control; and
 - c. Interim Roof Top Terrace.

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

010	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

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

Within the Development Services Group the aim is to review all existing policies with the view to repeal, amend or substantially update where required. This is a staged approach and the subject of this report includes the policies recommended to be repealed.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

The policies proposed to be repealed are considered an unnecessary duplication that are elsewhere addressed in local or state legislation.

It is proposed to repeal the following policies due to the reasons outlined below;

	ID	POLICY	FILE NO	ADOPTED / AMENDED	MINUTE #	REASON FOR REPEALING
1)		Acid Sulfate Soils	9740-094	28/09/2004	334	This policy is adequately covered in Council's LEP and Council has the ability to require such information under the Environmental Planning and Assessment Act 1979.

	ID	POLICY	FILE NO	ADOPTED / AMENDED	MINUTE #	REASON FOR REPEALING
2)		Erosion & Sediment Control Policy	S9735-001	23/07/02	302	This policy is adequately covered in state legislation and guidelines. Council has the ability to require such information under the Environmental Planning and Assessment Act 1979.
3)		Interim Roof Top Terrace	9680-005	26 July 2005	202	Council is able to assess applications for roof top terrace in accordance with the LEP on a merits basis and does not require a specific policy on the topic.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial / resource implications.

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal and risk implications as repealing outdated and obsolete policies will facilitate more accurate and robust decision making.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Making poor decisions as a result of outdated and duplicated / inaccurate policies	High	Repeal old policies	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications.

There are minimal direct sustainability implications.

CONSULTATION

No external consultation is required to repeal the outdated and obsolete policies. Relevant section managers have been consulted internally to ensure they no longer require or rely on the above referenced policies.

OPTIONS

- 1) Resolve to retain the policies;
- 2) Repeal the policies.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Acid Sulfate Soil Policy;
- 2) Erosion & Sediment Control Policy;
- 3) Interim Roof Top Terrace.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: PSC2006-0191

PLANNING PROPOSAL TO AMEND THE PORT STEPHENS LOCAL ENVIRONMENTAL PLAN (KINGS HILL, NORTH RAYMOND TERRACE) 2010 – REVISION OF PLANNING CONTROLS FOR RIPARIAN AND RELATED CONSERVATION AREAS AND OTHER AMENDMENTS TO FACILITATE APPROPRIATE DEVELOPMENT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal to amend the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 and forward to the Minister for Planning and Infrastructure to be made under section 59 of the Environmental Planning and Assessment Act 1979.

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Paul Le Mottee returned to the meeting at 6.29pm in Committee of the Whole.

	Councillor Steve Tucker Councillor Sally Dover
	That the recommendation be adopted, including the supplementary information.

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

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

011	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the Planning Proposal to forward to the Minister with a request that it be made. The Planning Proposal seeks to facilitate development in the Kings Hill Urban Release Area.

Council considered the planning proposal at its meeting held on 12 June 2012. Since this time, the planning proposal has been exhibited in accordance with the Gateway Determination. One submission was received during the exhibition period. Details of the submission are included in the Planning Proposal at **(ATTACHMENT 1)**. An additional clause has been added to the planning proposal as a result of the submission.

The provision to permit Manufactured Home Estates as an additional permitted land use in the R1 Residential zoned land on Lot 481 DP 804971 and Lot 4822 DP 852073 owned by Gwynvill was removed prior to exhibition, in accordance with the Gateway Determination.

Details of the Planning Proposal:

Planning Proposal: Refer to **(ATTACHMENT 1)**.

Subject land: All land within the Kings Hill Urban Release Area.

Proponent: Various landowners.

Current zones: R1 Residential, B2 Local Centre, B4 Mixed Use, E2 Environmental Conservation, and E3 Environmental Management.

Proposed zones: No new zones. Change to the boundary of the E2 Environmental Conservation zone and a corresponding increase in the area of land zoned R1 Residential and B4 Mixed Use.

Other provisions:

- Include additional land uses in the B4, E2 and E3 zones.
- Provide additional flexibility in minimum lot sizes for dwellings.
- Provide flexibility in the lot size of a residual area of land zoned E2 Environmental Conservation within a split zoned lot in a new subdivision.
- Adjust the E2 Environmental Conservation Zone boundaries to more accurately reflect those areas of environmental significance and those areas which may provide biodiversity offsets, and to provide flexibility as detailed site planning proceeds.
- Include an additional clause that allows the subdivision of 'super lots'.

Additional land uses

It is proposed to include the following uses as "permitted with consent":

"Car parking" in the B4 Mixed Use zone. This is to permit standalone car parks or those in conjunction with development on the adjacent B2 Local Centre zoned sites in the Town Centre.

"Ecotourist facilities", "flood mitigation works", "sewerage systems", and "water supply systems" in E3 Environmental Management Zone. This is to align the permitted uses with those in the E2 Environmental Conservation zone and to permit hydraulic utilities and flood mitigation works in the zone.

Additional Flexibility in Lot Sizes

This proposed clause applies to land in the R1 Residential, B2 Local Centre or B4 Mixed Use zones and permits development that incorporates lots smaller than the minimum permitted lot size where a single development application is received for both subdivision and residential or commercial development on the lots.

Lot sizes will be assessed on their merits to ensure there are no adverse environmental or amenity impacts.

Subdivision of certain Split Zone lots containing E2 zoned land

The proposed clause addressing this matter permits the subdivision of lots that contain more than one zone (one of which is an E2 zone) to create a lot which contains less than the minimum permitted lot size for the E2 zoned land provided that the lot contains all the E2 zoned land in addition to the minimum permitted lot size in a residential or commercial zone.

An additional subclause to the above addressing this matter permits the subdivision of lots that contain more than one zone (one of which is an E2 zone) to create a lot which contains less than the minimum permitted lot size for the E2 zoned land provided that a satisfactory Vegetation Management Plan has been lodged in addition to arrangements for the ongoing management of the Vegetation Management Plan. The Vegetation Management Plan is necessary to provide a formal plan of how the biodiversity values of the land are to be conserved.

Ecotourism

This clause describes the circumstances under which consent may be granted for an ecotourism facility. The amendment to include development requirements for ecotourist facilities as an additional land use in the E2 and E3 zones arises because the Department of Planning and Infrastructure only permitted this land use in a land use table after the publication of the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.

Biodiversity Protection

This clause seeks to provide a biodiversity map layer over the existing E2 Environmental Conservation zoned land proposed to be zoned to R1 Residential.

Rezoning the “fingers” of E2 Environmental Conservation land to R1 General Residential and other minor adjustments to the E2 Environmental Conservation zone boundary will provide flexibility to enable detailed subdivision planning to be undertaken and for service infrastructure and roads to be constructed. Recent detailed surveying and site investigation by landowners has shown that the boundaries of environmentally significant areas are inaccurate. The purpose of this component of the Proposal is to address these inaccuracies as well as to provide greater flexibility in detailed design. The qualities of riparian areas and related areas of environmental significance will be retained and protected by a "*Biodiversity protection*" clause in the Local Environmental Plan that specifies development considerations, and an associated map. This is consistent with the biodiversity offset arrangements agreed with the Office of Environment and Heritage.

'Super Lot' provisions

The provisions of this clause seek to permit the subdivision of residential and business zoned land into 'super lots' without requiring a number of requisites which would otherwise be required to be met in the case of smaller subdivision.

Map amendments

The LEP maps will be amended to reflect changes to the E2 zone boundary. Consequential mapping changes to the Height of Buildings and Lot Size Maps to reflect the zone changes is necessary.

A biodiversity map layer is proposed which will define areas of environmental significance which will be protected by a "biodiversity protection" clause.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal will be progressed using existing budget allocations and the rezoning fees for the Planning Proposal that have been paid by the landowners.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The Planning Proposal is to be progressed in a manner consistent with statutory and policy requirements. The Planning Proposal is consistent with the Port Stephens Planning Strategy and the Lower Hunter Regional Strategy. The risks associated with progressing the Planning Proposal are minimal.

From a development perspective, the Planning Proposal will provide greater flexibility and certainty in designing and implementing new urban development and provides options for attracting investment opportunities which to raise capital for critical infrastructure.

Therefore, the Planning Proposal reduces development risk.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal seeks to facilitate the development of the Kings Hill Urban Release Area. The development of Kings Hill will deliver a greater supply and greater diversity of housing to the area. It will create employment during the construction and operation of the Urban Release Area.

Rezoning a number of narrow corridors of E2 Environmental Conservation land to R1 General Residential and other minor adjustments to the E2 Environmental Conservation zone boundary will provide flexibility to enable detailed subdivision planning to be undertaken and for service infrastructure and roads to be constructed. Recent detailed surveying and site investigation by landowners has shown that the boundaries of environmentally significant areas are inaccurate. The purpose of this component of the Proposal is to address these inaccuracies as well as to provide greater flexibility in detailed design. The qualities of riparian areas and related areas of environmental significance will be retained and protected by a "*Biodiversity protection*" clause in the Local Environmental Plan. This is a good example of the relevant planning authority (Council) providing flexible mechanisms to enable development, yet still enhance the environmental attributes on site.

CONSULTATION

Department of Planning and Infrastructure

In accordance with the EP&A Act, the planning proposal was submitted to the Department of Planning and Infrastructure for a 'Gateway Determination'.

In accordance with the 'Gateway Determination' the provision to allow manufactured home estates as an Additional Permitted Land Use on certain land zoned R1 in the Kings Hill Urban Release Area was removed from the planning proposal prior to its exhibition. A separate planning proposal is required should Council seek to include this clause.

State Agency Consultation

In accordance with the Gateway Determination, the following State Agencies have been consulted:

Office of Environment and Heritage

OEH have advised that in recognition of the intended outcomes of the proposal, they are supportive of the draft LEP amendment. Notwithstanding, given that the Kings Hill Urban Release Area contains significant environmental values, development of a comprehensive environmental protection / offset measures should remain key priorities for Council.

Comment: In conjunction with the Kings Hill Landholders and OEH, Council is facilitating environmental protection measures / offsets to mitigate the environmental impact of Kings Hill.

NSW Rural Fire Service

The NSW RFS have advised that any future development will need to comply with the requirements of Planning for Bushfire Protection Guidelines 2006.

Community Consultation

In accordance with the Gateway Determination, the Planning Proposal was publically exhibited for a period of 28 days.

The exhibition period included the availability of hard copy exhibition material at the Council library, the Council administration building and for download from the internet.

One submission was received during the exhibition period and is detailed in the Planning Proposal at **(ATTACHMENT 1)**.

OPTIONS

- 1) Adopt the recommendations of this Report to forward the Planning Proposal to the Minister for Planning and Infrastructure with a request that the plan be made.
- 2) Amend one or more of the provisions of the Planning Proposal prior to forwarding it to the Minister for Planning and Infrastructure to be made; or
- 3) Reject the recommendations of this Report and not proceed with the planning proposal.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Planning Proposal

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: PSC2006-0191

AMENDMENT TO THE PORT STEPHENS LOCAL ENVIRONMENTAL PLAN (KINGS HILL, NORTH RAYMOND TERRACE) 2010 – INCLUSION OF ADDITIONAL USES IN THE E2 ENVIRONMENTAL CONSERVATION ZONE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal to amend the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 and forward the Planning Proposal to the Minister for Planning and Infrastructure to be made under section 59 of the Environmental Planning and Assessment Act 1979.

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

012	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the Planning Proposal to be forwarded to the Minister with a request that it be made. The Planning Proposal aims to assist development in the Kings Hill Urban Release Area by allowing infrastructure works as permissible with consent in the E2 Environmental Conversation Zone. This Planning Proposal is consistent with the original intent for Kings Hill, as adopted by Council, and is largely an administrative change to the Kings Hill LEP.

The Planning Proposal seeks is to amend the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 ("the LEP") by including the following additional land uses in the Land Use Table entry for E2 Environmental Conservation Zone as permitted with consent:

- Flood mitigation works
- Roads
- Sewerage reticulation systems
- Water reticulation systems
- Water storage facilities

The Land Use Table for the E2 Zone in the draft Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 that was adopted by Council and submitted to the Department of Planning for finalisation included public utility undertakings, public utility infrastructure and telecommunication networks as permitted with consent.

However, the Council adopted land uses (public utility undertakings, public utility infrastructure and telecommunication networks) were omitted from the Land Use Table for E2 Environmental Conservation Zone in the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 made by the Minister and published on 10 December 2010.

Council is seeking to include the closest equivalent land uses to those originally adopted by Council in the Land Use Table of the LEP, in order to provide clarity to the development industry and the wider community about the permissibility of these land uses and to facilitate the development of the adjacent land which is zoned R1 General Residential. Effectively, the land uses sought for inclusion are a subset of those adopted by Council.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

The additional land uses will allow for road and pipeline connections for reticulated services. Currently, the E2 "fingers" will not allow for connectivity between areas of R1 zoned land, which would result in inefficient and potentially unviable development.

Council understands that a number of these uses are addressed in the State Environmental Planning Policy (Infrastructure) (ISEPP), however it is considered that the ISEPP provisions are conditional and open to interpretation, and do not provide the clarity that would result from the inclusion of the above land uses in the Land Use Table of the LEP, particularly in relation to private providers of such infrastructure. As a result, Council and the landholders do not wish to rely on the ISEPP for infrastructure provision because the infrastructure may be developed by private entities and dedicated to Council or relevant agency upon completion.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal will be progressed using existing budget allocations and the rezoning fees for the Planning Proposal that have been paid by the landowners.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The Planning Proposal is to be progressed in a manner consistent with statutory and policy requirements. The Planning Proposal is consistent with the Port Stephens Planning Strategy and the Lower Hunter Regional Strategy. The risks associated with progressing the Planning Proposal are minimal.

From a development perspective, the Planning Proposal will provide greater flexibility and certainty in designing and implementing new urban development and enable the pragmatic and optimal used of land, whilst respecting environmental constraints.

Therefore, the Planning Proposal reduces development risk.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Although preliminary investigation determined that larger infrastructure facilities are not suitably located in a number of areas currently zoned E2, the exact location of infrastructure is not yet known. This planning proposal will allow for flexibility in design when it comes to undertaking detailed planning for the development application. For this reason, all the group terms are included in order to allow flexibility in the provision of infrastructure and to ensure that it is located in the most appropriate area.

Environmental impacts from proposed infrastructure will need to be considered at the development application stage.

CONSULTATION

State Agency Consultation

In accordance with the Gateway Determination, the following State Agencies have been consulted:

Office of Environment and Heritage

OEH have advised that in recognition of the intended outcomes of the proposal, they are supportive of the draft LEP amendment. Notwithstanding, given that the Kings Hill Urban Release Area contains significant environmental values, development of a comprehensive environmental protection / offset measures should remain key priorities for Council.

A copy of OEH correspondence is included in the Planning Proposal at (ATTACHMENT 1).

Comment: In conjunction with the Kings Hill Landholders and OEH, Council is facilitating environmental protection measures / offsets to mitigate the environmental impact of Kings Hill.

NSW Rural Fire Service

The NSW RFS have advised that any future development will need to comply with the requirements of Planning for Bushfire Protection Guidelines 2006.

Community Consultation

In accordance with the Gateway Determination, the Planning Proposal was publically exhibited for a period of 28 days.

The exhibition period included the availability of hard copy exhibition material at the Council library, the Council administration building and for download from the internet.

No submissions were received during the exhibition period.

OPTIONS

- 1) Adopt the recommendations of this report to forward the Planning Proposal to the Minister for Planning and Infrastructure with a request that the plan be made. This is the recommended option;
- 2) Amend one or more of the provisions of the Planning Proposal prior to forwarding it to the Minister for Planning and Infrastructure to be made. This is not recommended;
- 3) Reject the recommendations of this report and not proceed with the planning proposal. This is not recommended because it may impede the development of Kings Hill.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Planning Proposal.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

FILE NO: PSC2011-01876

ASSIGNMENT OF LEASE OVER COUNCIL OWNED LAND AT 26-30 CORLETTE POINT ROAD, CORLETTE (THE ANCHORAGE)

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease assignment documentation for Council owned land located at 26-30 Corlette Point Road, Corlette, refer Attachment 1.
-

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

013	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to advise Council that the property known as The Anchorage Port Stephens has been purchased by The Executive Inn Pty. Limited which is part of the Western Suburbs (Newcastle) Leagues Club group of companies.

The property is comprised of a residential hotel and marina which are under long term leases from the Crown. The Crown in 2012 undertook a subdivision of the land separating the Marina and the Hotel enabling the sale of the Hotel. The land comprising the car park and road that adjoins the hotel is owned by Council and is the subject of a long term lease to the current owners of the Anchorage Resort – Bay Holdings Pty Limited. Council currently receives \$35,130 rent per annum for the land with the lease expiring on 22 July 2068.

Harris Wheeler Lawyers have drafted an appropriate document for the assignment of the Lease to the new party.

FINANCIAL/RESOURCE IMPLICATIONS

Execution of the assignment by Council will formalise the terms of the existing lease and transfer all obligations under the lease to the new owner thereby protecting Councils financial position.

The current lessee is responsible for legal costs associated with drafting the Deed of Assignment document.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$35,130 income	Income rental received, subject to CPI increases and market rent reviews every five years.
Reserve Funds	No	Nil	
Section 94	No	Nil	
External Grants	No	Nil	
Other	No	Nil	

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the provisions of the Conveyancing Act, property dealings including leases (and assignment of leases) in excess of three years total duration, including the option period, are to be registered upon the title of the land to which they apply. Accordingly, if the lease is to be registered the common seal must be affixed upon signing under Clause 400, Local Government (General Regulation) 2005.

The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Should Council not agree to the assignment the Executive Inn Pty Ltd would not be able to operate the resort as the road and car park from part of the conditions of consent. Council could be liable for damages as Council should not unreasonably withhold the assignment of the lease.	High	Execute the lease assignment document as recommended	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Economic: The resort provides tourist accommodation in the Port Stephens LGA and contributes to the economic development of the area. The expenditure associated with tourism flows makes a substantial economic contribution to the Port Stephens economy and provides for local employment.

CONSULTATION

- 1) Commercial Property Manager;
- 2) Property Investment Coordinator;
- 3) Harris Wheeler Lawyers.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8

FILE NO: PSC2011-01876

LEASE OF GROUND FLOOR 46 WILLIAM STREET, RAYMOND TERRACE

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease for Council owned premises located at ground floor 46 William Street, Raymond Terrace and any associated documentation including any option lease arising from the current lease.

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

014	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to advise Council that a new tenancy has been negotiated in respect of Council owned premises located at ground floor 46 William Street, Raymond Terrace.

The premises were most recently occupied as the electoral office for the recent Council elections and prior to that time was occupied by Solahart Newcastle with that formal tenancy expiring on 27 June 2012.

A new lease has been negotiated by Property Services for a three (3) year term commencing on 1 November 2012, with a further option term of three (3) years at a commencement rental of \$29,750 plus GST plus a proportion of recoverable

outgoings. This is an improved position over the previous rent achieved for the property of 4.79% and in addition the outgoings were not recoverable under the previous lease.

Periodically, Property Services engages an independent valuation firm to provide a synopsis of rent analysis in Raymond Terrace and this rent is in accordance with the ranges currently provided taking all factors into account.

FINANCIAL/RESOURCE IMPLICATIONS

The aim in leasing the Commercial Property portfolio is to create a secure lease for the longest available period to a viable tenant. The outcome is that Council is protected by a secure agreement with known returns over the term, ensuring ongoing occupation of the Premises and contributing to Council's non-rates income streams thereby reducing the call on rates income.

In having a valid and enforceable lease Council has the ability to recover costs which means that the property returns funds to Council as opposed to contributing as a liability for rates, maintenance, asset management and other factors.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	Nil	Replaces income in current budget.
Reserve Funds	No	Nil	
Section 94	No	Nil	
External Grants	No	Nil	
Other	No	Nil	

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the provisions of the Conveyancing Act, leases in excess of three years total duration, including the option period, are to be registered upon the title of the land to which they apply. Accordingly, if the lease is to be registered the common seal must be affixed upon signing under Clause 400, Local Government (general regulation) 2005.

The seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
With no formal lease in place a tenant could vacate at short notice resulting in a loss of income.	High	Formalise the lease document as recommended.	Yes
With no formal lease in place there can be conflict regarding what is considered the responsibilities of the landlord (Council) and what is considered the tenant responsibilities.	Medium	Formalise the lease document as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Commercial Property Manager;
- 2) Property Investment Coordinator;
- 3) Tew Property Consultants and Valuers.

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: PSC2009-02488

EMPLOYMENT OF APPRENTICES AND OR TRAINEES POLICY REVIEW

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Employment of Apprentices and or Trainees policy adopted by Council on 24 October 2000, Minute No. 561 noted as **(ATTACHMENT 1)**.

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

015	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to revoke the Employment of Apprentices and or Trainees policy previously adopted by Council on 24 October 2000, Minute No. 561. Council's approach to employee employment, training and development is now extensively detailed in its Community Strategic plan Workforce strategy.

The policy was developed at that time to establish guidelines for the employment of apprentices and trainees. There were a total of 13 apprentices and trainees in the organisation structure in 2000.

Over the past 12 years, Council has continued to create opportunities for the employment of apprentices, trainees and students as part of its workforce. The importance of this approach has recently been reinforced with strong community support for the creation of job opportunities for youth in our local government area.

Council currently employs a total of nine apprentices in various roles and locations across the organisation, including carpenters, electricians and plumbers in Building Trades; mechanics in Fleet Services; and gardeners in Operations. Three staff are undertaking new entrant traineeships in children's services and business administration roles and two students are employed within development engineering and planning. In all, there are a total of 14 apprentices, students and trainees currently employed.

