

MINUTES 8 APRIL 2014



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 8 April 2014, commencing at 5.30pm.

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

074	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 25 March 2014 be confirmed.
	No apologies were received.
	Cr Ken Jordan declared a pecuniary conflict of interest in Item 13 (1) of the Information Papers. The nature of the interest is a friendship. Cr Paul Le Mottee declared a pecuniary conflict of interest in Item 13 (1) of the Information Papers. The nature of the interest is the Le Mottee Group has undertaken survey work on the site.

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COUNCIL REPORTS

ITEM NO. 1

FILE NO: PSC2013-02399

DRAFT SOCIAL IMPACT POLICY

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

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Social Impact Policy shown at **(ATTACHMENT 1)**;
- 2) Place the draft Social Impact Policy on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council;
- 3) Revoke the Social Policy **(ATTACHMENT 2)** dated 27 May 2003 Minute No. 186, should no submissions be received.

ORDINARY COUNCIL MEETING – 8 APRIL 2014 MOTION

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

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Paul Le Mottee Councillor Sally Dover
	That the recommendation be adopted.

MOTION

077	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none"> 1) Endorse the draft Social Impact Policy shown at (ATTACHMENT 1); 2) Place the draft Social Impact Policy on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council; 3) Revoke the Social Policy (ATTACHMENT 2) dated 27 May 2003 Minute No. 186, should no submissions be received.

BACKGROUND

The purpose of this report is to recommend that Council revoke the current Social Policy and endorse the draft Social Impact Policy to go on public exhibition for 28 days.

Council's Social Policy was adopted in 2003. Its primary purpose was to articulate Council's social vision for Port Stephens. A primary objective of the Social Policy is:

To ensure the impacts on people are considered on equal terms with environmental and economic considerations by raising the awareness and consideration of the likely social implications on all Council activities including planning, policy development, decision making and resource allocation.

Despite the objectives of the 2003 Social Policy, no specific social impact assessment guidelines exist to guide officer's considerations of social impacts.

In 2009 the Department of Local Government's Integrated Planning and Reporting Framework was introduced. The framework aims to improve council's long term community, financial and asset planning. The new planning and reporting framework replaces the former Management Plan, Social Plan and Annual Reporting requirements with a hierarchy of documents including a long-term Community Strategic Plan, Resource Strategy, Delivery Program and Operational Plan.

The Community Strategic Plan identifies the community's main priorities and aspirations for the future. The desired community outcomes contained in the Plan are reflective of the principles and policy statements in Council Social Policy. As a result the need for a stand alone Social Policy is no longer necessary.

In addition to the Community Strategic Plan obligations, Council continues to have a statutory obligation under Section 79c of the Environmental Planning and Assessment Act 1979 (EP & A Act) to consider the social impact of a proposal when assessing a specific development application.

Despite the development of the Community Strategic Plan, the Plan does not provide Council with clear direction on the consideration of the social impact of proposed developments or the tools for assessing social issues in its strategic landuse planning and development planning areas.

A Social Impact Policy and associated Social Impact Assessment Guidelines are proposed to address this policy gap and better address its statutory obligations under the EP & A Act.

Adoption of a Social Impact Policy will also assist Council to balance the environmental, social and economic needs as stated in Council's Integrated Community Strategic Plan 2013-2023.

The associated Social Impact Assessment Guidelines will provide the appropriate mechanism required to help formally assess the social impact of proposals in a

structured and objective manner. This is commonly referred to as 'Social Impact Assessment'.

Social Impact Policy and Guidelines have been adopted by many local Councils, incorporating specific guidelines for Council staff and the development industry. The development of the draft Social Impact Policy and Guidelines included benchmarking to ensure consistency with similar and neighbouring local government areas. In particular, the policies, procedures and guidelines used by the following Councils in relation to Social Impacts are considered to be best practice:

- City of Newcastle;
- Lake Macquarie City Council;
- Byron Shire Council;
- Holroyd City Council;
- Leichardt Council;
- Port Macquarie – Hastings Council;
- Randwick City Council.

The absence of a Social Impact Policy can leave Council's planning and decision making process open to broad interpretation regarding social impacts. Social impacts are complex and are difficult to assess in a consistent robust manner without clear assessment guidelines.