Through its learning and development program, Council also provides opportunities for existing staff to undertake accredited vocational training. There are eight existing worker traineeships being undertaken within business administration, local government operational works, children's services and ranger services. In many cases existing worker trainees have extensive industry experience but lack a formal qualification. Council is also supporting 26 staff with education assistance to undertake a range of tertiary qualifications. These initiatives support the Council of Australian Government (COAG) established goals to:

Halve the proportion of Australians aged 20-64 without qualifications at Certificate III level and above between 2009 and 2020; and
Double the number of higher qualification completions (diploma and advanced diploma) between 2009 and 2020.

Councillors would also be aware that a four year Delivery program has been developed to specify what Council aims to deliver in its four year term. Annual workforce planning is conducted with each group and section to ensure that the workforce resources are in place and well managed to deliver the Delivery program as an important part of resourcing Council's commitment. This comprehensive analysis of workforce requirements takes into consideration major issues that face our organisation including current and future skill shortages, succession planning, retaining staff and attracting quality recruitment applicants.

A recently completed Talent Management strategy forms an important component of Council's community strategic plan and resourcing strategy.

The previous policy adopted by Council is outdated and no longer relevant.

FINANCIAL/RESOURCE IMPLICATIONS

There are various scenarios involved in the employment costs of apprentices, trainees and students. These include differences in the first year costs versus fourth year costs and differences in the payment of course fees depending upon the course undertaken.

The figures shown below represent costs for a first year apprentice carpenter, a first year business administration trainee and a first year engineering student. These costs are inclusive of oncosts.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$42,403	Wages for first year apprentice plus \$618 TAFE fees.
Existing budget	Yes	\$42,403	Wages for first year trainee plus \$478 TAFE fees.
Existing budget	Yes	\$57,678	Wages for first year engineering student plus \$11,941 university fees.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	\$4,000	Subsidy of \$1,500 upon commencement for apprentices and trainees with \$2,500 on completion. No subsidy is payable for student positions.

LEGAL, POLICY AND RISK IMPLICATIONS

The current policy adopted by Council at its meeting on 24 October 2000, Minute No. 561, resolved to maintain or increase apprenticeship numbers. There were 13 establishment positions of apprentices and trainees at that time.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that skill shortages in the trades area may result in Council's inability to resource its Delivery program into the future.	Low	Continue the employment of apprentices.	Yes
There is a risk that skill shortages in engineering and planning roles may result in Council's ability to resource its Delivery program into the future.	Low	Continue the employment of students.	Yes
There is a risk that skill levels of staff may	Low	Continue to support accredited vocational	Yes

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

become obsolete resulting in Council's ability to resource its Delivery program into the future.		training and education assistance to current and future staff.	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

While apprenticeship and traineeship positions are supported through commonwealth and State funding schemes, they still incur a cost to the organisation. Part of Council's corporate social responsibility includes the continued support of employing apprenticeships and trainees.

CONSULTATION

- 1) Executive Leadership Team;
- 2) Organisation Development Section;
- 3) Section Managers.

OPTIONS

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

ATTACHMENTS

- 1) Employment of Apprentices and or Trainees policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Adopted : 24/10/00
Minute No. 561
Amended: #

FILE NO: C1610-06

TITLE: EMPLOYMENT OF APPRENTICES/TRAINEES

BACKGROUND

At its meeting held on 15/2/99, Council resolved to maintain or increase apprenticeship numbers. The current establishment positions of apprentices/trainees stand at 13.

OBJECTIVE

The aim of this policy is to establish guidelines for the employment of apprentices, trainees and government funded traineeships.

PRINCIPLES

Council is committed to providing training to enhance skills levels and future employment prospects of apprentices and trainees, as a benefit to the community.

Apprenticeships and traineeships are jobs that combine work and structured training. Apprenticeships generally last four years and cover traditional trade areas. Traineeships are generally for a twelve month period and cover non-trade areas. Part-time traineeships are also available and can also be arranged for students who are still at school. Traineeships of between 6 – 7 years can also be structured for professional/specialist positions such as Environmental Health, Building, Town Planning and Civil Engineering.

POLICY STATEMENT

Prior to filling a vacancy, department managers are to assess the potential for filling the position with an apprentice or trainee (the employment form is to include this requirement).

Apprenticeships and traineeships are regarded as fixed-term positions. Apprentices and trainees will remain employed while they complete their qualifications providing that their progress at work and in their studies is satisfactory.

Apprentices and trainees who have completed their period of indenture or traineeship will not automatically be given a new position to match their new qualifications. Continuing employment is dependent on the availability of suitable vacant positions and appointing to those positions in accordance with the Local Government Act.

The Human Resource Unit is responsible to ensure that establishment numbers designated as apprentices or trainees are not converted into fully trained positions without reference to Council.

Funding of apprenticeship and trainee positions will be considered in the preparation and review of Council budget and the filling of such positions is dependent on adequate funding being available for the fixed term of the pending appointment.

RELATED POLICIES

Recruitment and Employment
Training and Development

REVIEW DATE

12 months from the date of adoption by Council.

RELEVANT LEGISLATIVE PROVISIONS

Local Government State Award
Industrial and Commercial Training Act

IMPLEMENTATION RESPONSIBILITY

Human Resource Manager

ITEM NO. 10

FILE NO: PSC2011-02657

SIX MONTHLY REPORT JULY-DECEMBER 2012 AGAINST OPERATIONAL PLAN 2012-2013

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Six Monthly Report July-December 2012 against Operational Plan 2012-2013.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Sally Dover Councillor John Nell
	That the recommendation be adopted, including the supplementary information.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

016	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to provide to Council and the community of Port Stephens a progress report on the implementation of the Operational Plan 2012-2013.

FINANCIAL/RESOURCE IMPLICATIONS

This statutory report was developed by Corporate Strategy & Planning with inputs from across Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	2,400	Estimate of staff time/cost and printing
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Under Section 404(5) of the Local Government Act 1993, the General Manager is required to report at least six-monthly on the progress of Operational Plans leading to the achievement of the Council's Delivery Program. Such a report is required to be adopted by Council within five weeks of the end of the six-monthly period.

This report provides the primary information that assesses the General Manager's performance required by the conditions of employment with Council.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Failure to report to Council is breach of legislation.	Low	Existing processes are to be maintained.	Yes
Inaccuracies in the report.	Low	Content is checked at Executive Team prior to public dissemination.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Six Monthly Report July-December 2012 provides progress against the Operational Plan 2012-2013 which was developed taking account of the pillars of sustainability. The Report details progress in areas of economic development, social planning and environmental programs conducted during the period under review.

CONSULTATION

The Six Monthly Report July-December 2012 was developed with inputs from across Council and provided to the Executive Team to ensure completeness and accuracy.

OPTIONS

- 1) Adopt the Six Monthly Report July-December 2012;
- 2) Amend the Six Monthly Report July-December 2012;
- 3) Reject the Six Monthly Report July-December 2012.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Six Monthly Report July-December 2012.

ITEM NO. 11

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 4 DECEMBER 2012

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the recommendations contained in the minutes of the Local Traffic Committee meeting held on 4th December 2012.

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Chris Doohan Councillor Steve Tucker</p>
	<p>That the recommendation be adopted subject to the following:</p> <ol style="list-style-type: none"> 1) A fifth point be added to Item 15_06/12 – "<i>5. That a viable alternative traffic calming device be installed instead of the speed cushions</i>" and that this point be referred to the Local Traffic Committee for consideration. 2) Item 34_12/12 – refer matter back to the Local Traffic Committee for further consideration. 3) Item 36_12/12 - refer matter back to the Local Traffic Committee for further consideration with respect to the removal of parking with no alternative parking.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

017	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to bring to Council’s attention traffic issues raised and detailed in the Traffic Committee minutes and to meet the legislative requirements for the installation of any regulatory traffic control devices associated with Traffic Committee recommendations. (Community Strategic Plan Section 5.4)

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$44 000 (\$25 000 grant from RMS and the balance from General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. The construction of capital works such as traffic control devices and intersection improvements resulting from the Committee’s recommendations are not included in this funding and are to be listed within Council’s “Forward Works Plan” for consideration in the annual budget process.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	11,469 of annual budget spent	Annual budget allocation unchanged since 2007/08
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

The Local Traffic Committee is not a Committee of Council; it is a technical advisory body authorised to recommend regulatory traffic controls to the responsible Road Authority. The Committee’s functions are prescribed by the Transport Administration Act with membership of the Traffic Committee extended to the following stakeholders.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Recommendations may not meet community expectations	Medium	Ensure proper consultation is carried out when required, prior to meetings	Yes
Recommendations may not meet required standards and guidelines	Medium	Traffic Engineer to ensure that all relevant standards and guidelines are applied	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

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

OPTIONS

- 1) Adopt all or part of the recommendations
- 2) Reject all or part of the recommendations
- 3) Council may choose to adopt a course of action other than recommended by the Traffic Committee for a particular item. In which case, Council must first notify the RMS and NSW Police representatives in writing. The RMS or Police may then lodge an appeal to the Regional Traffic Committee.

ATTACHMENTS

- 1) Local Traffic Committee minutes – 4/12/2012

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 4TH DECEMBER, 2012
AT 9:30AM**

Present:

Ms Michelle Mexon representing Craig Baumann MP, Cr Peter Kafer, Cr Geoff Dingle, Cr John Nell, Cr John Morello, Senior Constable Cain Emslie – NSW Police, Mr Nick Trajevski – Roads and Maritime Services, Mr Mark Newling – Port Stephens Coaches, Mr Joe Gleeson (Chairperson), Ms Lisa Lovegrove, Mr Graham Orr- Port Stephens Council, Mr David Gray, Mr Peter Bennett

Apologies:

Mr John Meldrum – Hunter Valley Buses,

A. ADOPTION OF MINUTES OF MEETING HELD 6TH NOVEMBER, 2012

B. BUSINESS ARISING FROM PREVIOUS MEETING

PORT STEPHENS LOCAL TRAFFIC COMMITTEE AGENDA

INDEX OF LISTED MATTERS
TUESDAY 4TH DECEMBER, 2012

- A. ADOPTION OF THE LOCAL TRAFFIC COMMITTEE MINUTES OF 6TH NOVEMBER, 2012
- B. BUSINESS ARISING FROM PREVIOUS MEETING
- 15_06/12 WALLAWA ROAD NELSON BAY – REQUEST FOR REMOVAL OF SPEED CUSHIONS
- C. LISTED MATTERS
- 33_12/12 FERODALE ROAD MEDOWIE - COMPLAINT REGARDING A BLIND SPOT AT THE ABUNDANCE ROAD INTERSECTION
- 34_12/12 JAMES PATERSON STREET ANNA BAY - REQUEST FOR PARKING RESTRICTIONS
- 35_12/12 WILLIAM STREET RAYMOND TERRACE - COMPLAINT REGARDING THE LACK OF ACCESSIBLE PARKING AT THE RAYMOND TERRACE COURT HOUSE
- 36_12/12 MITCHELL STREET SOLDIERS POINT – REQUEST FOR PARKING RESTRICTIONS
- D. INFORMAL MATTERS
- 508_12/12 NEWLINE ROAD EAGLETON - REQUEST FOR APPROVAL OF 2013 CYCLE RACING EVENTS
- E. GENERAL BUSINESS
- 619_12/12 ROADS PORT STEPHENS - SCHEDULE OF MEETING DATES FOR PORT STEPHENS LOCAL TRAFFIC COMMITTEE FOR 2013
- 620_12/12 GLENELG STREET RAYMOND TERRACE – HEAVY VEHICLES PARKING OVERNIGHT
- 621_12/12 ADELAIDE STREET RAYMOND TERRACE – PEDESTRIAN CROSSING SAFETY CONCERNS

B. Business arising from previous meeting

Item: 15_06/12

WALLAWA ROAD NELSON BAY – REQUEST FOR REMOVAL OF SPEED CUSHIONS

Requested by: Cr Nell
File: PSC2005-4020/086
Background:

The ordinary Council meeting held on 27th November 2012 passed the following resolution: "That Council refer the following recommendation to the Local Traffic Committee for consideration:

1. Make Wallawa Road a one-way street with traffic moving only in an easterly direction from Spinnaker Way to Galoola Drive
2. Line-mark Wallawa Road to provide car parking on the northern side of the street and a shared cycleway/footpath on the southern side of the street.
3. Place a 3 Tonne load limit on Wallawa Road.
4. Remove existing speed cushions."

This matter was raised at short notice at the December Local Traffic Committee meeting where Wallawa Road residents and East Ward Councillors attended to contribute to the discussion.

Discussion:

Cr Nell made the following points:

- The recommendations are in response to concerns of residents who are fed-up with the situation in Wallawa Road. He said that the road is too narrow for the volume of traffic using it.
- There is an informal arrangement whereby residents park their vehicles partly on the footpath which forces pedestrians onto the road. Pedestrians need to be better catered for to allow people to walk in safety and that one-way traffic and cars parked on the road will go a long way to achieving this.

Wallawa Road residents made the following points:

- The road is not capable of handling the current traffic flows. Had Spinnaker Way not been connected, Wallawa Road would be able to cope with current traffic. The development of the Vantage Estate will increase traffic volumes with potentially 600 more homes to be constructed.
- This proposal is a compromise that addresses traffic and pedestrian issues. The parking is currently illegal and needs to be addressed and the traffic issues resolved.
- One-way traffic will halve the volume and moving parked cars off the footpath onto the road will assist in slowing traffic speed.
- Other residents in the area may not support one-way traffic but any inconvenience will be minor.

Cr Dingle made the following points:

- The current situation is the result of poor planning in terms of inadequate road width and poor pedestrian connectivity which is not unique to Wallawa Road.
- His concern is that while this proposal addresses the traffic volume and pedestrian safety issues, the speed problem will be made much worse. A wider travel lane with no traffic conflict will increase speeds.
- There are 100's of other streets in the LGA with similar width and speed issues and that there are many underlying issues that need to be considered.

Mark Newling of Port Stephens Coaches made the following points:

- Port Stephens Coaches is contracted by Transport for NSW to provide community access to Port Stephens residents and visitors. They currently provide public bus services in Wallawa Road as well as school bus services.
- Public transport provides access that meets the requirements of the Disability Discrimination Act which cannot be enhanced by reducing services.
- To his knowledge there have been no major traffic incidents in Wallawa Road. Making Wallawa Road into a one-way street will effectively remove bus services from a much wider area than just Wallawa Road.
- Consultants from Transport for NSW have investigated all possible alternatives and concluded that there is no viable alternative route that will service the same area.
- One way bus services do not work as bus patrons need to be able to have a return journey. Removal of buses from Wallawa Road will cause more children to have to walk on the road and will decrease safety.
- Taree Street is not considered suitable for bus use due to the very steep road and intersection. Full community consultation is required before any action is taken to remove bus services.

Council's Traffic Engineer made the following points:

- Council must consult with Transport for NSW prior to making any decision that may impact on public transport services.
- One-way traffic over the full length of Wallawa Road between Spinnaker Way and Galoola Drive would have serious implications for residents in Wollomi Avenue where traffic would be diverted.
- A 3 tonne load limit is not appropriate but that a truck prohibition sign (R6-10-2) would allow trucks servicing properties to enter, as well as buses, but excludes all other heavy vehicles.

Committee's recommendation:

1. That Council seek an official report from Transport for NSW with regard to bus services in the Wallawa Road area.
2. That Council conduct a review of parking in Wallawa Road and provide a report with recommendations to the Local Traffic Committee
3. That Council provide the Local Traffic Committee with a review of previous community consultations carried out with regard to Wallawa Road
4. Removal of the speed cushions from Wallawa Road

C. Listed Matters

Item: 33_12/12

FERODALE ROAD MEDOWIE - COMPLAINT REGARDING A BLIND SPOT AT THE ABUNDANCE ROAD INTERSECTION

Requested by: A resident

File:

Background:

Drivers have complained about difficulties in seeing oncoming traffic when turning from Abundance Road into Ferodale Road at Medowie. There is now a medical practice at the property on the corner and this has increased activity in the area with vehicles now parking regularly along Ferodale Road.

Comment:

The intersection is 'Stop' controlled and drivers can edge forward safely if vision is restricted by parked cars. The suggestion from Traffic Inspection Committee is to install 'No Stopping' around the corner to cover the pedestrian ramp and to improve sight distance.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule167 – No stopping signs

RTA signs database – R5-400

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

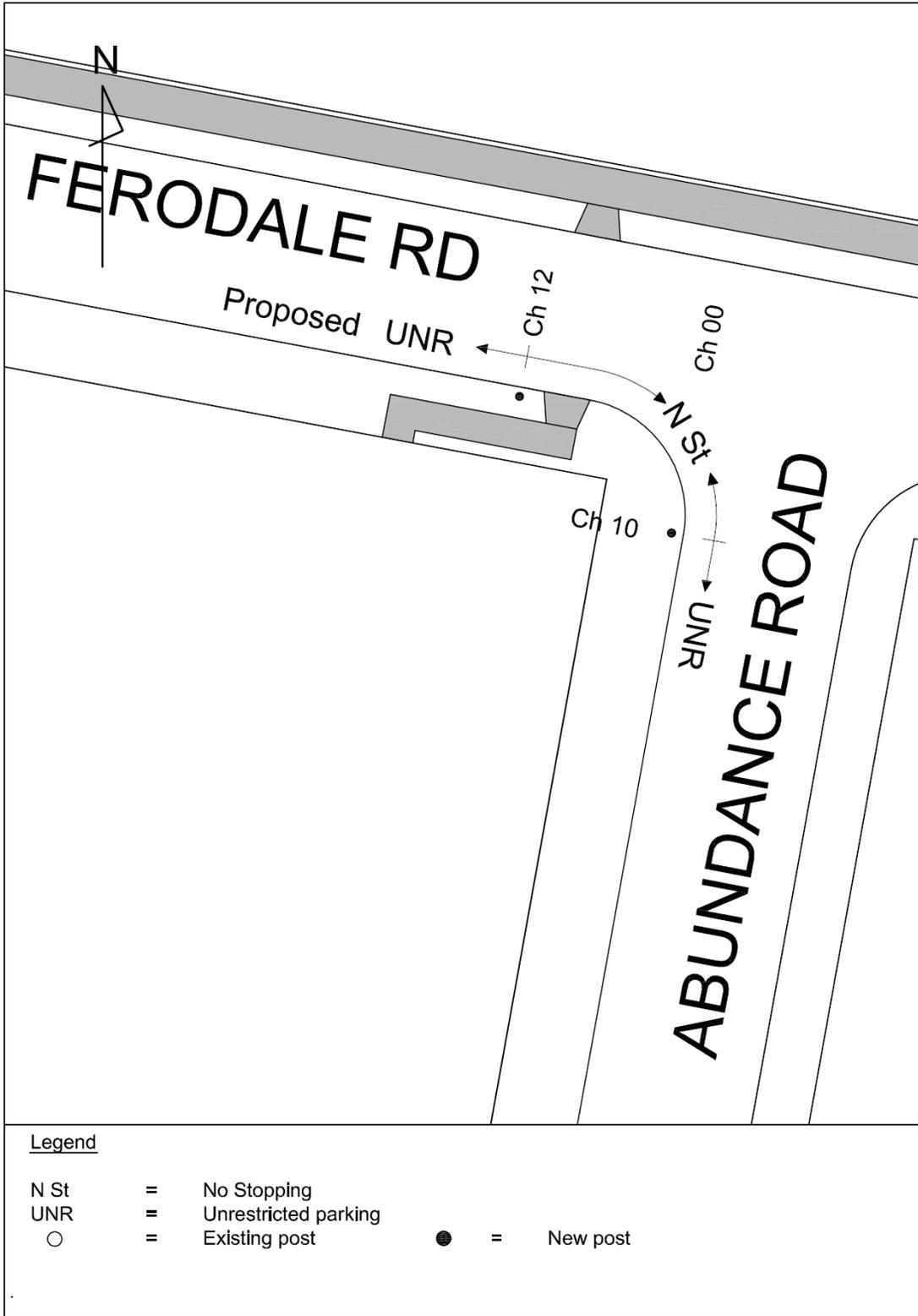
Committee's Recommendation:

Install 'No Stopping' at the intersection of Ferodale Road and Abundance Road Medowie as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

1	Unanimous	
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	



Item: 34_12/12

JAMES PATERSON STREET ANNA BAY - REQUEST FOR PARKING RESTRICTIONS

Requested by: A resident
File: PSC2005-4189/145
Background:

Since James Paterson Street was kerbed and guttered there have been some complaints received by Council. The complaints are generally over the peak holiday period relating to congestion caused by vehicles parking on the bend near the caravan park. A lot of tourist coaches access the headland and have great difficulty when cars are parked on both sides of the road. This has led to vehicles from one direction having to reverse to allow traffic from the other direction through.

Comment:

Traffic Inspection Committee members noted that any overflow parking is likely to come from the caravan park. It was agreed that installation of parking restrictions around the bend opposite the caravan park would improve traffic flow. The resident who has requested the parking restrictions lives opposite and is in full support of the proposal.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule167 – No stopping signs, Rule 168 – No parking signs
RTA signs database – R5-400, R5-41
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Discussion:

Traffic Committee members noted that installation of a 'No Stopping' line would improve visibility of the restrictions and would assist if signs are removed. Cr Kafer requested that this be monitored over the summer season and He asked that Traffic Committee be provided with feedback on this matter.

Committee's Recommendation:

Install 'No Stopping' signs and lines and 'No Parking' in James Paterson Street Anna Bay as shown on the attached sketch, Annexure A.

Support for the recommendation:

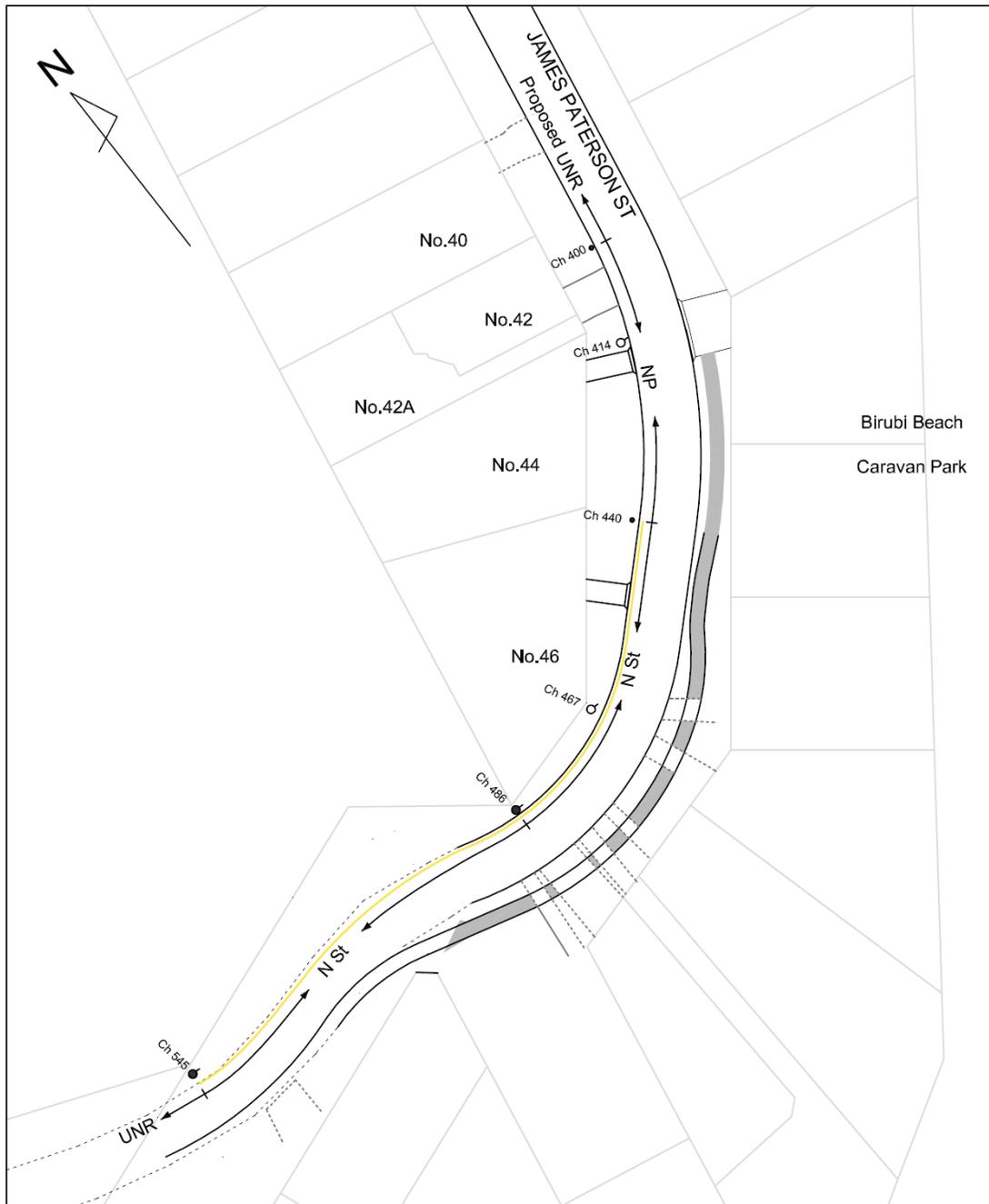
1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

PORT STEPHENS TRAFFIC COMMITTEE
 Tuesday 4 December 2012

ITEM NO. 34_12/12
 Street: James Paterson Street

ANNEXURE A
 Page 1 of 1



LEGEND

- | | | | | |
|------|---|----------------------|---|--------------|
| N St | = | No Stopping | | |
| NP | = | No Parking | | |
| UNR | = | Unrestricted parking | | |
| ● | = | New Post | ● | = Power Pole |

Item: 35_12/12

WILLIAM STREET RAYMOND TERRACE - COMPLAINT REGARDING THE LACK OF ACCESSIBLE PARKING AT THE RAYMOND TERRACE COURT HOUSE

Requested by: A resident
File: PSC2006-0615/083
Background:

A Port Stephens resident has complained to Council about the lack of accessible parking at the Raymond Terrace Court House. The resident is an amputee who had to attend the court house. He had great difficulty finding any suitable parking within a reasonable distance of the Court House.

Comment:

Traffic Inspection Committee members noted the difficulties in providing accessible parking to meet the required standard in proximity to the Court house. The gradient of the roads and the road widths make it difficult to find a suitable location. It was suggested by the Traffic Inspection Committee that Council investigate providing 2 accessible parking spaces on the eastern side of the Adelaide Street intersection adjacent to St Brigids school. This area is relatively level with a road crossing controlled by traffic signals and existing footpaths to the Court House.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule 203 - Stopping in a parking area for people with disabilities
AS2890.5 – Parking Facilities – On-street parking
RTA signs database – R5-1-3
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Discussion:

Cr Kafer raised his concerns with regard to the scarcity of accessible parking spaces in Raymond Terrace. He said that he regularly drives a small bus that transports disabled people and always experiences great difficulty finding suitable parking in Raymond Terrace town centre. He wants to see this matter further investigated and suggested that Council owned land on the corner of William Street and Adelaide Street could be made into a parking area that could assist in meeting the needs for accessible parking in this vicinity.

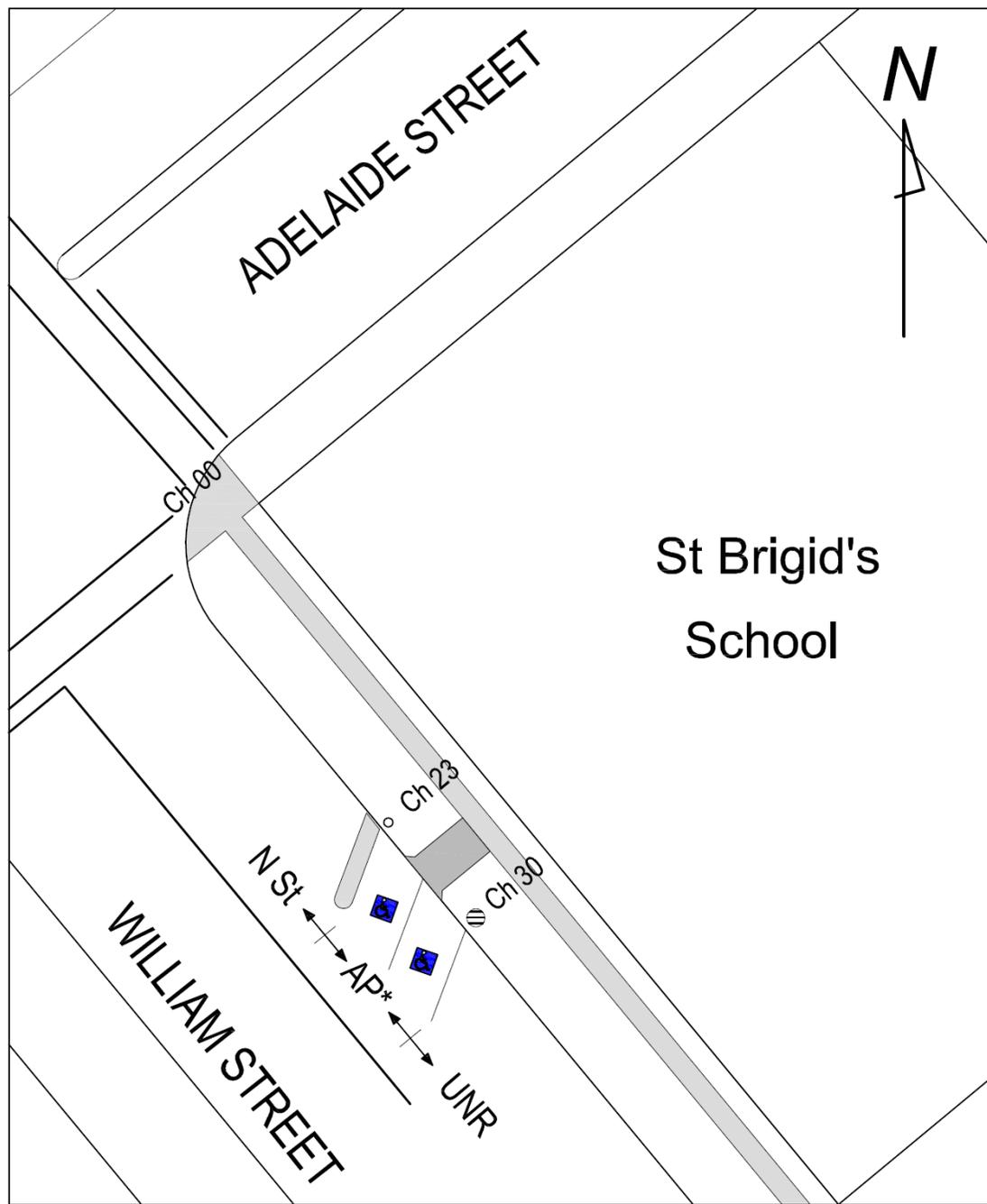
Committee members also discussed the problems arising from abuse of mobility parking permits and it was noted that a review of the Mobility Parking Scheme (MPS) is currently being undertaken by Transport for NSW with a report expected late this year.

Committee's Recommendation:

Approve installation of 2 accessible parking spaces in William Street Raymond Terrace including ramps and associated path connections, as shown on the attached sketch, Annexure A. This work is to be placed on the Council's Forward Works Plan to await allocation of funding.

Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	



Legend

- N St = No Stopping
- AP* = Accessible Parking
- UNR = Unrestricted Parking
- = Existing post
- ⊕ = Power pole

Item: 36_12/12

MITCHELL STREET SOLDIERS POINT – REQUEST FOR PARKING RESTRICTIONS

Requested by: A resident
File: PSC2005-4019/406
Background:

Port Stephens Council has received numerous complaints with regard to a traffic obstruction caused by the parking of a large caravan on Mitchell Street Soldiers Point. The area of concern is on the way to the Soldiers Point boat ramp and carries a lot of vehicles towing boats, especially in the peak summer period.

Comment:

This issue has been inspected on a number of occasions by the Traffic Inspection Committee who have noted that the van is entitled to legally park where it is. Complaints to Council have increased recently with increasing use of the boat ramp and with increased parking demand along Mitchell Street there have been vehicles parked along both sides of the road. Mitchell Street is approximately 8m wide which is only wide enough to allow parking along one side of the road as well as 2-way traffic. When vehicles are parked on both sides, the road is reduced to a single lane and with restricted sight distance due to the bend in the road this has led to safety concerns.«Result»

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule167 – No stopping signs
RTA signs database – R5-400
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

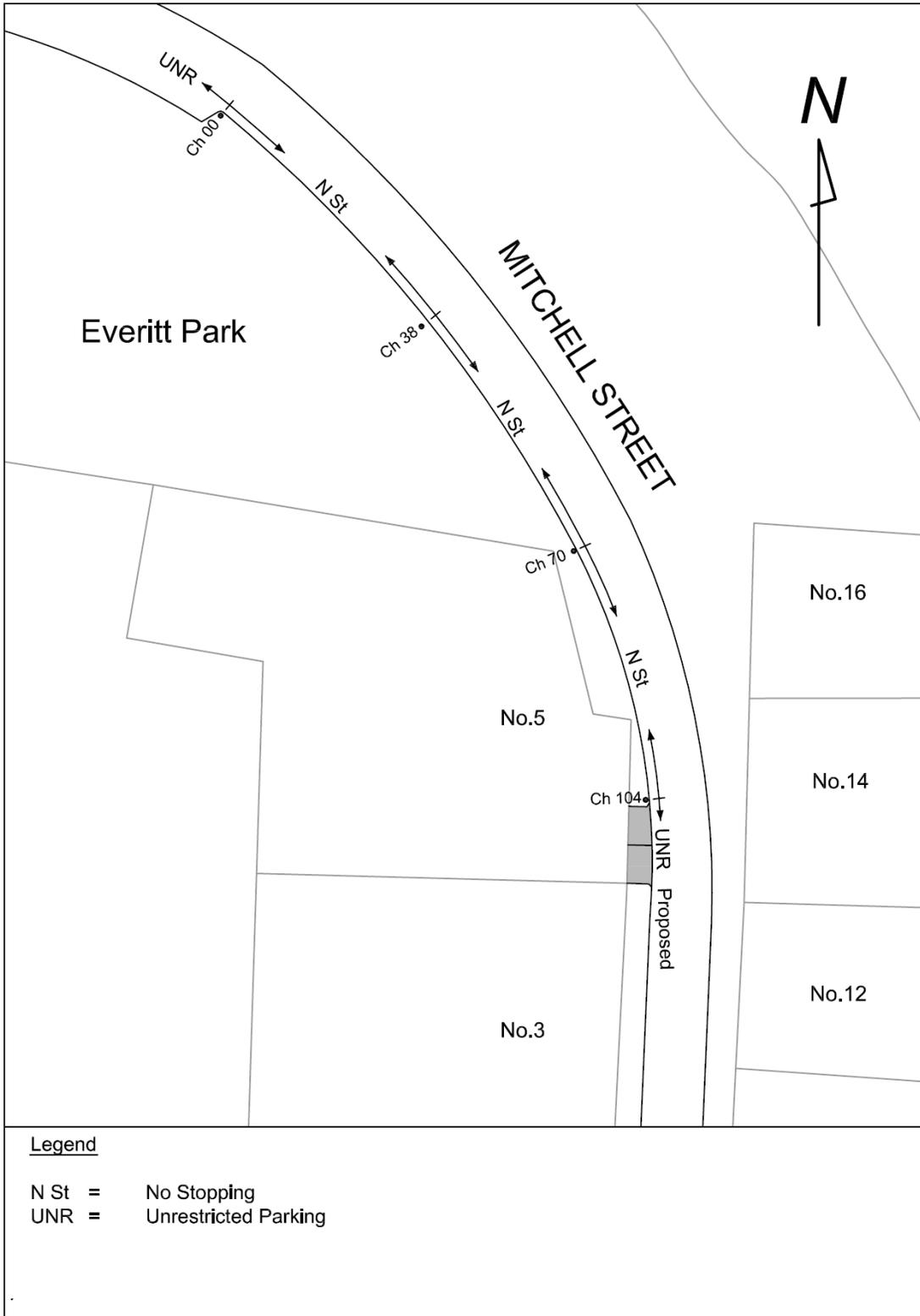
Recommendation to the Committee:

Install approximately 100m of 'No Stopping' parking restrictions along the western side of Mitchell Street Soldiers Point, as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	



D. Informal Items

Item: 508_12/12

NEWLINE ROAD EAGLETON - REQUEST FOR APPROVAL OF 2013 CYCLE RACING EVENTS

Requested by: Hunter District Cycling Club

File: PSC2005-4023/415

Background:

Hunter District Cycling Club are requesting Council approval for the club's cycling events on Council roads for the 2013 season.

During 2012 the Hunter District Cycling Club (HDCC) held a total of 12 events on the course and had no adverse comments from vehicular traffic or residents. Only one incident was reported during this time (a driver speeding along New Line Road). It is anticipated that HDCC will hold racing approximately twice a month with no more than 16 events in total from April to October.

Comment:

No complaints were received by Council or by Police during the last season of racing.

Committee's Recommendation:

That the Port Stephens Local Traffic Committee supports the proposed cycling events for the 2013 season on Newline Road.

Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 4 December 2012

ITEM NO.508_12/12
Street: Newline Road

ANNEXURE A
Page 1 of 1

Appendix 1

Ian Lovell
Secretary Hunter District Cycling Club
PO Box 211 CARDIFF 2285
Telephone: (02) 4927 7234

Dear Resident

Hunter District CC – Road Race Season

Please be advised that HDCC will be conducting cycle events along Newline Rd each Saturday from April to October. Each event commences 2.00pm and concludes approx 4.30pm. On some occasions we will include a loop consisting of Six Mile and Winston Roads. An official Vehicle fitted with flashing lights will patrol the race circuit and monitor the event each Saturday racing is held.

The road will not be closed during each event however we do ask that you use caution when approaching any group of cyclists along the course. East Seaham residents would be well advised to use Seaham Rd as an alternative route into Raymond Terrace. Warning signs will be erected and traffic cones installed at each turning point on the course. These points will be staffed by Accredited Traffic Controllers who will stop traffic whilst cyclists are turning. We ask that you be patient at these turns, at most your journey will be held up for around 30 secs, but very rarely for more than a minute. Where you find it necessary to pass a group of riders please toot your horn rapidly for two or three times to warn the cyclists that you are about to pass. By doing this the riders will move as far left as possible allowing you to pass. There may be potholes and other obstacles in the road so please always use extreme caution passing a group of cyclists. These measures are taken to ensure the safety of the riders.

Over the years our club has produced a number of State and National representatives who have excelled at Olympic and World level, without your continued support, patience and assistance we would no longer be able to compete and produce champions of the future.



2.00pm – 4.30pm
April to the first Saturday in October

Turn Around Points with Traffic Control on Newline Rd at the Memorial at East Seaham and 1600m North of Beaton Ave

A few events will utilise the loop around Six Mile Rd and Winston Rd as well as Newline Rd, and have a turn point approx. 2.6 km south of Six Mile Rd

Regards
Ian Lovell
Secretary Hunter District Cycling Club
Email: ilovell@ozemail.com.au

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

E: GENERAL BUSINESS

Item: 619_12/12

ROADS PORT STEPHENS - SCHEDULE OF MEETING DATES FOR PORT STEPHENS LOCAL TRAFFIC COMMITTEE FOR 2013

File:

Background:

Below is a draft schedule of meeting dates for Traffic Inspection Committee and for Port Stephens Local Traffic Committee for 2013.

Comment:

Port Stephens Local Traffic Committee schedule for 2013:

	Port Stephens Local Traffic Committee	Traffic Inspection Committee
January	No Meeting	Wednesday 16 th
February	Tuesday 5 th	Wednesday 20 th
March	Tuesday 5 th	Wednesday 20 th
April	Tuesday 2 nd	Wednesday 17 th
May	Tuesday 7 th	Wednesday 15 th
June	Tuesday 4 th	Wednesday 19 th
July	Tuesday 2 nd	Wednesday 17 th
August	Tuesday 6 th	Wednesday 21 st
September	Tuesday 3 rd	Wednesday 18 th
October	Tuesday 1 st	Wednesday 16 th
November	Tuesday 5 th	Wednesday 20 th
December	Tuesday 3 rd	No Meeting

Item: 620_12/12

GLENELG STREET RAYMOND TERRACE – HEAVY VEHICLES PARKING OVERNIGHT

Background:

Cr Kafer has noted the common practice of heavy vehicles parking overnight in Glenelg Street Raymond Terrace, between Adelaide and Sturgeon Streets. The main issue of concern is that when more than 1 truck parks they block the driveway access to No.15 Glenelg Street as well as to the Centrelink property on the corner.

Comment:

NSW Police advise that although it is illegal for heavy vehicles to park for more than 1 hour in a built-up area this does not apply if the driver is required to take a rest break under heavy vehicle operator legislation.

Traffic Committee members noted the difficulties experienced by heavy vehicle drivers in finding suitable locations for parking where they can access toilet facilities and purchase food.

Committee's Recommendation:

It was recommended that Council officers investigate installation of parking restrictions across the driveways in Glenelg Street and that suitable locations be identified that can be set aside for heavy vehicle drivers.

Item: 621_12/12

ADELAIDE STREET RAYMOND TERRACE – PEDESTRIAN CROSSING SAFETY CONCERNS

Background:

Cr Kafer raised concerns regarding the safety of pedestrians crossing the road at the corner of Adelaide Street and William Bailey Street Raymond Terrace. The splayed corner for the left turn into William Bailey Street has a pedestrian crossing prior to the signals and drivers tend to be concentrating on vehicle movements rather than on pedestrians.

Comment:

Traffic Committee members noted that this is not unique to this intersection and that this arrangement is a common practice at traffic signals.

Committee's Recommendation:

RMS to review and provide feedback to the Traffic Committee.

ITEM NO. 12

FILE NO: PSC2005-2656

ACQUISITION OF EASEMENT TO DRAIN WATER AT 2E ROSEBANK DRIVE, WALLALONG

REPORT OF: JOHN MARETICH – CIVIL ASSETS MANAGER
 GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to the creation of an easement to drain water 3 meters wide over Lot 14 Section 6 DP 976226 at 2E Rosebank Drive Wallalong.
- 2) Finalises and registers the Transfer Granting Easement over the property in item 1 above.
- 3) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the relevant documents.

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Steve Tucker Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

018	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to recommend Council consents to the creation of a 3 metre wide easement to drain water over the subject property and registers the Transfer Granting Easement in favour of Council. The registration of the easement at Land and Property information NSW shows Council's legal interest in the land on the Title of the land for future property owners.

The subject properties location has access off Rosebank Drive, Wallalong (see **(ATTACHMENT 1)**). The existing open drain runs along the northern boundary

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

(ATTACHMENT 2) through the subject property and receives water from High Street. The drain is not located within a Council easement.

The property owner requested that the open drain be piped and would supply the pipes for Council to construct the piped stormwater drainage system through the property. The works have been completed.

Benefits for Council in the construction of the new piped stormwater drainage system are that the property owner has paid for the pipes and consented to the creation of an easement in favour of Council without monetary compensation which will allow water for High Street to be lawfully drained through the property.

FINANCIAL/RESOURCE IMPLICATIONS

Compensation in the form of works by Council in the installation of the pipes has been accepted by the property owner.

The cost of the creation of the easement will be funded from the Facilities and Services West Maintenance Program in 2012-2013 and is approximately \$5,000.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	5,000	
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

The acquisition of the easement will provide a benefit to the subject property to have the stormwater from High Street piped through the property and for Council by the owner contribution to the construction works and location the piped stormwater drainage system within a Council easement.

Action necessary for this matter fall under the Local Government Act 1993, Roads Act 1993, Land Acquisition (Just Terms Compensation) Act 1991, Conveyancing Act 1919 and the Real Property Act 1900. There are no Council Policies Involved. There are no risk implications as the owner has agreed to the acquisition.

It is necessary to have a resolution of the Council for this acquisition because under the Local Government Act 1993 Section 377 a Council cannot delegate to the general manger or others the function of acquisition of any land (or dealing with land).

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that properties would be affected by inundation should the works not proceed	Medium	Construct stormwater drainage	Yes
There is a risk that future owners may not become aware of the piped drainage through the property unless the easement is shown on the title	Medium	Create Easement	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social, economic and environmental implications.

CONSULTATION

Consultation has involved the subject property owner, adjoining property owners, consultants and Councils Staff.

OPTIONS

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

ATTACHMENTS

- 1) Locality Sketch;
- 2) Plan of Proposed Easement.

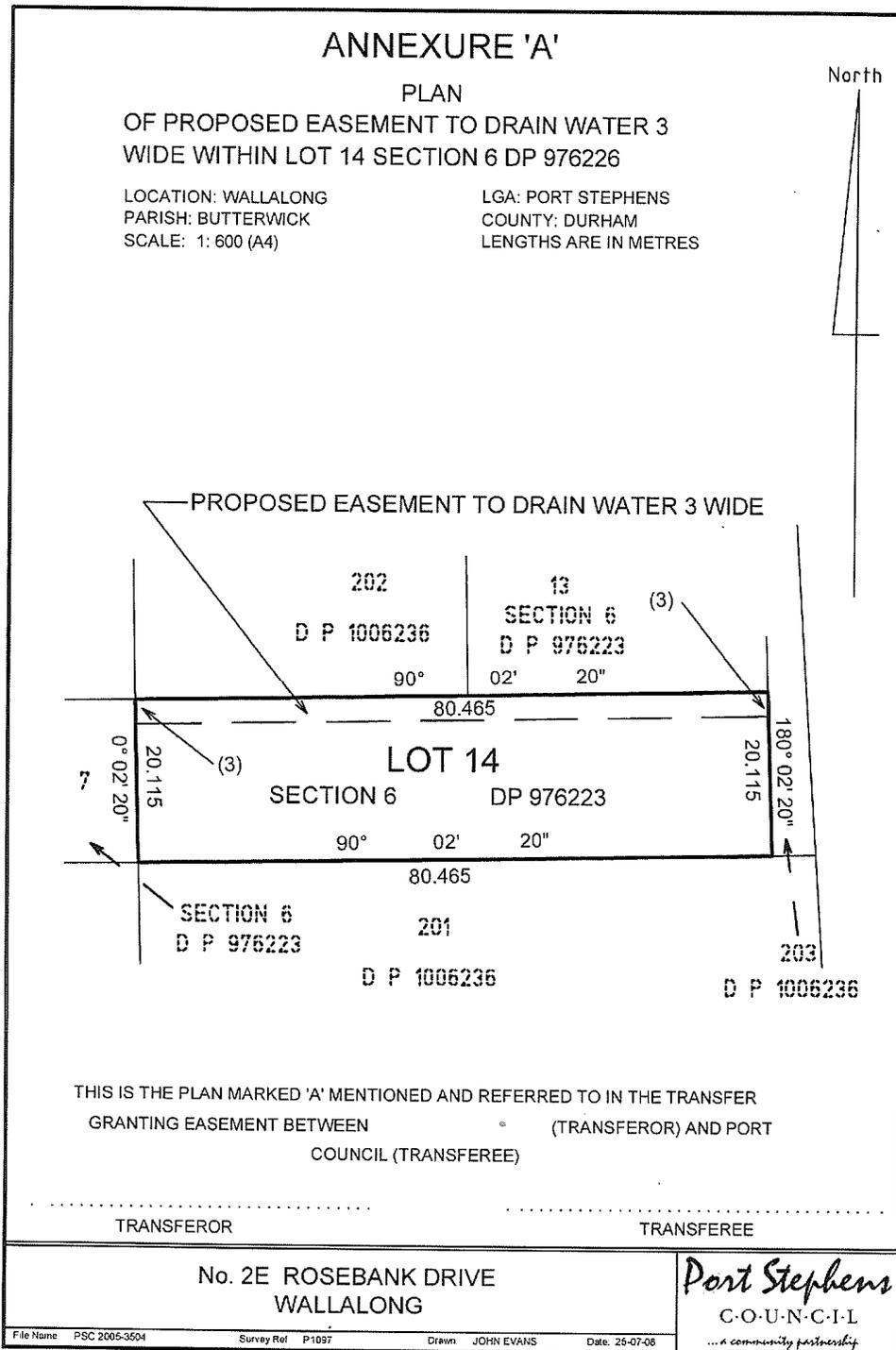
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 2



ITEM NO. 13

FILE NO: PSC2005-2681

REVIEW OF THE FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Publically Exhibit the draft Financial Assistance for the Disposal of Waste in Port Stephens Policy as shown in **(ATTACHMENT 1)** for 28 days.
 - 2) Consider a further report subsequent to the exhibition period.
-

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

019	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to review the Financial Assistance for the Disposal of Waste in Port Stephens Policy, which was adopted by Council on the 24th of April 2007 (Min: 106). The policy is due for review and currently allows charitable, not for profit and benevolent organisations to dispose of waste at the Salamander Bay Waste Transfer Station or the Newline Road facility at no cost to the organisation.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

Table 1. The spend of the financial assistance program over the past 4 financial years

Financial Year	2008/09	2009/10	2010/11	2011/12
Budget for Program	\$50,000	\$50,000	\$50,000	\$50,000
Program Spend	\$49,626	\$65,733	\$94,598	\$71,809

As can be seen from Table 1 the budget for this financial assistance program has historically been \$50,000 per annum and is funded by the revenue from the Salamander Bay Waste Transfer Station. Over each of the past three financial years the program has exceeded the budget by a total amount of \$82,000 with the worst year being 2010/11 where it exceeded it by \$44,000. As a result of this the budget for the program was increased to \$70,000 for the 2012/13 financial year. Based on the current usage rate this programs budget will again be exceeded this year by approximately \$10,000 – \$15,000.

Currently there are twenty two registered (22) users of the program and a full 4 year usage history is shown in **(ATTACHMENT 2)**, however, approximately 95% of the material is disposed of by just nine (9) of these users and this is shown below in Table 2.

Table 2. Tonnage data for the 9 largest users of the financial assistance program

Organisation	2008/09 Tonnes	2009/10 Tonnes	2010/11 Tonnes	2011/12 Tonnes	Average Tonnes p/a
Salamander Bay Recycling	125.76	118.93	153.76	120.65	129.77
The Salvation Army – Raymond Terrace	27.38	31.80	101.47	77.13	89.3*
The Salvation Army – Port Stephens	40.38	68.10	98.38	60.58	66.86
St. Vincent De Paul – Nelson Bay	47.28	60.01	80.44	40.03	56.94
St. Vincent De Paul – Anna Bay	8.12	54.95	56.87	28.30	37.06
St. Vincent De Paul – Raymond Terrace	34.68	32.08	38.57	46.16	37.87
St. Vincent De Paul – Tanilba Bay	25.10	33.85	37.47	18.21	28.66
Medowie Assembly of God (Opportunity Knocks)	7.33	17.13	25.91	26.26	19.15
Port Stephens Home Modification Service	13.48	19.11	12.67	19.89	16.29
Other 14 Groups Combined	88.97	13.70	25.03	24.53	38.06

* Average is for the past 2 years as a major operational change occurred for this organisation which results in previous data not being representative.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

During the 2011/12 financial year discussions with the EPA and Sita allowed Council to gain exemption from the NSW State Government Waste Levy for the waste delivered direct to the Sita facility, this saved approximately \$10,000 in 2011/12.

Then in July 2012 Council was granted an exemption from the NSW State Government Waste Levy for the waste delivered by the Tomaree based charities to the Salamander Bay Waste Transfer Station. Prior to this Council has payed the waste levy on this waste and gaining the exemption will save Council a further \$10,000 pa on the disposal of this waste.

Despite the savings gained by the exemptions from the waste levy the program continues to go over budget so to maintain the program within budget it is proposed that a change is made to the Financial Assistance for Waste Disposal in Port Stephens Policy (**ATTACHMENT 1**).

The proposed change involves the introduction of a partial payment in 2013/14 for the disposal once the organisations have disposed of over 20 tonnes of waste as shown in Table 3. It is also proposed the fee will be added to the Fees and Charges for the Salamander Bay Waste Transfer Station for following financial years and increased by CPI only until the next review of this policy.

Table 3. Proposed changes to policy for payment by member organisations

Tonnes Delivered	Partial Payment Per Tonne 2013/14	Proposed 2013/14 Fee per Tonne at Waste Transfer Station
0 - 20	Free	\$229
20 – 60	\$32.50	
60 and over	\$65.00	

FINANCIAL/RESOURCE IMPLICATIONS

Based on historical data for the program adopting the recommendation will have financial implications for eight (8) of the current users. The level of financial implications for these 8 organisations is summarised in Table 4.

Table 4. Summary of financial implication for organisations

Financial Implication	Nº of Organisations
\$1- \$1,250	5
\$1,250 - \$2,500	1
\$2,500 - \$5,000	1
\$5,000 - \$7,500	1

Rejecting the recommendation will have financial implications for Council and the rate payers as the subsidy will need to be continually increased for this program as even with a \$20,000 increase in the budget for 2012/13 current data again shows that we will exceed this figure and so will again need to be increased by another \$15,000 for 2013/14.

Adopting the recommendation will add a minor amount of administration work for the Waste Team as approximately 20-30 invoices will need to be sent out each year once the larger users cross the 20 tonne threshold. This minor addition in administration duties can be covered within existing resources.

Rejecting the recommendation has no foreseeable additional resource implications.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal impediments with either adopting or rejecting the recommendation.

Adopting the recommendation will involve changes to the Financial Assistance for Waste Disposal in Port Stephens Policy as outlined in **(ATTACHMENT 1)**.

Rejecting the recommendation will have no policy implications as it will mean business as usual.

Risks associated with either adopting or rejecting the recommendation are outlined in the risk table below.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendation will affect ability of the Salamander Bay Waste Transfer Station to become financially sustainable as the funding for the program comes from the facilities revenue.	Medium	Adopt the recommendation	Yes
There is a risk that not adopting the	Low	Adopt the recommendation	Yes

<p>recommendation will result in an increase in the rate payer's subsidy for this program, which may have an associated risk around public perception within some parts of the community as they may not want to be paying for the increased costs of these charities waste disposal.</p>			
<p>There is a risk that adopting the recommendation may have an associated risk around public perception within some portions of the community that believe Council is being miserly by not supporting these charities in full.</p>	<p>Low</p>	<p>Communicate to these members of the public the reason for the decision and the actual financial benefit gained by the organisations supported by this policy.</p>	<p>Yes</p>
<p>There is a risk that adopting the policy may have an affect on the finances of some of these organisations as they will be required to pay for a small portion of their waste disposal costs once they pass 20 tonnes for the financial year, which could affect their ability to perform their work in the community.</p>	<p>Low</p>	<p>Waste Staff will also work with these organisations to help them reduce the volume of waste they have to dispose of.</p> <p>Also</p> <p>The sizes of the payments that will be required to be made by the larger users are deemed to be at an acceptable level, which will allow them to continue their work in the community.</p>	<p>Yes</p>

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation will allow the program to run on budget as the larger users of the programs will have to pay for a small portion of their waste disposal costs. This however, may present some minor social and economical implications for the larger users of the program as they will now have less money to perform their work within the community. However, the size of the payments that will be required to be made by the larger users are deemed to be at an acceptable level as a majority of

their waste disposal fees will still be covered by the program meaning that they will still be able to focus their activities and funds on other community programs.

Not adopting the recommendation will have both social and economical implications as the increase in budget for the program will need to be funded from increased fees and charges at the Salamander Bay Waste Transfer Station as the financial assistance program is funded from its revenue. This will result in the resident's and businesses that use the facility having less free money to spend.

There are no foreseeable environmental implications associated with either adopting or rejecting the recommendation.

CONSULTATION

Consultation has been ongoing for the past 18 months between the organisations that have been identified as the large users of the financial assistance program and the Waste Management Coordinator.

As part of the consultation, major users were asked for feedback on why they have seen such a rapid growth in the amount of waste they have to dispose of over the past couple of years and the main points from these discussion are;

- i. All put forward that they are having material such as furniture and whitegoods dumped on their doorstep over night and on weekends.
- ii. Also they are receiving donations that are not able to be sold.
- iii. One group said that they feel the "A to Z" of Waste brochure that council has published is to blame for some of the unfit clothing donations they receive as it tells the public to donate clothes rather than put them in the bin.

Within the consultation period these major users were told that we will be reviewing the program over the next few months and that a council officer will meet with them again before any new system that result from the review is adopted.

Also as part of this consultation suggestions made to the major users that may reduce the amount of waste that they need to dispose of were;

- i. To segregate the metal items and take them to the transfer station as a separate load as it is a free disposal as we recycle these wastes.
- ii. To be selective of material they take in as donations.

To be able to compare our level of support offered of this type of organisations to that of our surrounding Council areas a benchmarking exercise was undertaken and the data is shown in Table 5 below.

Table 5. Level of support offered by other Council's to

Council	Support
Newcastle	Free Waste Disposal
Great Lakes	Free Waste Disposal
Lake Macquarie	\$33 per tonne Charge
Maitland	No Financial Assistance
Cessnock	No Financial Assistance

OPTIONS

- 1) Adopt the recommendation
- 2) Amend the recommendation, by making changes to either
 - b. The tonnage thresholds, or
 - c. The amount payable per tonne within the proposed thresholds.
- 3) Reject recommendation

ATTACHMENTS

- 1) Existing Financial Assistance for Waste Disposal in Port Stephens Policy with suggested changes.
- 2) Data for last 5 years spend by groups using the financial assistance program.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Adopted: 24/4/2007
 Minute No: 106
 Amended:
 Minute No:

FILE NO: PSC2005-2681

TITLE: **FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS**

BACKGROUND

The financial assistance program allows charitable, not for profit and benevolent organisations to dispose of waste as Salamander Bay and Lemon Tree Passage Waste Transfer Stations and the Bedminster Waste Processing Plant at no cost to the organisation.

The program was developed and adopted in 2000 under the Donations Policy and Section 356 of the Local Government Act.

The intent of this policy is to formalise the program.

OBJECTIVE

To lessen the financial burden of waste disposal for charitable organisations that provide bona fide community services.

PRINCIPLES

- The Council is a publicly accountable statutory authority. While its funds are finite, the demands on it are unlimited.
- In all areas of expenditure, the Council needs to achieve the best value and return to all residents and ratepayers.

Changes

Change Title to – **FINANCIAL ASSISTANCE FOR THE DISPOSAL OF WASTE IN PORT STEPHENS POLICY 2012**

Change word – as to **at**

Remove words - and Lemon Tree Passage

Change word – Stations to **Station**

Change words - Bedminster Waste Processing Plant to - **SITA Newline Road waste facility at Raymond Terrace**

After the words - at no cost to the organisation add the words - **up until 20 tonnes of waste after which a cost per tonne will be payable as shown in the below table for 2013/14.**

Tonnage	Cost per Tonne
20-60	\$32.50
60 and over	\$65.00

Charges for following financial years will be added to the Annual Fees and Charges for the Salamander Bay Waste Transfer Station with increases being limited to increases in CPI.

Remove words - The intent of this policy is to formalise the program and replace with - **The program was formalised as a specific policy in 2007 and was amended in 2009.**

POLICY STATEMENT

Port Stephens Council will provide Financial Assistance for the disposal of waste. To qualify for the financial assistance program, organisations must fulfil the following requirements:

- ◆ Organisations must be registered as a charitable, not for profit or a benevolent organisation. Supporting documentation is required.
- ◆ Organisations must apply for an exemption of the waste levy from the NSW Department of Environment and Conservation and supply this information to Council for use in determining requests for assistance.
- ◆ The waste generated by the organisation for disposal must be generated by a community service and that service must be considered a bona fide function of Council.
- ◆ Organisations are required to reduce waste to landfill and meet waste recovery targets by sorting waste into recyclable and non recyclable items and by adopting procedures to reduce the amount of waste they generate or receive.
- ◆ Schools which conduct volunteer working bees may be approved for one off waste disposal vouchers.

RELATED POLICIES

Nil

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

This policy enables Council to provide a service to charitable, not for profit, and benevolent organisations. By relieving these organisations of the cost burden of waste

Changes

Change Words - NSW Department of Environment and Conservation to - NSW Environment and Protection Authority

After the words - function of Council add - as described in the Local Government Act 1993.

Replace word – Nil with - Port Stephens Council Waste Management and Resource Recovery Policy 2009 (24/11/2009, Min: 396)

After the words - these organisations of – add the words – a major portion of.

Change word – of to associated with.

disposal, they will be able to focus more of their activities on other community programs.

ECONOMIC IMPLICATIONS

Approved organisations will be able to direct costs savings back into other aspects of their organisation.

ENVIRONMENTAL IMPLICATIONS

This policy enables organisations to dispose of waste which is illegally dumped on their premises or around clothing bins in various areas of Port Stephens.

RELEVANT LEGISLATIVE PROVISIONS

The Financial Assistance Program for the Disposal of Waste in Port Stephens is required to comply with section 356 of the Local Government Act 1993. This section of the act allows Council to grant financial assistance for the purpose of carrying out its functions.

IMPLEMENTATION RESPONSIBILITY

The Waste Services team is responsible for the implementation of the financial assistance program.

REVIEW DATE

This policy will be reviewed within the first year of a new Council term.

Changes

Replace current wording – The Waste Services team is responsible for the implementation of the financial assistance program with - Waste Management Coordinator, Community & Recreation Services Section and Facilities & Services Group

Delete words - This policy will be reviewed

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

ATTACHMENT 2

Organisation	2008/2009		2009/2010		2010/2011		2011/2012	
	Tonnes	Spend (\$)						
Salamander Bay Recycling	125.76	\$17,984.00	118.93	\$19,623.00	153.76	\$27,522.44	120.65	\$22,803.00
The Salvation Army - Raymond Terrace	27.38	\$2,205.00	31.80	\$2,784.00	101.47	\$9,716.77	77.13	\$7,984.00
The Salvation Army - Port Stephens	40.38	\$5,775.00	68.10	\$11,236.50	98.38	\$17,610.00	60.58	\$11,450.00
St. Vincent De Paul (Nelson Bay)	47.28	\$6,761.00	60.01	\$9,901.56	80.44	\$14,398.94	40.03	\$7,566.00
St. Vincent De Paul (Anna Bay)	8.12	\$1,161.00	54.95	\$9,066.94	56.87	\$10,179.54	28.30	\$5,349.00
St. Vincent De Paul (Raymond Terrace)	34.68	\$2,793.00	32.08	\$2,808.00	38.57	\$3,693.39	46.16	\$4,778.00
St. Vincent De Paul (Tanilba Bay)	25.10	\$2,021.00	33.85	\$2,963.50	37.47	\$3,588.47	18.21	\$1,885.00
Port Stephens Home Modification Service	13.48	\$1,927.00	19.11	\$3,153.00	12.67	\$2,267.94	19.89	\$3,760.00
Medowie Assembly of God (Opportunity Knocks)	7.33	\$590.00	17.13	\$1,499.50	25.91	\$2,480.90	26.26	\$2,718.00
Port Stephens Uniting Church	0.00	\$0.00	1.20	\$198.00	5.32	\$952.54	0.89	\$169.00
Tilligerry Habitat Association	8.82	\$710.00	4.73	\$413.96	0.00	\$0.00	0.00	\$0.00
Williamtown Pre-School	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00
Native Animal Trust (Koala Care)	6.50	\$943.00	8.51	\$1,405.00	3.60	\$644.33	9.04	\$1708
Lemon Tree Passage Rural Fire Service	1.90	\$153.00	0.57	\$49.50	0.00	\$0.00	0.00	\$0.00
NSW State Emergency Service	2.69	\$384.00	0.00	\$0.00	0.00	\$0.00	0.37	\$69.00
Anna Bay Cubs & Scouts	2.13	\$305.00	0.00	\$0.00	0.00	\$0.00	0.69	\$131.00
Raymond Terrace Early Education Centre	0.58	\$47.00	1.27	\$111.00	1.93	\$185.29	1.78	\$184.00
Australian Volunteer Coast Guard Inc	72.11	\$5,807.00	0.00	\$0.00	0.57	\$54.17	5.63	\$583.00
Terrace Tenants & Assoc Inc	0.75	\$60.00	5.94	\$519.99	5.12	\$490.56	4.47	\$463.00
Terrace Christian Life Centre	0.00	\$0.00	0.00	\$0.00	8.49	\$812.98	0.00	\$0.00
Terrace Care	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	0.67	\$69.00
Samaritans Foundation	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	0.24	\$25.00
Total	424.28	\$49,626.00	458.17	\$65,733.45	630.57	\$94,598.26	461.74	\$71,809.00

ITEM NO. 14

FILE NO: PSC2005-2675

DEED OF AMENDMENT TO WASTE DISPOSAL AGREEMENT WITH PORT STEPHENS WASTE MANAGEMENT GROUP PTY LIMITED

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the draft Deed of Amendment to the Waste Disposal Agreement which;
 - a. Makes an addition of a per tonne payment to be made by Council to Ports Stephens Waste Management Group to cover the carbon tax liability for the waste delivered to;
 - i. The Compost Facility
 - ii. Direct to Landfill
 - b. Alters the formula for the calculation of the "Waste Disposal Fee" to allow for the effect of the Carbon Tax legislation on CPI.
- 2) Authorise the affixing of the Council's seal to the deed of amendment & signing by the General Manager and Mayor.

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

<p>020</p>	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to seek Council's approval to make a Deed of Amendment (**See Tabled Document 1**) to the Waste Disposal Agreement with Port Stephens Waste Management Group. The Waste Disposal Agreement includes the

composting and disposal of the waste from the residual (red) bin to the compost facility on Newline Road Raymond Terrace and the disposal to landfill of hard waste from the kerbside bulk waste collections and general council activities performed by the Operations Section (e.g. parks, roads, street cleaning).

Port Stephens Waste Management Group initiated contract negotiations in April 2012 under the change in law provision following the introduction of the Carbon Tax by the Federal Government. In the initial meetings Port Stephens Waste Management Group presented the calculations and assumptions used to calculate Council's carbon tax liability for the waste Council deliver both to the compost facility and direct to landfill. In a latter meeting these calculations and assumptions were reviewed by Council's Auditors Price Waterhouse & Coopers (PWC) and Council received a report from PWC, which gives Council comfort that PSWVG calculations and assumptions are accurate and fair **(See Tabled Document 2)**.

FINANCIAL/RESOURCE IMPLICATIONS

Adopting the recommendations will have financial implications for the residents, as they will be required to pay approximately \$12 to \$15 more in the rates per annum via the Domestic Waste Management Charge than they would have prior to the introduction of the Carbon Tax. However, under the Carbon Tax legislation Council and its residents are responsible for the carbon tax liability of the waste as the generators, so are ultimately liable for this additional payment.

There are no foreseeable resource implications by adopting the recommendations.

Rejecting the recommendations will result in the matter going to formal contract arbitration, which will have both financial and resource implication.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No	\$0	Nil
Reserve Funds	No	\$0	Nil
Section 94	No	\$0	Nil
External Grants	No	\$0	Nil
Other	Yes	~\$350,000	Residents will pay via Domestic Waste Management Charge

LEGAL, POLICY AND RISK IMPLICATIONS

Adopting the recommendations is legal and is required under the Waste Disposal Agreement.

There is no policy implications associated with adopting the recommendations.

Rejecting the recommendations will have a financial risk associated with it.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendation will result in the matter going to formal arbitration, which will result in legal costs and present a possibility that Council could end up paying more than is currently agreed.	High	Adopt the recommendations of the paper	Yes
There is a risk in adopting the recommendation has the potential for a reputation risk as residents may be unhappy with the extra increases to the Domestic Waste Service Charge on top of the annual CPI increase that they will incur within their rates especially as they will not see any "at the kerbside" increase in service level for their increased payments.	Low	Manage risk by communication with residents in regards to what their rates & fee pays for	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no foreseeable social implications by either adopting or rejecting the recommendations.

Adopting the recommendations will result in an increase to the Domestic Waste Service Charge of approximately \$12 for the first year and small increase of less than \$1 for the next two years during the fixed price period of the Carbon Tax. As the generator of the waste is responsible for the carbon tax liability of the waste it is deemed to be an acceptable and affordable impact on property owner's household spending.

Rejecting the recommendations may have an even larger effect on household spending as it may result in contract arbitration, which would involve legal costs and Council might end up paying more than is currently agreed.

There are no foreseeable environmental implications by either adopting or rejecting the recommendations.

CONSULTATION

Consultation during the preparation of the Deed of Amendment and this report was held between the Waste Management Coordinator and the following;

- 1) Waste Management Officer;
- 2) Manager Legal Services;
- 3) PSWVG (Sita Australia) staff.

OPTIONS

- 1) Adopt the recommendations;
- 2) Amend the recommendations;
- 3) Not adopt recommendations.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Draft Deed of Amendment to "Waste Disposal Agreement";
- 2) PWC Report from the review of PSWVG's calculations and assumptions used to calculate the carbon liability of waste delivered by Council

ITEM NO. 15

FILE NO: PSC2011-00718

PROMOTING BETTER PRACTICE REVIEW

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the Report.
-

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

021	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to provide Council with the final quarterly report on Code of Conduct complaints relating to Councillors.

The Promoting Better Practice (PBP) Review Final Report, prepared by the Division of Local Government was tabled at the Council in December 2011.

Recommendation 20 of the PBP report requires a report be provided to Council regarding Code of Conduct complaints relating to Councillors on a quarterly basis rather than annually for the next twelve months after the release of the PBP Report.

Since the tabling of the PBP Report, no Code of Conduct complaints relating to Councillors have been received.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Minimal costs were associated with the production of this report.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council has an obligation to respond to the Division of Local Government with respect to the Promoting Better Practice Review. These Reviews are linked to legislative processes under the Local Government Act 1993.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
That Council not respond to the Recommendations within the PBP Report.	Medium	That Council respond to all 36 Recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor;
- 2) Councillors.

OPTIONS

- 1) Adopt the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 16

FILE NO: A2004-0373

TRADITIONAL WELCOME AT COUNCIL MEETINGS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the proposed changes to the wording of the Traditional Acknowledgement at Council meetings.
-

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Peter Kafer Councillor Sally Dover</p>
	<p>That Council adopt the wording suggested by the Worimi Local Aboriginal Land Council:</p> <p>"Today, we are meeting on Worimi Country, we acknowledge the past, we are working towards a better tomorrow".</p>

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

022	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to provide Council with the opportunity to consider changes to the wording of the traditional acknowledgement at Council meetings.

Prior to each Council meeting the Mayor provides the traditional acknowledgement of the traditional owners of the land.

The current wording for the traditional acknowledgement is as follows:

"I would like to acknowledge and pay respect to the Worimi People of Port Stephens, who are the traditional owners of

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

this land on which we stand/meet today”.

Following consultation with the Worimi Local Aboriginal Land Council, the Land Council has suggested the following changes to the traditional acknowledgement:

"Today, we are meeting on Worimi Country, we acknowledge the past, we are working towards a better tomorrow".

Council is asked to consider the proposed changes.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		There are no direct costs from this recommendation.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

Nil.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
The only risk associated with this recommendation relates to reputation	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Worimi Local Aboriginal Land Council.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 17

FILE NO: A2004-984

NEW MODEL CODE OF CONDUCT & ASSOCIATED PROCEDURES

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the new Port Stephens Council Code of Conduct;
 - 2) Adopt the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW.
-

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

023	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to provide the new Code of Conduct and associated procedures to Council for adoption.

The current Code of Conduct was effective from 1 January 2005 with a further review by the Division of Local Government (DLG) in July 2008.

Over the last 18 months the DLG have conducted various levels of consultation in the development of the new Model Code of Conduct. As a result the Model Code and the associated administrative procedures have been spilt into separate documents.

The DLG's Circular 12-45 detailing the key changes is shown at **(ATTACHMENT 1)**.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

The summary of standards of conduct for council officials is shown at **(ATTACHMENT 2)**.

The new Code provides a different approach to the way in which complaints are managed. Complaints concerning the General Manager will be provided to the Mayor. All other complaints will be provided to the General Manager.

Council is also required to appoint a member of staff to act as a Complaints Coordinator and also an alternate Complaints Coordinator. The role of the Complaints Coordinator is to:

Coordinate the management of complaints made under the council's code of conduct;

Liaise with and provide administrative support to the conduct reviewer or conduct review committee;

Liaise with the Division of Local Government; and

Arranging the annual reporting of code of conduct complaints statistics.

It is proposed that the Executive Officer will be appointed as the Complaints Coordinator with the Legal Services Manager to act as an alternate.

Council is required to appoint a panel of conduct reviewers in accordance with the selection process prescribed under the new procedures.

The current panel was established as a result of an expression of interest coordinated on a regional basis through Hunter Councils. It is proposed that the same process will be followed to appoint the new panel. Council has until 30 September 2013 to appoint the new panel. A further report will be provided to Council on the proposed appointments.

It is proposed that a number of additional provisions be added to the Model Code of Conduct. The grey shaded areas highlight the additional provisions. **(TABLED DOCUMENTS)**.

A training session for the Mayor and all Councillors will be conducted by an external facilitator. It is mandatory that all the elected Council attend this session.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	Approx \$15,000	This has not been provided for in the 2012-13 budget and may require a budget review.

LEGAL, POLICY AND RISK IMPLICATIONS

The Local Government Act 1993, requires Council to adopt at least the Model Code of Conduct. Council may add to the Model Code of Conduct however the provisions cannot be inconsistent with the provisions of the Model Code of Conduct.

Council is required to provide training to all elected members of Council, all staff, volunteers and contractors.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
The risk is that if Council does not adopt the new Model Code of Conduct it would be in breach of the Local Government Act 1993.	Low	Adopt the recommendation contained in the report.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Division of Local Government;
General Manager.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation however the provisions of the Model Code of Conduct need to be maintained.

ATTACHMENTS

- 1) Division of Local Government Circular 12-45;
- 2) Summary – Standards of conduct for council officials

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) The new Port Stephens Council Code of Conduct.

ATTACHMENT 1



Premier & Cabinet
Division of Local Government

Circular to Councils

Circular No. 12-45
Date 19 December 2012
Doc ID. A296794

Contact Council Governance
02 4428 4100

THE NEW MODEL CODE OF CONDUCT FRAMEWORK

Purpose

To advise councils of the new Model Code of Conduct framework and implementation arrangements.

Issue

- The new Model Code of Conduct for Local Councils in NSW, Procedures for the Administration of the Model Code and Summary of the Model Code are now available on the Division of Local Government (the Division) website at www.dlg.nsw.gov.au.
- The code and procedures are supported by new provisions in the *Local Government Act 1993* to more effectively deal with serious or repeated breaches of the Code through expanded and strengthened penalties. Key changes to the code are summarised at Appendix A.
- The key features of the new code framework include:
 - Greater flexibility to resolve non-serious complaints, minimising costs to councils
 - Improved complaints management, with complaints about councillors and the general manager managed from start to finish by qualified and independent conduct reviewers
 - Greater fairness and rigour in the investigation process through clearer procedures
 - Stronger penalties for ongoing disruptive behaviour and serious misconduct to more effectively deter and address such behaviour, allowing councils to get on with the business of serving their communities.
- The proposed commencement date for the new model code framework is 1 March 2013.
- The following transitional arrangements will apply:
 - Complaints made or yet to be finalised before 1 March 2013 are to be dealt with under the current Model Code of Conduct and Procedures.
 - Complaints received after 1 March 2013 but where the alleged conduct occurred prior to this date are to be assessed against the standards

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2

prescribed under the current Model Code but dealt with under the new Procedures.

- Complaints relating to alleged conduct that occurred after 1 March 2013 are to be assessed against the new Code and Procedures.
- The Division will provide further information in early 2013 to assist councils implement the new code and procedures.

Actions

Councils should make the following administrative arrangements in preparation for commencement of the Code:

- Adopt the new Model Code and Procedures by 1 March 2013
- Appoint members of staff other than the General Manager to act as a complaints coordinator and alternate complaints coordinator before 1 March 2013
- Ensure panels of conduct reviewers, appointed using the selection process prescribed under the new procedures, are in place by 30 September 2013. Councils without existing panels should establish a panel by 1 March 2013.



Ross Woodward
Chief Executive, Local Government
A Division of the Department of Premier and Cabinet

APPENDIX A

NEW MODEL CODE OF CONDUCT AND PROCEDURES - KEY CHANGES

- In the interests of clarity and simplicity, standards of conduct and procedures for dealing with breaches will be separately prescribed.
- Minor changes have been made to the standards prescribed under the code in relation to binding caucus votes, the disclosure of political donations, loss of quorum, the management of significant non-pecuniary conflicts of interests in relation to principal planning instruments, gifts, relationships between councillors and staff and use of council resources for re-election purposes.
- New standards have been included to address misuse of the code and other conduct intended to undermine its implementation.
- New provisions have been included to improve all councils' access to suitably skilled conduct reviewers.
- Under the new procedures, complaints will be managed from start to finish by an independent conduct reviewer at arms length from the council if they are not informally resolved at outset.
- There will be an increased focus on informal resolution of less serious matters.
- Code of conduct matters will be dealt with confidentially. However, where a conduct reviewer determines that a councillor has breached the code and a sanction is imposed by the council, this will be made public via the minutes of the meeting.
- There will be limited rights of review to the Division where a person is subject to an adverse outcome.
- The Division will have more options for dealing with matters directly under the misconduct provisions. This will enable it to directly police the administration of the code and address issues such as misuse or failure to cooperate.
- Penalties for misconduct will be expanded and increased to improve deterrence.
- Both the Division and the Pecuniary Interest and Disciplinary Tribunal will be able impose stronger penalties for repeated misconduct. This will enable the more effective management of ongoing disruptive behaviour by individual councillors to enable councils to get on with the core business of serving their communities.

These changes have been made as a result of extensive consultation with councils and other key stakeholders, and based on feedback, have broad support.

ATTACHMENT 2

**THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN
NSW – MARCH 2013**

Standards of conduct for council officials - Summary

Council officials* play a vital role in serving local communities.

To do this effectively you will want to uphold the highest standards of behaviour to ensure the public has trust and confidence in local government.

What are the expected standards of behaviour?

The following standards of behaviour are expected of council officials. You must:

- not conduct yourself in a manner that is likely to bring the council into disrepute
- act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions
- treat others with respect at all times
- consider issues consistently, promptly and fairly
- not harass, discriminate against, or support others who do so
- ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly
- not participate in *binding* caucus votes except for nominations
- disclose and appropriately manage any conflict of interests, including from reportable political donations
- not accept money or gifts of value and avoid situations that give rise to the appearance of securing favourable treatment
- in the case of councillors, not direct council staff or influence staff in the exercise of their role
- in the case of staff, ensure efficient and effective operation of the council's organisation and implementation of the decisions of the council without delay
- use and secure information appropriately and do not disclose confidential information
- use council resources ethically, effectively, efficiently and carefully in the course of official duties
- not make complaints improperly, take detrimental action in response to complaints about standards of behaviour or disclose information about code of conduct matters.

These standards are described in detail in the Model Code of Conduct for Local Councils in NSW. The Code is a legal document that all officials are obliged to understand and follow. The Model Code forms the basis of each council's own code of conduct.

What happens if the standards are not met?

In the very small number of cases where council officials fail to follow this Code, this will be dealt with in accordance with the procedure for administration of the Model Code.

Complaints about a breach of these standards by anyone other than the general manager are to be made at first instance to the general manager. Complaints about the general manager are to be made to the Mayor. Where the complaint is serious and cannot be resolved informally, a complaint may be formally investigated by an independent conduct reviewer.

Breaches of these standards by delegates or council committee members may result in the following action:

- censure
- requirement of apology
- prosecution
- removal or restriction of delegation.

Breaches by council staff may result in disciplinary action, termination or, in the case of non-senior staff, such other penalty permitted under the relevant industrial award.

Breaches by the general manager may result in the following action:

- requirement for training
- counselling
- requirement for apology
- findings of inappropriate conduct made public
- action under the general manager's contract.

Breaches by councillors may result in the following action:

- requirement for training
- counselling
- requirement for apology
- findings of inappropriate conduct made public
- censure
- referral to the Division of Local Government for disciplinary action including but not limited to suspension for up to 3 months
- referral by the Division to the Pecuniary Interest and Disciplinary Tribunal for suspension of up to 6 months or disqualification from holding civic office.

* Council officials include councillors, members of staff of council, administrators, members of council committees, conduct reviewers and delegates of council.

ITEM NO. 18

FILE NO: PSC2010-00008

COMPLAINTS HANDLING POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Complaints Handling Policy;
 - 2) Public exhibit the draft Policy for a period of 28 days; and
 - 3) Subject to no submissions being received the Policy be adopted.
-

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

024	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to provide Council with the reviewed Complaints Handling policy.

Council adopted the current policy on 14 December 2010. Following the adoption of the policy the Division of Local Government conducted the Promoting Better Practice Review in February 2011. Recommendation 4 of the December 2011 Review required Council to review its Complaints Handling Policy.

The reviewed Policy is shown at **(ATTACHMENT 1)** for Council's consideration.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Costs associated with implementation of the policy is covered within existing budgets.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Council is required to develop a complaints handling policy.	Low	Council adopt the reviewed policy.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Through openness, transparency and accountability, Council will be able to reduce the impact of complaints on Council resources and focus on provision of Council services.

Management of complaints can require a high level of Council resources. By reducing the number of complaints and by following the structured complaints system, Council will be able to focus resources into delivery of Council services.

CONSULTATION

Division of Local Government.

OPTIONS

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

ATTACHMENTS

- 1) Complaints Handling policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

FILE NO: PSC2010-00008

TITLE: COMPLAINTS HANDLING POLICY

REPORT OF EXECUTIVE OFFICER

BACKGROUND

Council adopted its previous Complaint/Request Handling policy in 1999 following the development of a number of NSW Ombudsman's guidelines and policies.

It is acknowledged that there is a difference between a complaint and a request for service. This policy specifically deals with complaints that are received concerning matters that are under Council's control and management.

OBJECTIVE

The objective of the Policy is to provide the community with a structured process to follow when lodging a complaint with Council. This will allow openness, transparency and accountability of both Council and the complainant.

PRINCIPLES

- 1) Council is committed to resolving complaints to

Changes

Delete - of both Council and the complainant.
Insert - for all parties involved.

- 2) achieve the best outcome for all parties concerned.
- 3) Council will respond to all complaints lodged under the policy and provide a written response.
- 4) All complainants will be required to fully cooperate in an appropriate manner when interacting with Council officials.

POLICY STATEMENT

This policy has been developed in line with the NSW Ombudsman Guidelines – “Effective Complaint Handling 2004” and “Managing Unreasonable Complainant Conduct Practice Manual 2009”.

The Policy strives to provide a structured and timely manner in dealing with complaints.

A complaint is defined as “*An expression of dissatisfaction with Council’s policies, procedures, fees and charges, Council officials, quality of service or goods provided*”.

Those matters exempt from this policy are:-

- 1) Staff personnel matters – refer to Council’s Grievance procedure
- 2) Protected Disclosure declaration – refer to the Code of Conduct
- 3) Allegations of corruption – refer to the Code of Conduct
- 4) Complaints concerning National Competition Policy – refer to Competitive Neutrality Complaints Policy.

The complaints handling framework is developed on a 3 Tier approach.

Tier 1 – Staff empowered with clear delegations to resolved complaints wherever possible at first contact. Staff log complaint details for later analysis of data.

Tier 2 – More senior staff or designated person reviews/investigates unresolved complaints.

Tier 3 – Still unresolved complaints referred externally.

Changes

Delete – 3) All complainants will be required to fully cooperate in an appropriate manner when interacting with Council officials.

Insert – 3) All parties involved in a complaint handling matter are required to interact in an appropriate manner.

Insert – Council will manage all unreasonable complainant conduct in accordance with the NSW Ombudsman Guidelines.

Delete – 2. Protected
Insert – 2. Public Interest

Insert – 5. Request for a Council service.

Tier 1 – Front line complaints handling

1. All staff will receive complaints in **person**, writing, by telephone, email or fax. They will listen courteously, record all the facts and initiate appropriate action.
2. Written complaints will be acknowledged in accordance with Council's Customer Service Charter.
3. All verbal complaints will be recorded in Council's Customer Request System and/or within the Electronic Records System (TRIM).
4. If the complainant uses abusive or offensive language or behaviour; discriminating remarks; inappropriate interest in an officers personal life or becomes violent or aggressive - staff will inform the person that their behaviour is unacceptable and must cease. The complainant may put their concerns in writing. If necessary staff will call their supervisor who may decide to request the person to leave the premises or call the police to escort the person from the premises.
5. All requests for information regarding complaints are to be assessed under Council's Assessing Information Policy and the Freedom of Information Act 1989.
6. Anonymous complaints will be recorded and refer to Tier 2 to determine if action is required. Tier 2 staff will consider the nature of the complaint and if it is an offence and where there is sufficient information to warrant investigation. If no action is taken then reasons for the decision will be recorded.
7. Complainants wishing to speak to the Mayor or General Manager at Tier 1 will be referred to the relevant officer to deal with the enquiry.

Changes

Delete – 4. If the complainant uses abusive or offensive language or behaviour; discriminating remarks; inappropriate interest in an officers personal life or becomes violent or aggressive - staff will inform the person that their behaviour is unacceptable and must cease. The complainant may put their concerns in writing. If necessary staff will call their supervisor who may decide to request the person to leave the premises or call the police to escort the person from the premises.

Insert – 4. If a complainant's conduct becomes unreasonable or inappropriate, staff will inform the person that their code is unreasonable and must cease. The complainant may put their concerns in writing. If necessary staff will call their supervisor who may decide to request the person to leave the premises or call the police to escort the person from the premises.

Delete – 5. Information of Information Act 1989

Insert – 5. Government Information (Public Access) Act 2009

Tier 2 – Internal Review or Investigation

1. All complaints will be determined and/or investigated by the appropriate officer.
2. To ensure procedural fairness, the person will be informed of any allegation of wrong doing or adverse comment made about them where this is the basis of any action by Council. A copy of the complaint will be available in accordance with various legislation requirements.
3. The person will be able to provide an explanation of his or her actions.
4. Upon examination of all the facts appropriate action will be taken to resolve the matter. If no action is to be taken reasons will be given for the decision.
5. The complainant and the person complained about will be informed of the outcome.
6. It is Council's policy that complainants names and addresses will remain confidential (see the Accessing Information Policy). A complainant categorised as difficult may not be afforded confidentiality.
7. If a member of staff is unable to resolve the complaint or ***believes the complaint is categorised as difficult***, the complaint will be referred to:-
 - The staff member's supervisor and/or Section or Group Manager;
 - Council's Public Officer or other officer as determined by the General Manager, to conduct an internal review on behalf of the General Manager.

Changes

Delete – 5. The complainant and the person complained about will be informed of the outcome.

Insert – 5. All parties will be advised of the outcome of any investigation.

Delete – 6. It is Council's policy that complainants names and addresses will remain confidential (see the Accessing Information Policy). A complainant categorised as difficult may not be afforded confidentiality.

Insert – 6. All information forming part of the investigation will be released in accordance with the Government Information (Public Access) Act 2009.

Delete – 7. If a member of staff is unable to resolve the complaint or ***believes the complaint is categorised as difficult***, the complaint will be referred to:-

Insert – 7. If a member of staff is unable to resolve the complaint or the code of a complainant becomes unreasonable, the matter will be referred to :-

8. When assessing a complaint the Public Officer or other officers will consider:-
- a) Whether the complaint should be categorised as difficult (see The Guidelines of the NSW Ombudsman's Managing Unreasonable Complainants Conduct Practice Manual)
 - b) How much specific evidence is there to support the **complaint and related** information provided?
 - For example a suspicion that something has or will occur.
 - c) How serious is the matter and what significance does it have for the community and/or Council?
 - d) Is the matter one which Council should be investigating or should the matter be referred elsewhere.
 - e) What are the motives for making the complaint?
 - For example are there personal animosities involved or pay back for a complaint received about them.
9. If the internal review does not reveal any evidence to support the complaint the Public Officer or other officers may decide not to investigate the matter any further. Advice will be given to the complainant that Council will not pursue the matter further and that if they are not happy with the response they may refer the matter to an external body as identified in Tier 3.
10. Neighbourhood Disputes - In the case of neighbourhood disputes if the matter does not relate to Council's services or functions. Staff may advise the complainant of the Community Justice Centre mediation services. The CJC may then be informed of the dispute to arrange mediation where possible. Council will not be a party to complaints that fall outside its services or functions.

Changes

Delete - When assessing a complaint the Public Officer or other officers will consider:- a) Whether the complaint should be categorised as difficult
b) How much specific evidence is there to support the **complaint and related** information provided?

- For example a suspicion that something has or will occur.

c) How serious is the matter and what significance does it have for the community and/or Council?
d)Is the matter one which Council should be investigating or should the matter be referred elsewhere.
e)What are the motives for making the complaint?

- For example are there personal animosities involved or pay back for a complaint received about them.

Insert - When assessing a complaint the Public Officer or other officers will consider: the matter in accordance with the NSW Ombudsman's Guidelines.

Tier 3 – External Review

1. Persons dissatisfied with Council's response may refer the matter to the NSW Ombudsman, Division of Local Government or the Independent Commission Against Corruption.
2. The services of the Community Justice Centre are available to mediate where all parties are agreeable and Council is unable to satisfy the complainant's request. Staff will inform a complainant of any appeal procedure available to resolve their grievance.

RELATED POLICIES

Code of Conduct
Assessing Information Policy
Competitive Neutrality Complaints Policy
Compliance Policy
Alternative Dispute Resolution Policy

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Through openness, transparency and accountability, Council will be able to reduce the impact of complaints on Council resources and focus on provision of Council services.

ECONOMIC IMPLICATIONS

Management of complaints can require a high level of Council resources. By reducing the number of complaints and by following the structured complaints system, Council will be able to focus resources into delivery of Council services.

ENVIRONMENTAL IMPLICATIONS

Nil.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993
Protected Disclosure Act 1994
Ombudsman Act 1974
Independent Commission Against Corruption 1988

Changes

Delete – *Protected Disclosure Act 1994*
Insert – *Government Information (Public Access) Act 2009, Public Interest Disclosure Act 1994*

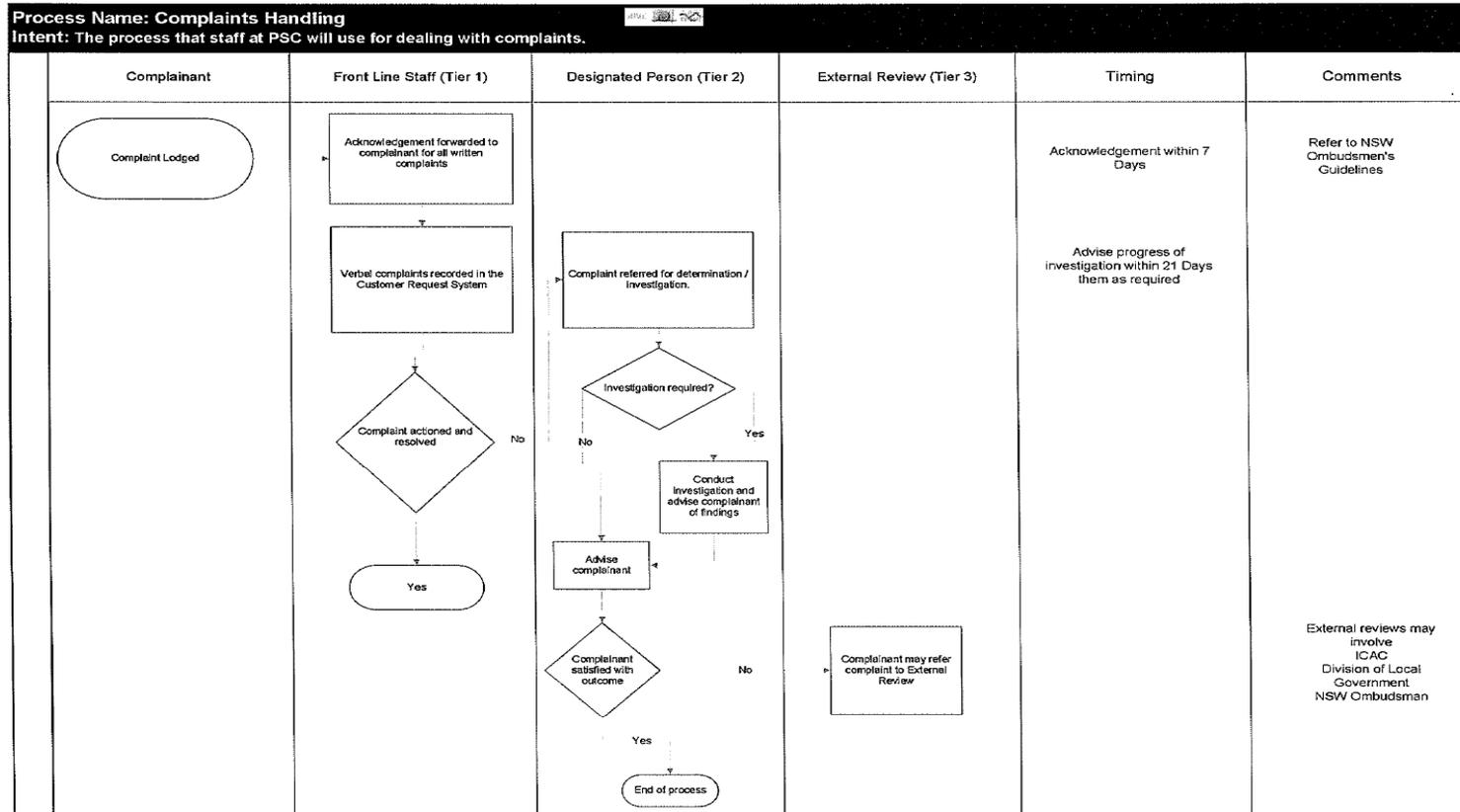
IMPLEMENTATION RESPONSIBILITY

Executive Officer

REVIEW DATE

Biennial

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013



Legend: [] Process, [] Terminator, { } Decision, [] Predefined process

○ Added Support may be involved in step.

Port Stephens Council
 Drawn: [] Date: [] Process Owner: []

ITEM NO. 19

FILE NO: PSC2006-2327

COUNCIL MEETING DATE – MARCH 2013

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Not hold an Ordinary Meeting of Council on 12 March 2013, due to commitments associated with the LGSA Tourism Conference.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Sally Dover Councillor Geoff Dingle
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

025	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to allow Council to consider changes to the March 2013 Council meeting cycle.

Port Stephens will host the 2013 LGSA Tourism Conference from 11 to 13 March 2013. During the conference there will be various opportunities for Councillors to be involved with the conference.

Given Council's first Ordinary Council meeting for March will fall within the timeframe of the conference, it is proposed that there will be no Council meeting held on 12 March 2013.

FINANCIAL/RESOURCE IMPLICATIONS

All financial implications are provided for within the existing budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		This recommendation would provide a saving to Council.
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

Section 365 of the Local Government Act requires Council to meet at least **10 times** per year in different months. The Local Government (General) Regulation provides for Council to establish such committees as it considers necessary. Council must specify the functions of such committees.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Council should ensure that it meets at least times a year to comply with the <i>Local Government Act 1993</i> .	Low	That Council holds at least 10 meeting per year. This recommendation would still ensure Council is compliant.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

General Manager.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 20

FILE NO: PSC2011-02007

2012 PORT STEPHENS LOCAL GOVERNMENT ELECTION

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the 2012 Port Stephens Local Government Election Report.
-

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Paul Le Mottee</p>
	<p>That the recommendation be adopted with following comments to be noted in the report:</p> <ol style="list-style-type: none"> 1. The lack of professionalism provided by the contractor conducting the election on Council's behalf; 2. The turnover of Returning Officers'; 3. Confusion with multiple nomination forms used; 4. Some postal votes were not received by electors; and 5. Increased number of electors opting to use pre-poll; 6. Pre-poll period should be reduced from the current 14 days.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

026	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to provide Council with the 2012 Port Stephens Council Election Report.

As Council conducted its own election in 2012, the General Manager is required to provide the Minister with a written report setting out the following details (but not limited to):

Clause 393A, Local Government Act 2005 – extract

- (a) time spent on the election by the general manager as a proportion of the general manager’s remuneration,*
- (b) time spent on the election by council staff as a proportion of council staff remuneration,*
- (c) the remuneration of council staff employed specifically for the purpose of the election,*
- (d) the remuneration, recruitment and training costs of election officials,*
- (e) the cost of running any candidate information seminars,*
- (f) the cost of hiring venues and equipment for the election, including council venues and equipment and any associated costs,*
- (g) the cost of any technological support, including the development of any counting software,*
- (h) the cost of preparing a written report under this clause,*
- (i) any electoral services provided to electors,*
- (j) any electoral services provided to candidates,*
- (k) operational details of the election,*
- (l) an overall evaluation of the conduct of the election, including feedback from stakeholders.*

FINANCIAL/RESOURCE IMPLICATIONS

The report has been developed in conjunction with Council staff and the election contractor.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		There are no costs associated with Council adoption this recommendation.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
<p>There is no risk associated with this recommendation as Council is not required to adopt the report.</p> <p>Council would be in breach of the Local Government Regulation if the Report was not provided to the Minister.</p>	Low	Provide the Report to the Minister in accordance with Clause 393A.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) General Manager;
- 2) Election Contractor.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) 2012 Local Government Election Report for Port Stephens Council.

ITEM NO. 21

FILE NO: 1190-001

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a) Hinton Football Club / Seaham Soccer Bowthorne Cricket Club – Funds to repair line marker - Cr Paul Le Mottee – Rapid Response - \$500.00
 - b) Hunter Region Botanic Gardens – Reimbursement of DA Fees for garden development – Mayor Bruce MacKenzie – Mayoral Funds - \$1010.50
 - c) Raymond Terrace Mens Shed – Reimbursement of DA Application Fees for Mens Shed – Mayor Bruce MacKenzie – Mayoral Funds - \$695.00

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Steve Tucker Councillor Peter Kafer
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

027	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Financial Assistance Policy gives Councillors a wide discretion to either grant or to refuse any requests.

The new Financial Assistance Policy provides the community and Councillors with a number of options when seeking financial assistance from Council. Those options being:

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

- 1) Mayoral Funds
- 2) Rapid Response
- 3) Community Financial Assistance Grants – (bi-annually)
- 4) Community Capacity Building

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

The requests for financial assistance are shown below is provide through Mayoral Funds, Rapid Response or Community Capacity Building:-

WEST WARD – Councillors Jordan, Kafer & Le Mottee

Hinton Football Club / Seaham Soccer Bowthorne Cricket Club.	Funds to repair line marker.	\$500.00
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MAYORAL FUNDS – Mayor MacKenzie

Hunter Region Botanic Gardens	Reimbursement of DA Fees for garden development	\$1010.50
Raymond Terrace Mens Shed	Reimbursement of DA Application Fees for Mens Shed	\$695.00

FINANCIAL/RESOURCE IMPLICATIONS

Council Ward, Minor Works and Mayoral Funds are the funding source for all financial assistance.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	1,705.50	Mayoral funds
Reserve Funds	Yes	500	Ward Funds
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
The only risk associated with this recommendation relates to reputation	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor;
- 2) Councillors;
- 3) Port Stephens Community.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 22

FILE NO: T12-2012

TENDER T12-2012 – LEASE OF LOT 1012 DP 814078, LOT 11 DP 629503, LOT 121 DP 556403 & LOT 1 DP 224587, 282, 282A, 282B AND 398 CABBAGE TREE ROAD, WILLIAMTOWN FOR SAND EXTRACTION

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Pursuant to section 10A(2)(d) of the Local Government Act, 1993, resolve to close the meeting to the public that part of its meetings to discuss Item 22 on the Ordinary Council agenda namely **Tender T12-2012 – Lease of Lot 1012 DP 814078, Lot 11 DP 629503, Lot 121 DP 556403 & Lot 1 DP 224587, 282, 282A, 282B and 398 Cabbage Tree Road, Williamtown for Sand Extraction.**
- 2) The reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Tender T12-2012 – Lease of Lot 1012 DP 814078, Lot 11 DP 629503, Lot 121 DP 556403 & Lot 1 DP 224587, 282, 282A, 282B and 398 Cabbage Tree Road, Williamtown for Sand Extraction.**
- 3) On balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) The report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) Accept the tenderer received from M. Collins & Sons Holdings Pty Ltd for the Lease of Lot 1012 DP 814078, Lot 11 DP 629503, Lot 121 DP 556403 & Lot 1 DP 224587 known as 282, 282A, 282B and 398 Cabbage Tree Road, Williamtown.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

028	<p>Councillor John Nell Councillor Sally Dover</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Pursuant to section 10A(2)(d) of the Local Government Act, 1993, resolve to close the meeting to the public that part of its meetings to discuss Item 22 on the Ordinary Council agenda namely Tender T12-2012 – Lease of Lot 1012 DP 814078, Lot 11 DP 629503, Lot 121 DP 556403 & Lot 1 DP 224587, 282, 282A, 282B and 398 Cabbage Tree Road, Williamtown for Sand Extraction. 2) The reasons for closing the meeting to the public to consider this item be that: <ol style="list-style-type: none"> i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and ii) In particular, the report includes confidential pricing information in respect of the Tender T12-2012 – Lease of Lot 1012 DP 814078, Lot 11 DP 629503, Lot 121 DP 556403 & Lot 1 DP 224587, 282, 282A, 282B and 398 Cabbage Tree Road, Williamtown for Sand Extraction. 3) On balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts. 4) The report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
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BACKGROUND

The purpose of this report is to recommend to Council the preferred tenderer to lease 282, 282A, 282B and 398 Cabbage Tree Road, Williamtown for Sand Extraction.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

The tender calls for a base rent for the use of the land and a royalty per tonne of sand extracted from the land. Additionally the successful tenderer will be required to:

Provide security under the provisions of the lease (i.e. bank guarantee, security deposit);

Undertake all its own due diligence and rely on its own enquiries in connection with the land; the sand available and the feasibility of the project;

Obtain all authorisations required for the infrastructure on the land and the sand extraction activities at its own risk and cost;

Provide Council with a concept plan of the proposed infrastructure on site;

Maintain a wildlife corridor;

Only access the land from Lot 1012 DP 814078.

The total area of four separately titled adjoining allotments is 175ha.

In 2010 the then Commercial Property Section of Council commenced investigation of the possibility of leasing the site for sand extraction. The proposal was presented to Council through the Two Way Conversation program on 27 July 2010, 28 September 2010, 29 March 2011 and 28 June 2011 with a site inspection held earlier on the 28 June 2011. The quantity of sand able to be extracted has been estimated at 6,950,000 tonnes. This estimation was calculated utilising contours that were obtained through Council's GIS system. Previous site inspections and testing of the sand on site have indicated that the sand is high grade silica sand suitable for glass manufacture.

In March 2012 Council resolved to call for tenders for royalty based lease to extract sand from the subject parcels. The tender documents were prepared in consultation with Harris Wheeler Lawyers and in July 2012 tender submissions were invited through Council's e-tendering portal at Tenderlink.

As a result nine tenders were received from:

Castle Quarry Products

Daracon Group

Dunmore Sand & Soil Pty Ltd

Holcim Australia Pty Ltd

LJB George Pty Ltd

Macka's Sand & Soil Supplies

M. Collins & Sons Holdings Pty Ltd

Rocla Quarry Products

Sibelco Australia Limited

In accordance with Council's Procurement Guidelines a tender panel was established to conduct a review of all the tenders received and assessed each tender in accordance with the agreed weightings. Due to the specialist nature of the tender, Property Services engaged an Independent Mining Specialist Advisor to sit on the panel to assist with the assessment of the submissions. The evaluation criteria examined each tenderers response to the areas of price (comprising royalties and base rent), previous experience, capability (including management and technical resources), ecologically sustainable development, work health and safety,

environmental performance and non conformance with the Agreement of Lease and Lease and the Financial Capacity to undertake the project.

The Panel determined that three of the submissions received were non conforming due to incomplete compulsory documentation in accordance with "Section B – Conditions of Tendering" of the tender documentation in accordance with "Section B – Conditions of Tendering" of the tender documentation and were excluded from further consideration. The three companies were Daracon Group, LJB George and Rocla Quarry Products.

The assessment of the remaining six submissions was undertaken on 21 September 2012. The panel rated all six tenders in accordance with the evaluation criteria. A preferred Tenderer was not selected at this time due to the Panel requiring additional information from one of the tenders. The panel required information from Castle Quarry Products, clarifying their financial capacity and their ability to provide a Bank Guarantee. A response was subsequently received however it was considered inadequate as it still did not satisfy the requirements of the original tender documentation. The Tender Evaluation Panel reconvened on Thursday 10 January 2013. Determination of all ratings of the evaluation criteria was then assessed for the six conforming tenders.

The Tender Evaluation Panel unanimously agreed that the highest rating tender be accepted as the Preferred Tenderer. The highest rating tender was M. Collins & Sons Holdings Pty Ltd refer **(ATTACHMENT 1)**.

FINANCIAL/RESOURCE IMPLICATIONS

M. Collins & Sons Pty Ltd has been in operation since 1975. The company operates in the greater Sydney metropolitan area in the Quarry, Transport and Turf industries and additionally operates a contracting business that specialises in the construction and reconstruction of sporting fields and facilities.

The Property Services initial enquiries and investigations indicated a royalty payment of between \$2.50 to \$3.00 per tonne could be anticipated for silica sand. The preferred tender has quoted figures that are in agreement with Council's initial projected returns and provides a significant income stream of \$100,000 per annum base rent and an annual royalty payment of \$750,000 based on the tenderers commitment to extract 300,000 tonnes of sand per annum.

Awarding the tender for sand extraction has the potential to provide a significant income stream to Council estimated at between 10.2 million to 12.7 million dollars over the life of the project (approximately 12 – 15 years based on initial calculations from site contours)

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	33,079	Funds have been expended to obtain environmental and archaeological report and for legal fees for the preparation of the tender documentation.
Reserve Funds	No	Nil	
Section 94	No	Nil	
External Grants	No	Nil	
Other	No	Nil	

LEGAL, POLICY AND RISK IMPLICATIONS

An Exploration Licence Application (ELA) was lodged with the Department of Trade and Industry over the Council land at Cabbage Tree Road in October 2012. Legal advice was sought as to the implications of awarding a Tender was an Exploration Licence Application pending. A subsequent meeting was also convened with representatives of the Department of Trade and Investment, Council's Legal representative, the General Manager of Port Stephens Council and a number of Council Staff that included some panel members attending the meeting. Consideration was given to all of the advice received with a decision being made that Council would be in a position to finalise the evaluation and award the Tender.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Should the Council not enter into a lease and a DA be submitted, there is a risk that ELA will be approved on Council's land and Council will be at risk of losing royalty payments. Advice from Trade and Industry is that it would be highly unlikely that a second DA would be approved over the same parcels of land therefore it is in Council's interest to progress the lease to enable earlier lodgement of a DA.	High	Accept the tender from M. Collins and Sons Holdings Pty Ltd.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social Implications – High grade white silica sand is a finite resource. The availability of this resource will provide the glass manufacturing industry with a significant amount of material for a lengthy period of time. It will also provide additional employment opportunities within the LGA.

Environmental Implications – have been considered in a flora and fauna study undertaken by RPS. The study provided definite areas of sand extraction as well as providing a wildlife corridor of approximately 45,000 square meters in area that would maintain a connection from Council land through to Hunter Water owned land to the west.

Archaeological Implications – At the request of the Councillors, RPS Australia East Pty Ltd was engaged to prepare an Aboriginal Heritage Due Diligence Report. A survey of the site was undertaken on the 9 November 2011 in conjunction with Aboriginal representatives from Worimi Local Aboriginal Council, Mur-Roo-Ma and Nur-Run-Gee.

The report stated that as Port Stephens Council is not assuming the role of developer of the subject land the Council has no further obligation with regards to Aboriginal cultural heritage for the study area.

The successful tenderer as part of their obligations will be to ensure that they adhere to the Office of Environment and Heritage requirements on Aboriginal Cultural sites and their obligations for heritage under the NSW NPW Act (1974) and the NSW Heritage Act (1977).

CONSULTATION

- 1) Independent Mining Expert;
- 2) NSW Trade and Investment;
- 3) Harris Wheeler Lawyers;
- 4) Corporate Services Group Manager;
- 5) Financial Services Manager;
- 6) Property Services Development Coordinator;
- 7) Councillors – Two Way Conversations and site visit.

OPTIONS

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

ATTACHMENTS – Confidential provided under separate cover.

- 1) Cabbage Tree Road – Tender Evaluation

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 23

FILE NO: T09-2012

T09-2012 TREE MAINTENANCE SERVICES

REPORT OF: PETER MURRAY – OPERATIONS SECTION MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 23 on the Ordinary Council agenda namely **T09-2012 Tree Maintenance Services**.
- 2) The reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **T09-2012 Tree Maintenance Services**.
- 3) On balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) The report of the closed part of the meeting is to remain confidential and that Council makes public its decision,, including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) Accept the following tenders :-

Active Tree Services Pty Ltd, Sydney Metro Tree Services Pty Ltd, CJ Murphy Tree Recycling Services Pty Ltd, Utility Asset Management Pty Ltd, Asplundh Tree Expert (Aust) Pty Ltd, SJB Group Pty Ltd trading as Branch Management

as panel tenders to Port Stephens Council commencing immediately to 31st January 2015, with an option to extend for a period of 12 months.

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

029	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel for the provision of Tree Maintenance Services. Council does not have the expertise or equipment to carry out this service in house. Council has used contractors for this service for approximately fifteen (15) years and have found that this approach provides best value for money.

The contract was put up for tender on the 20th August 2012. Council received six (6) conforming and nil (0) non-conforming tenders.

Each bid was evaluated against "Value Selection" criteria (**ATTACHMENT 1**) and allocated a weighted score for each assessment criteria. This evaluation allows each bid to be ranked according to its performance against a pre determined set of criteria. The "Value Selection" method for the provision of tree maintenance services were assessed against criteria that included price (day rate), insurances, management and technical resources, physical resources, WH&S, references, environmental management and previous experience.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$230,000 per annum for the Facilities and Services Group. The procurement of "best value for money" services is critical to providing sustainable services to the community.

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	YES	230,000	Funded from operations section budget for tree maintenance
Reserve Funds	NO	0	
Section 94	NO	0	
External Grants	NO	0	
Other	NO	0	

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that tree maintenance services are not carried out to standard that may expose Council to possible litigation.	High	Appoint only suitably qualified tenders from panel	Yes
There is a risk that tree maintenance services may not be available as scheduled which may expose Council to possible litigation.	High	Appoint multiple providers as part of a panel tender.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A 2 year annual contract with 12 month extension allows Council to program works with known tree maintenance costs and thereby provides for improved project scheduling, cost accuracy and budget management.

All supplied services are undertaken to current industry risk management standards and legislation to mitigate possible environmental impacts.

CONSULTATION

- 1) Corporate Services – Financial Services – Procurement.
- 2) Facilities & Services – Operations – Parks, Roadside and Drainage.
- 3) Development Services – Natural Resources.

OPTIONS

- 1) As recommended;
- 2) Reject all submissions and recall tenders.

ATTACHMENTS – Confidential provided under separate cover.

- 1) Value Selection Methodology Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 24

FILE NO: T17-2012

TENDER T17 – 2012 – SUPPLY OF HAULAGE SERVICES

REPORT OF: PETER MURRAY – MANAGER OPERATIONS SECTION

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Accept the tender from Flynn Haulage and Earthmoving for the supply of hired haulage vehicles commencing immediately until 30 June 2014, with an option to extend for a period of 12 months.

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

030	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to determine the successful tenderer for the supply of bulk material haulage services and hourly truck hire for the next 18 months, with an option to extend for a further 12 months subject to satisfactory performance.

Council regularly requires haulage services to supplement our own truck fleet to ensure delivery of civil maintenance and construction works. Council has had this arrangement in place for many years and it has proven to be successful.

Councils previous Haulage Services Tender expired in June 2012 and the tender was updated and advertised prior to June with no submissions received. The tender was

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readvertised in June utilising local media and the Tenderlink process and Flynn Haulage and Earthmoving was the only tender received.

As the successful tenderer for the previous eight years, Flynn Haulage and Earthmoving have developed a good working relationship with Council and have proven to be reliable in providing this service at the lowest cost.

FINANCIAL/RESOURCE IMPLICATIONS

Supplementing Council's own haulage resources with contract haulage services allows overall resourcing to be rapidly tailored to the demands of varying works programs and climatic conditions thereby minimising overall resource costs. All costs associated with contract haulage services are met by works program funded by Council and external grants. Annual haulage costs range between \$250,000 and \$400,000 depending upon the works program. The procurement of "best value for money" is critical to providing sustainable services to the community.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	250,000 - 400,000	Works funded by existing budgets.
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

This tender process complies with the Local Government Act 1993 and Local Government (tendering) Regulations.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that supply of haulage services may not be available as required which may lead to works being delayed or cancelled.	Medium	Appoint only suitably qualified tenders with good work history.	Yes
There is a risk that haulage works may not be completed to approved standard which may result in work delays and/or costly rework.	Medium	Appoint only suitably qualified tenders with good work history.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

An 18 month contract with 12 month option also allows Council to program works with known haulage costs and thereby provides for improved project scheduling, cost accuracy and budget management.

All supplies services are undertaken to current industry risk management standards and legislation to mitigate possible environmental impacts.

CONSULTATION

- 1) Procurement and Contracts Co-ordinator;
- 2) Roads and Construction Co-ordinators;
- 3) Operations Manager;
- 4) Group Manager Facilities and Services;
- 5) Works Manager.

OPTIONS

- 1) As recommended;
- 2) Reject all submissions and recall tenders.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 25

FILE NO: T24-2012

T24/2012 - TENDER FOR THE SUPPLY OF TWO (2) TRUCK CAB/CHASSIS

REPORT OF: PETER MURRAY – OPERATIONS SECTION MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 25 on the Ordinary Council agenda namely **T24/2012 Tender for the Supply of Two (2) Truck Cab/Chassis**.
- 2) The reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **T24/2012 Tender for the Supply of Two Truck Cab/Chassis**.
- 3) On balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) The report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) Accept the tender submitted by Gilbert & Roach for the supply of two (2) Isuzu Single Cab Truck Chassis at the combined tendered price of \$315,790.90 (exc. GST).
- 6) Accept the tender submitted by Gilbert & Roach for the combined trade in price of \$96,363.63(exc. GST) for Council's existing plant items.

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

031	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to have Council consider and accept the tender for two (2) Truck Cab/Chassis.

The requirements of the two vehicles varied to such a degree in their application and specification it was decided to request tender costs for two separate vehicles by designating them as;

Vehicle 1 - specified to operate primarily as a prime mover and secondly, with a quick change over gravel tipping body with a minimum payload carrying capacity of 12 Tonne (10m³).

Vehicle 2 - was specified to operate with a conventional gravel tipping body with a minimum payload carrying capacity of 12 Tonne (10m³).

The tender was advertised in the Newcastle Herald and the Sydney Morning Herald. Council also utilises Tenderlink as a source of notifying member companies of new tenders.

Three (3) tenders were received by the advertising closing date, Tuesday 4th December, 2012.

The (3) tenders were received from;

- Newcastle Iveco
- Gilbert and Roach Newcastle
- Newcastle Hino

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Newcastle Hino's tender was deemed non-conforming due to incomplete tender documentation and schedules. One (1) tender submitted by Volvo Commercial Vehicles Newcastle was received the day after the tender closed and was deemed non-conforming.

FINANCIAL/RESOURCE IMPLICATIONS

Allowance for the replacement of this plant has been made in the Council's Fleet Management Restricted Fund.

The three primary key criteria for selecting the Isuzu were;

- The lower purchase price compared to Iveco
- The higher payload of 12,600kg of the Isuzu compared to 11,000kg for the Iveco
- The lower in cab noise level of 69dBA as against 79dBA for the Iveco

The tender price table is detailed in **(ATTACHMENT 1)**.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	219,427.27	Fleet Replacement Program 2012/13 item funded from the Fleet Management Restricted Fund
Reserve Funds	Yes		From Fleet Management Restricted Fund
Section 94	No		N/A
External Grants	No		N/A
Other	Yes		Returned to Fleet Management Restricted Fund

LEGAL, POLICY AND RISK IMPLICATIONS

The item is being replaced in accordance with the Council's Plant Replacement Policy. The recommended vehicle complies with all State and federal statutory authority requirements.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of procuring an unsuitable replacement plant item which may lead to less efficient work process.	Medium	Minimise risk by following a tendering and specification process that involves other stakeholders such as workshop and actual operator	Yes
There is a risk that supply may be	High	Replace item before maintenance costs substantially	Yes

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delayed which may lead to current item becoming economically unsustainable to operate		increase by following plant replacement schedule	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social or sustainability implications.

The Economic Implications are that the existing plant items have reached the end of their economic life and require replacement in order to minimise the whole of life cost to Council.

The Isuzu trucks produce as little as one sixth of the level of particulate matter (PM) then their competitors. Particulate matter is the smoke, soot and harmful invisible unburned hydrocarbons emitted from a truck's exhaust.

Isuzu have voluntarily complied with the stricter Euro V emission standard for these vehicles.

CONSULTATION

- 1) Facilities and Services –Road Coordinator West, Construction Coordinator and Operators;
- 2) Corporate Services – Procurement;
- 3) Facilities and Services – Fleet Operations.

OPTIONS

- 1) Accept recommendations.
- 2) Reject recommendations.
- 3) Recall tenders.

ATTACHMENTS – Confidential provided under separate cover.

- 1) Tender Cost Analysis Table;

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 26

FILE NO: T81112HUN

REGIONAL PROCUREMENT INITIATIVE TENDER T81112HUN-SUPPLY AND DELIVERY OF ROAD RESURFACING SERVICES

REPORT OF: PETER MURRAY – OPERATIONS MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Accept the following tenders :-

Category 1: Sprayed Bituminous Road Surfacing

That the tenders of –

- Bitupave Ltd t/as Boral Asphalt,
- Fulton Hogan and
- SRS Roads Pty Ltd

be accepted as panel tenders to Port Stephens Council for the period 1 July 2014 to 30 June 2015.

Category 2: Asphaltic Concrete

That the tenders of –

- Tropic Asphalts Pty Ltd
- Downer EDI Works
- Accurate Asphalt & Road Repairs Pty Ltd
- Bitupave Ltd t/as Boral Asphalt
- Fulton Hogan and
- Ian Rich Asphalt Pty Ltd

be accepted as panel tenders to Port Stephens Council for the period 1 July 2014 to 30 June 2015.

Category 3: Mill & Re-sheet

That the tenders of –

- Downer EDI Works
- Tropic Asphalts Pty Ltd
- Bitupave Ltd t/as Boral Asphalts and
- Accurate Asphalt & Road Repairs Pty Ltd

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

be accepted as panel tenders to Port Stephens Council for the period 1 July 2014 to 30 June 2015.

Category 4: Crack Sealing

That the tenders of –

- Super Sealing Pty Ltd
- National Road Sealing (NRS) and
- Crack Sealing Australia Pty Ltd

be accepted as panel tenders to Port Stephens Council for the period 1 July 2014 to 30 June 2015.

Category 5: Heavy Patching

That the tenders of –

- Tropic Asphalts Pty Ltd
- Accurate Asphalt & Road Repairs Pty Ltd
- Downer EDI Works
- Bitupave Ltd t/as Boral Asphalt and
- Sharpe Bros Aust Pty Ltd

be accepted as panel tenders to Port Stephens Council for the period 1 July 2014 to 30 June 2015.

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

032	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel for 5 categories of Supply and Delivery of Road Resurfacing Services.

Council purchases these services as part of our road maintenance and construction activities. Council is currently committed to a Road Resurfacing Contract that expires on 30th June 2014. Regional procurement successfully negotiated with the tender providers to allow Port Stephens to be included in their tender subject to Council joining the tender at the expiration of its current contract. Tender prices received are cheaper than Council's current tender and Council can access these prices if the current tenderer cannot supply. It is anticipated that purchasing these services via a bi-annual contract, with an option of a 12 month extension ensures Council will receive the best market rate for these services.

The granting of the contract extension would be based on the performance of the contractors over the initial contract period and being satisfied with the renegotiated schedule of rates for the extension period.

This process is conducted in accordance with the requirements of Councils Community Strategic Plan clause 5.1.3 "ensure Councils procurement activities achieve best value for money."

Regional Procurement Initiative, a division of Hunter Councils Inc. has been established in response to a need for a collaborative approach to regional tendering and contracting. It is estimated the Regional Procurement Initiative members contribute upwards of \$200 Million to the region through their tenders and contracts.

Port Stephens Council along with other Hunter Council members were approached by Regional Procurement to see if running a group tender for the supply and delivery of road resurfacing was viable. It was established that only Port Stephens Council had a current tender in place which presented an opportunity for the smaller Councils to gain cost benefits while not necessarily requiring a tender, and larger Council's to take advantage of group purchasing power while satisfying legislative requirements.

By utilising Regional Procurement to facilitate the tender process we support the Memorandum of Agreement signed by the General Managers of each of the Hunter Council's that agrees to support Regional Procurement and accept the outcomes of tenders where there is an equal to or better outcome than alternative sources.

Regional Procurement called Tenders for the supply of these services across a number of member LGA'S that included Dungog Shire Council, Singleton Council, Cessnock City Council, Upper Hunter Shire, Maitland City Council, Mid – Western Regional Council, Lake Macquarie City Council, Muswellbrook Shire Council, Gosford City Council, Port Stephens Council and The City of Newcastle.

Each bid was evaluated against "Value Selection" criteria and allocated a weighted score for each assessed criteria. This evaluation allows each bid to be ranked according to its performance against a pre determined set of criteria. The "Value

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

Selection" method for the provision of road resurfacing services were assessed against criteria that included price across a range of services, WH&S, ESD, referees, quality assurance, and physical resources. Evaluation shown in **(ATTACHMENT 1)** for Port Stephens Council was based on a heavy patch with AC scenario, with an area of 51m² to 100 m² at a depth of 51mm to 100mm. This scenario was used as it is the most common heavy patching scenario for Council. Evaluations for all categories will be undertaken using this methodology on a project by project basis to establish best value for Council. Not all successful tenderers will appear in **(ATTACHMENT 1)** as it refers to the panel for heavy patching only.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$1,800,000 per annum for the Facilities & Services Group. The actual annual expenditure varies year to year and is dependent on the extent of bituminous sealing specified in the reseal and road construction capital works programmes and what works the Roads & Maritime Services purchase from us under the State Roads maintenance contract. The procurement of the "best value for money" services is critical to providing sustainable services to the community.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$1800,000.00	Works funded from existing budgets.
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

This tender process complies with the Local Government Act 1993 and Local Government (tendering) Regulations. Each bid was assessed using a "Value Selection" method with weighted selection criteria.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that supply and delivery of road resurfacing services may not be available as required which may lead to works being delayed or cancelled.	Medium	Appoint multiple providers as part of panel tender	Yes
There is a risk that supply and delivery of road	High	Appoint only suitably qualified tenders from panel	Yes

resurfacing services may not be completed to approved standard which may result in work delays and/or costly rework.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A 1 year annual contract allows Council to program works with known road resurfacing costs and thereby provides for improved project scheduling, cost accuracy and budget management.

All supplied services are undertaken to current industry risk management standards and legislation to mitigate possible environmental impacts.

CONSULTATION

- 1) Procurement & Contracts Co-ordinator;
- 2) Roads and Construction Co-ordinators;
- 3) Operations Manager;
- 4) Group Manager Facilities and Services;
- 5) Works Manager.

OPTIONS

- 1) As recommended;
- 2) Reject all submissions and recall tenders.

ATTACHMENTS

- 1) Value Selection Methodology Summary. (Heavy Patching)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Heavy Patching Category 5	%	ACCURATE	BORAL	DOWNER	SHARPE BROS	TROPIC
Tender Price <i>Based on 51-100mm depth + 51-100 m²</i>	50	46.87	36.84	35.18	25.50	50.00
Referees	10	8.47	5.47	8.60	9.47	8.47
Quality Assurance	10	8.00	10.00	10.00	8.00	10.00
WH&S	10	10.00	10.00	10.00	8.00	10.00
ESD	10	10.00	10.00	10.00	10.00	10.00
Physical Resources	10	10.00	10.00	10.00	10.00	10.00
Total	100	93.33	82.31	83.78	70.97	98.47

ITEM NO. 27

FILE NO: T11213HUN

REGIONAL PROCUREMENT INITIATIVE TENDER T11213HUN-SUPPLY, DELIVERY AND PLACEMENT OF ROAD PAVEMENT STABILISING

REPORT OF: PETER MURRAY – OPERATIONS MANAGER
 GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Accept the following tenders :-

- Accurate Asphalt and Road Repairs Pty Ltd
- Diveva Pty Ltd trading as Mid Coast Road Services
- Stabilised Pavements of Australia (SPA)

As panel tenders for delivery and placement of road pavement stabilising commencing immediately until 31st December 2014, with an option to extend for a period of twelve months.

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

033	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel for Supply, Delivery and Placement of Road Pavement Stabilising.

Council purchases these services as part of our road maintenance and construction activities. Council is currently not committed to any contract for provision of these services. It is anticipated that purchasing these services via a bi-annual contract, with an option of a 12 month extension ensures Council will receive the best market rate for these services. The granting of the contract extension would be based on the performance of the contractors over the initial contract period and being satisfied with the renegotiated schedule of rates for the extension period.

This process is conducted in accordance with the requirements of Councils Community Strategic Plan clause 5.1.3 "ensure Councils procurement activities achieve best value for money."

Regional Procurement Initiative, a division of Hunter Councils Inc. has been established in response to a need for a collaborative approach to regional tendering and contracting. It is estimated the Regional Procurement Initiative members contribute upwards of \$200 Million to the region through their tenders and contracts.

Port Stephens Council along with other Hunter Council members were approached by Regional Procurement to see if running a group tender for the supply and delivery of road resurfacing was viable. It was established that only Port Stephens Council had a current tender in place which presented an opportunity for the smaller Councils to gain cost benefits while not necessarily requiring a tender, and larger Council's to take advantage of group purchasing power while satisfying legislative requirements.

By utilising Regional Procurement to facilitate the tender process we support the Memorandum of Agreement signed by the General Managers of each of the Hunter Council's that agrees to support Regional Procurement and accept the outcomes of tenders where there is an equal to or better outcome than alternative sources.

Regional Procurement called Tenders for the supply of these services across a number of member LGA'S that included Dungog Shire Council, Singleton Council, Upper Hunter Shire, Muswellbrook Shire Council, Port Stephens Council and The City of Newcastle. Regional Procurement received four (4) conforming tender submissions for the Supply, Delivery and Placement of Road Pavement Stabilising.

Each bid was evaluated against "Value Selection" criteria (**ATTACHMENT 1**) and allocated a weighted score for each assessed criteria. This evaluation allows each bid to be ranked according to its performance against a pre determined set of criteria. The "Value Selection" method for the provision of road stabilising services were assessed against criteria that included price across a range of services, WH&S, physical resources, referees, quality assurance and previous experience.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$450,000 per annum for the Facilities & Services Group. The actual annual expenditure varies year to year and is dependent on the extent of stabilising specified in the rehabilitation and road construction capital works programmes and what works the Roads & Traffic Authority purchase from us under the State Roads maintenance contract. The procurement of

MINUTES FOR ORDINARY COUNCIL – 12 FEBRUARY 2013

the "best value for money" services is critical to providing sustainable services to the community.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Y	\$450,000	Funded from existing budgets.
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that supply, delivery and placement of road pavement stabilising services may not be available as required which may lead to works being delayed or cancelled.	Medium	Appoint multiple providers as part of panel tender	Yes
There is a risk that supply, delivery and placement of road pavement stabilising services may not be completed to approved standard which may result in work delays and/or costly rework.	High	Appoint only suitably qualified tenders from panel	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A 2 year annual contract with 12 month option also allows Council to program works with known road stabilising costs and thereby provides for improved project scheduling, cost accuracy and budget management.

All supplied services are undertaken to current industry risk management standards and legislation to mitigate possible environmental impacts.

CONSULTATION

- 1) Procurement & Contracts Co-ordinator;
- 2) Roads and Construction Co-ordinators;
- 3) Operations Manager;
- 4) Group Manager Facilities and Services;
- 5) Works Manager.

OPTIONS

- 1) As recommended;
- 2) Reject all submissions and recall tenders.

ATTACHMENTS

- 1) Value Selection Methodology Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

CRITERIA	%	ACCURATE	DIVEVA MID COAST ROADS	SHARPE BROS	STABILISED PAVEMENTS AUSTRALIA
Tender Price	60	60.00	50.52	5.25	42.01
Referees	5	3.73	3.90	4.43	4.43
Quality Assurance	10	6.00	8.00	8.00	10.00
WH&S	10	10.00	10.00	8.00	10.00
ESD	5	5.00	5.00	5.00	5.00
Physical Resources	10	8.00	8.00	8.00	10.00
Total	100	92.73	85.42	38.68	81.45

ITEM NO. 28

FILE NO: T19-2012

T19/2012 - TENDER FOR THE SUPPLY OF ONE (1) FOUR WHEEL BACKHOE/ LOADER

REPORT OF: PETER MURRAY – OPERATIONS SECTION MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 28 on the Ordinary Council agenda namely **T19/2012 Tender for the Supply of One (1) Four Wheel Backhoe/Loader.**
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **T19/2012 Tender for the Supply of One (1) Four Wheel Backhoe/Loader.**
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) Accept the tender submitted by Hitachi Construction Machinery Australia Pty Ltd for the supply of one (1) John Deere 310SK backhoe loader at the tendered price of \$180,000.00 (exc. GST)
- 6) Accept the tender submitted by Hitachi Construction Machinery Australia Pty Ltd for the trade in price of \$40,000 for Council's existing plant item.

COMMITTEE OF THE WHOLE RECOMMENDATION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

034	Councillor John Nell Councillor Sally Dover
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to have Council consider and accept the tender for one (1) four wheel drive centre mount backhoe loader.

In accordance with Council's plant replacement policy, tenders were called for the supply and delivery of one (1) 4wd centre mount backhoe loader. Four tenders were received by the advertised closing date, Tuesday 7th August 2012:

Semco Equipment Sales;
Komatsu Australia Pty Ltd;
WesTrac Pty Ltd;
Hitachi Construction Machinery Australia.

Three tenders were deemed non-conforming:

- 1) Semco Equipment Sales due to tendering a side shift model in lieu of a centre mount model
- 2) Komatsu Australia Pty Ltd also due to tendering a side shift model in lieu of a centre mount model
- 3) WesTrac Pty Ltd also due to tendering a side shift model in lieu of a centre mount model

Council called specifically for a centre mount backhoe since this style of machine offers distinct advantages over the side shift type for the work that the machine would be used for.

FINANCIAL/RESOURCE IMPLICATIONS

Allowance for the replacement of this plant has been made in the Council's Fleet Management Restricted Fund.

A meeting consisting of fleet management, operators and their managers was held to discuss the future direction of the tender and impact on Council. The concerning issue was the fact that not only had Council received three non-conforming tenders but Hitachi Construction Machinery Australia had submitted a fully conforming tender that was based on a newly released model that was also unavailable in Australia until late October 2012

The group unanimously agreed to continue with the tender and wait until the opportunity became available to demonstrate and evaluate Hitachi Construction Machinery's John Deere centre mount model. The decision was based on:

- The centre mount configuration was considered essential for the intended type of work for this particular plant item
- Financial analysis including whole of life costing estimated that the John Deere would have a similar hire rate to Council's existing backhoe fleet

The John Deere was evaluated by two qualified, experienced operators and a Council workshop mechanic, each completing an assessment on the item. The demonstration revealed that this latest model just released provides the latest technology, excellent performance and outstanding operator ergonomics. Based on the assessment ratings and comments from the operators and workshop staff, this item would be considered an ideal option for Council and the tender should be considered complete.

The tender price table is detailed in Confidential Attachment provided under separate cover.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$140,000	Fleet Replacement Program 2012/13 item funded from the Fleet Management Restricted Fund
Reserve Funds	Yes		From Fleet Management Restricted Fund
Section 94	No		N/A
External Grants	No		N/A
Other	Yes		Returned to Fleet Management Restricted Fund

LEGAL, POLICY AND RISK IMPLICATIONS

The item is being replaced in accordance with the Council's Plant Replacement Policy. The recommended vehicle complies with all State and federal statutory authority requirements.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk of procuring an unsuitable replacement plant item which may lead to less efficient work process.	Medium	Minimise risk by following a tendering and specification process that involves other stakeholders such as workshop and actual operator	Yes
There is a risk that supply may be delayed which may lead to current item becoming economically unsustainable to operate	High	Replace item before maintenance costs substantially increase by following plant replacement schedule	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social or sustainability implications.

The Economic Implication is that the existing plant item has reached the end of its economic life and requires replacement in order to minimise the whole of life cost to Council.

The tendered trade price from Hitachi Construction Machinery Australia was selected as there were no tendered submissions for outright purchase price of Councils currently owned backhoe.

The environmental efficiency features of the John Deere's 310SK are simple, fuel efficient, fully integrated, and fully supported. It employs field-proven cooled exhaust gas recirculation therefore reducing emissions, and a diesel particulate filter and diesel oxidation catalyst to reduce particulate matter without the requirement for after-treatment components.

CONSULTATION

- 1) Facilities and Services – Roadside & Drainage Coordinator and Operators;
- 2) Corporate Services – Procurement;
- 3) Facilities and Services – Fleet Operations.

OPTIONS

- 1) Accept recommendations.
- 2) Reject recommendations.
- 3) Recall tenders.

ATTACHMENTS – Confidential provided under separate cover

- 1) Tender Cost Analysis Table.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 29

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 12 February, 2013.

No:	Report Title	Page:
1	QUARTERLY REPORT OF MAYOR AND COUNCILLOR EXPENSES	
2	CONTROL OF PAMPAS GRASS IN THE TOMAGO WETLANDS	
3	CASH AND INVESTMENTS HELD AT 30 NOVEMBER 2012	
4	HUNTER COMMUNITY REFERENCE GROUP – COUNCIL REPRESENTATIVE	
5	DESIGNATED PERSONS – PECUNIARY INTEREST	

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

006	<p>Councillor Geoff Dingle Councillor Chris Doohan</p>
	<p>It was resolved that Council move into the Ordinary Council meeting.</p>

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

035	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

INFORMATION PAPERS



INFORMATION ITEM NO. 1

QUARTERLY REPORT OF MAYOR AND COUNCILLOR EXPENSES

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

FILE: PSC2010-04205

BACKGROUND

The purpose of this report is to provide the quarterly expenses of the Mayor and Councillors which have been incurred in accordance with the Payment of Expenses and Provision of Facilities to Councillors policy.

The table at **(ATTACHMENT 1)** also includes the total number of meetings attended during the period.

ATTACHMENTS

- 1) Quarterly Report of Mayor and Councillor Expenses.

ATTACHMENT 1
SEPT – DEC 2012

		<i>Cr Bruce Mackenzie</i>	<i>Cr Chris Doohan</i>	<i>Cr Geoff Dingle</i>	<i>Cr John Morello</i>	<i>Cr John Neil</i>	<i>Cr Ken Jordan</i>	<i>Cr Paul Le Moffee</i>	<i>Cr Peter Kafer</i>	<i>Cr Sally Dover</i>	<i>Cr Steve Tucker</i>	TOTALS
Total Council Meetings Attended (5held)		5	4	5	5	5	5	4	5	5	5	
	Limits as per policy											
Councillor Allowances	Mayor \$54,380 per annum. Crs - \$17,060 per annum	\$14,322.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$57,504.00
Travel Expenses	\$6,000 per year	\$0.00	\$335.96	\$764.42	\$997.43	\$1,940.72	\$204.75	\$975.95	\$0.00	\$2,851.67	\$1,394.16	\$9,465.06
Communications (Includes telephones, mobiles & fax)	\$200 per month	\$265.32	\$327.19	\$314.51	\$731.44	\$535.62	\$400.00	\$200.00	\$172.19	\$979.31	\$686.69	\$4,612.27
Internet	\$60 per month	\$0.00	\$73.48	\$212.82	\$240.00	\$300.00	\$120.00	\$150.00	\$119.90	\$0.00	\$240.00	\$1,456.20
Accommodation	include with conference	\$0.00	\$0.00	\$0.00	\$492.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$492.28
Conferences / Training	\$3,500 per year	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$149.00	\$0.00	\$149.00
Partners Expenses	Mayor \$1,000 per term Crs \$500 per term	\$0.00	\$0.00	\$0.00	\$85.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$95.00	\$180.00
Computer Devices	\$3,000 per term	\$0.00	\$3,000.00	\$2,030.31	\$3,000.00	\$299.00	\$0.00	\$0.00	\$0.00	\$3,000.00	\$1,164.95	\$12,494.26
Stationery		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Awards Ceremonies / Dinner	\$100 per day	\$0.00	\$0.00	\$0.00	\$85.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$116.60	\$201.60
Childcare Costs	\$2,000 per term	\$0.00	\$180.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$180.00
TOTALS		\$14,587.32	\$8,714.63	\$8,120.06	\$10,429.15	\$7,873.34	\$5,522.75	\$6,123.95	\$5,090.09	\$11,777.98	\$8,495.40	\$86,734.67

INFORMATION ITEM NO. 2

CONTROL OF PAMPAS GRASS IN THE TOMAGO WETLANDS

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

GROUP: DEVELOPMENT SERVICES

FILE: A2004-0217

BACKGROUND

The purpose of this report is to respond to a resolution of council on the 24th April 2012 (Minute No.096). At this meeting it was resolved:

"That Council prepare a report on the development of a regional strategy for the control of the Pampas Grass, with the aim of preventing it from spreading into the Tomago Wetlands".

The "*Hunter and Central Coast Regional Weeds Strategy 2010 -2015*" includes 11 adjoining local government areas in the Hunter Council Region. Pampas Grass is listed in this strategy as a Category 4 Noxious Weed which stipulates that;

"The growth of the plant must be managed in a manner that reduces its numbers spread and incidence and continuously inhibits its reproduction."

There are currently 5 categories of noxious weeds, with category 1 given the highest priority for control and category 5 the lowest priority for control. The categories reflect the agricultural or environmental impact of these weeds. See Table 1 below for more specific details.

Within the Hunter and Central Coast Regional Weed Strategy 2010 -2015, a risk based approach was applied to over 135 weed species across the region (including different landscapes) to determine the most efficient weed control methods. Pampas grass was considered to be in the top 20 weeds of regional significance.

The following is an extract for control measures from the strategy in regards to Pampas grass.

RECOMMENDED MANAGEMENT ACTIONS FOR PAMPAS GRASS

Common Name	Scientific Name	Water Env.	Coastal Fringes	Forests Woodland	Agriculture	Roads Vectors	Intensive Uses
Pampas Grass	<i>Cortaderia</i> species	4	3	4	4	4	4

Note: 1 = Eradicate from the region 2 = Destroy infestations where possible; 3 = contain spread and reduce density of infestations; 4 = control for asset protection purposes; 5 = site specific actions; 6 = weed specific actions; 7 = monitoring and 8 = limited action required.

Tomago Wetlands is now part of Hunter Wetlands National Park (HWNP) and they are in the draft stages of finalising their Hunter Coast Pest Management Strategy 2012-2015. Within the draft strategy they have identified Pampas Grass as a threat to the National Park and have accordingly allocated resources to the issue. They plan to proactively treat Pampas Grass infestations by the normal chemical process. They are also expecting that the opening of floodgates in the area will help to control Pampas Grass.

The other major landholders adjoining HWNP are Northbank who intend to turn about 250 hectares into an industrial park and the other significant parcel (200 hectares) is owned by Port Waratah Coal Services who intend to rehabilitate the majority of their site into wetlands to offset the further development on their site.

Currently across the state the rankings for noxious weeds listed are being revised in addition to new weeds being added to the list. It is proposed that regionally Pampas Grass will be upgraded to a Category 3 Rating which requires that "*the plant must be fully and continuously suppressed and destroyed*". This will place a higher priority on the control of Pampas Grass by Local Government and the State Government in this region.

The proposed changes from category 4 to 3 for Pampas Grass will mean that the presence of the weed will require immediate treatment and destruction. Currently under category 4, the weed doesn't need to be totally destroyed, only the spread and reproduction needs to be controlled.

Table 1 Control classes of noxious weeds

Control class	Weed type	Example control requirements
Class 1	Plants that pose a potentially serious threat to primary production or the environment and are not present in the State or are present only to a limited extent. Example Chinese Violet	The plant must be eradicated from the land and the land must be kept free of the plant. The weeds are also "notifiable" and a range of restrictions on their sale and movement exist.
Class 2	Plants that pose a potentially serious threat to primary production or the environment of a region to which the order applies and are not present in the region or are present only to a limited extent. Example Gorse	The plant must be eradicated from the land and the land must be kept free of the plant. The weeds are also "notifiable" and a range of restrictions on their sale and movement exist.
Class 3	Plants that pose a potentially serious threat to primary production or the environment of a region to which the order applies, are not widely distributed in the area and are likely to spread in the area or to another area. Example Salvinia	The plant must be fully and continuously suppressed and destroyed.*
Class 4	Plants that pose a potentially serious threat to primary production, the environment or human health, are widely distributed in an area to which the order applies and are likely to spread in the area or to another area. Example Lantana & Bitou Bush	The growth of the plant must be managed in a manner that reduces its numbers spread and incidence and continuously inhibits its reproduction*
Class 5	Plants that are likely, by their sale or the sale of their seeds or movement within the State or an area of the State, to spread in the State or outside the State. Example Willows	There are no requirements to control existing plants of Class 5 weeds. However, the weeds are "notifiable" and a range of restrictions on their sale and movement exists.

NOTE: All Class 1, 2 and 5 weeds are prohibited from sale in NSW.

* In some cases the following wording has also been inserted "the plant may not be sold, propagated or knowingly distributed."

COUNCILLORS ROOM

Hunter and Central Coast Regional Weed Strategy 2010 – 2015.

ATTACHMENTS

Nil.

INFORMATION ITEM NO. 3

CASH AND INVESTMENTS HELD AT 30 NOVEMBER 2012

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

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 30 November 2012.

ATTACHMENTS

- 1) Cash and investments held at 30 November 2012
- 2) Monthly cash and investments balance November 2011 to November 2012
- 3) Monthly Australian term deposit index November 2011 to November 2012

MINUTES FOR ORDINARY MEETING – 12 FEBRUARY 2013

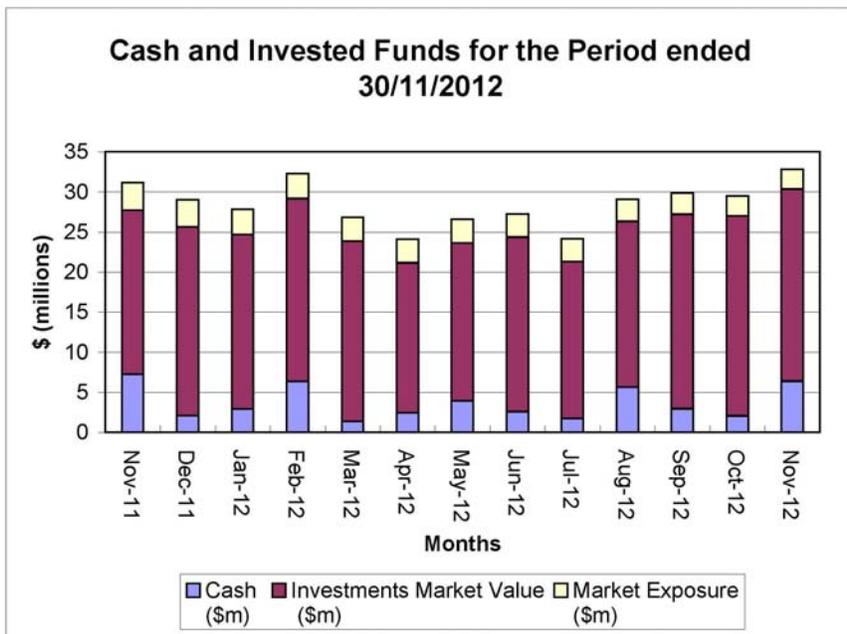
ATTACHMENT 1

CASH AND INVESTMENTS HELD AS AT 30 NOVEMBER 2012								
ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
POLICE CREDIT UNION LTD	FARQUHARSON	N/R	TD	5.00%	122	10-Dec-12	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	CURVE	F3/BBB-	TD	5.14%	120	11-Dec-12	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	RIM	F3/BBB-	TD	5.11%	120	18-Dec-12	1,000,000	1,000,000
RURAL BANK LTD	FIG	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	FIG	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	FIG	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
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
WAW CREDIT UNION COOPERATIVE LTD	FIG	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
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	550,000
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	230,900
GRANGE SEC. "COOLANGATTA AA" *	GRANGE	C	CDO	0.00%	7yrs	20-Sep-14	1,000,000	0
DEUTSCHE BANK TELSTRA LNK DEP. NTE	FIG 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	350,629
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,876	830,790
SUB TOTAL (\$)							5,930,376	3,462,319
INVESTMENTS TOTAL (\$)							26,430,376	23,962,319
CASH AT BANK (\$)							6,387,735	6,387,735
TOTAL CASH AND INVESTMENTS (\$)							32,818,111	30,350,054
CASH AT BANK INTEREST RATE				3.20%				
BBSW FOR PREVIOUS 3 MONTHS				3.35%				
AVG. INVESTMENT RATE OF RETURN				4.40%				
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

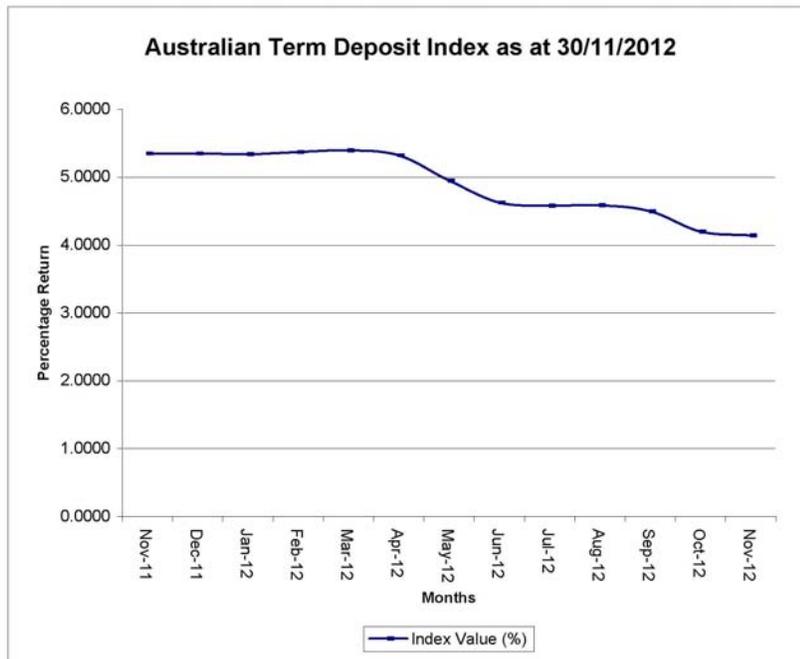
Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Nov-11	7.240	20.462	3.468	31.171
Dec-11	2.101	23.546	3.384	29.032
Jan-12	2.909	21.781	3.150	27.839
Feb-12	6.372	22.787	3.143	32.303
Mar-12	1.391	22.465	2.965	26.821
Apr-12	2.441	18.722	2.959	24.121
May-12	3.931	19.700	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



ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Nov-11	5.3510
Dec-11	5.3504
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



INFORMATION ITEM NO. 4

**HUNTER COMMUNITY REFERENCE GROUP – COUNCIL
REPRESENTATIVE**

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

FILE: PSC2005-4458

BACKGROUND

The purpose of this report is to advise Council that the Mayor exercised his delegation between Council meetings to appoint Cr Paul Le Mottee to the Hunter Community Reference Group of the Hunter Central Rivers, Catchment Management Authority (CMA).

The CMA requested a Council nomination prior to the Christmas period and the Mayor has informed the CMA that Cr Le Mottee would be the nominated representative.

This Information Paper is therefore submitted to Council for endorsement.

ATTACHMENTS

Nil.

INFORMATION ITEM NO. 5

DESIGNATED PERSONS – PECUNIARY INTEREST

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

FILE: PSC2012-02853

BACKGROUND

The purpose of this report is to advise Council of those new Councillors who have submitted Returns.

All newly elected Councillors are required to lodge a Return under Section 449(1) of the Local Government Act 1993. Councillors who were re-elected are not required to complete a Return at this time.

Councillors

Cr Chris Doohan;
Cr Paul Le Mottee;
Cr John Morello.

ATTACHMENTS

Nil.

TABLED DOCUMENTS

- 1) Pecuniary Interest Returns.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 +
PSC2012-01190

ALLOCATION OF REPEALED SECTION 94 FUNDS

COUNCILLOR: NELL, DINGLE, KAHER

THAT COUNCIL:

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

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

MINUTES FOR ORDINARY MEETING – 12 FEBRUARY 2013

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

MOTION

036	Councillor John Nell Councillor Peter Kafer
	It was resolved that the Notice of Motion be adopted.

BACKGROUND

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

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

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

CONFIDENTIAL ITEMS



In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

037	Councillor Geoff Dingle Councillor John Nell
	It was resolved that Council move into confidential session.

CONFIDENTIAL

ITEM NO. 22

FILE NO: T12-2012

TENDER T12-2012 – LEASE OF LOT 1012 DP 814078, LOT 11 DP 629503, LOT 121 DP 556403 & LOT 1 DP 224587, 282, 282A, 282B AND 398 CABBAGE TREE ROAD, WILLIAMTOWN FOR SAND EXTRACTION

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

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MOTION

038	Councillor Steve Tucker Councillor Sally Dover
	It was resolved that Council: 1. Reject all tenders and negotiation with any tenderer as the evaluation table contained within the report is not sufficient. 2. Arrange a workshop for the Mayor and Councillors following consultation with any tenderer.

CONFIDENTIAL

ITEM NO. 1

FILE NO: PSC2013-00034

PURCHASE OF 3A EVANS ROAD MEDOWIE FOR DRAINAGE PURPOSES

REPORT OF: MICHELLE VIOLA – ACTING CIVIL ASSETS MANAGER
GROUP: FACILITIES & SERVICES

MOTION

039	Councillor Geoff Dingle Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none">1. Authorise the General Manager to proceed with formal negotiations for the purchase of Lot 1 DP 1158095 being 3A Evans Road Medowie.2. Purchase Lot 1 DP 1158095 being 3A Evans Road Medowie for the amount of \$234,000.3. Resolves to classify the land Lot 1 DP 1158095 being 3A Evans Road Medowie upon purchase as operational land.4. Grants authority for the General Manager and the Mayor to sign and affix the seal of Council to any related documents.5. Finalises the purchase of Lot 1 DP 1158095 being 3A Evans Road Medowie.

ORDINARY COUNCIL MEETING – 12 FEBRUARY 2013

MATTER ARISING

040	Councillor Bruce MacKenzie Councillor Chris Doohan
	It was resolved that the General Manager provide a report on the public reserve between Ballat Close and Kula Road, Medowie.

There being no further business the meeting closed at 7.53pm.

MINUTES FOR ORDINARY MEETING – 12 FEBRUARY 2013

I certify that pages 1 to 191 of the Open Ordinary Minutes of Council 12 February 2013 and the pages 192 to 210 of the Confidential Ordinary Minutes of Council 12 February 2013 were confirmed by Council at its meeting held on 5 March 2013.

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Bruce MacKenzie
MAYOR