The need for clear social Guidelines was raised by Council in the lead up to the Land and Environment Court case *Motto Farm Pty Limited v Port Stephens Council* [2011] NSWLEC 1293. The Court case related to a development application for the 'change of use of part of an existing restaurant within an existing motel for a hotel' at Heatherbrae which was refused by Council. Council had difficulty articulating the social impacts of the DA in the absence of any guidelines. However the subsequent Court appeal by *Motto Farm Pty Limited* was dismissed based on unacceptable social impacts of the proposal on the area.

Impact on Development Assessment

The Social Impact Assessment Guidelines supports the Policy and provides guidance on how the social impact assessment process for development applications and planning proposals should be conducted.

Two levels of social impact assessment for development assessment apply including:

- a) Social Impact Comment – this is a basic level of assessment that is a part of the environmental effect
- b) Social Impact Assessment – when significant social impacts are anticipated or likely due to the scale and type of development or proposal. This is a stand-alone more detailed assessment.

Examples of a Social Impact Comment and the more detailed Social Impact Assessment are included within the Guidelines to assist applicants. It is anticipated that the vast majority of development applications considered by Council will only warrant a Social Impact Comment.

The Guidelines provide direction (on Page 6) for the applicant and Council staff as to when either a comment or assessment applies. Ultimately this will be at the discretion of the Development Assessment officer.

The Guidelines are anticipated to provide both the development industry and Council staff with greater clarity around the consideration of the social impacts of development proposals in accordance with Section 79c of the EP & A Act.

FINANCIAL/RESOURCE IMPLICATIONS

The adoption of the Social Impact Policy and Social Impact Assessment Guidelines will not have any significant financial or resource implications for Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Implementation will be funded from existing and future budgets.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to take social issues into consideration under the Local Government Act 1993 Section 8(1) and under its Community Strategic Plan. Council is also required to consider social issues in the delivery of its services.

One of the highest risk areas for Council however in relation to social matters is in the area of development assessment. Under the Environmental Planning and Assessment Act Section 79c, Council is required to consider the social impacts of development applications. Council may be legally exposed if it does not adequately assess the social impacts of development applications in an adjective and impartial manner. The adoption of a clear and consistent framework will assist Council to minimise its risks in the area of social impact assessment.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the absence of a clear policy and guideline may result in an inconsistent approach to assessing social impacts	Medium	Adoption of the Social Impact Policy.	Yes

associated with development applications and planning proposals.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The adoption of a Social Impact Policy and associated guidelines will assist the development industry and Council planners to better assess the social impacts of developments and planning proposals. It will help to balance the economic, social and environmental elements of proposals and provide some certainty around social impact assessment. A clear Policy and Guidelines will also help to reduce confusion around Social Impact Assessment and save time in the assessment process.

CONSULTATION

The Social Impact Policy and Social Impact Assessment Guidelines have been developed with input from a broad range of internal and external stakeholders.

Consultation and research included literature reviews and benchmarking of NSW Councils (including a survey completed by 14 Councils). A review of the current processes for considering social impacts was also completed.

An internal Social Impact Stakeholder Group was established in March 2013. The group provided information and feedback in relation to the current process (e.g. Social Policy). The group also scoped the content of the draft Social Impact Policy and associated guidelines.

Extensive input and assistance in the development of the Social Impact Policy and particularly the Social Impact Assessment Guidelines was received from the Development Assessment Team and Strategic Planning Team. The feedback from these Teams was critical as these documents will be used primarily by the planners as part of the development assessment process.

During the public exhibition process it is proposed that the draft Social Impact Policy will be placed on Council's website. It will be available for viewing at Council's libraries and Administration Centre. Copies will also be sent to the Master Builders Association, the Property Institute of Australia and other key stakeholders seeking comment.

OPTIONS

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

ATTACHMENTS

- 1) Draft Social Impact Policy;
- 2) Social Policy;
- 3) Draft Social Impact Assessment Guidelines 2014.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Draft Social Impact Policy



POLICY

Adopted: "[CLICK HERE, INSERT DATE]"

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

Amended:

Minute No:

FILE NO: PSC2013- 02399

TITLE: SOCIAL IMPACT POLICY

RESPONSIBLE OFFICER: COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER

BACKGROUND

The purpose of this Policy is to provide a consistent, transparent and equitable framework for analysing and managing social impacts of Council activities and development proposals. This is achieved through the administration and application of the Social Impact Assessment Guidelines.

A Social Impact Assessment (SIA) refers to the assessment of the social consequences of a proposed decision or action e.g. development proposals, plans and projects. An action or decision can positively and/or negatively contribute to social issues and this in turn could result in a social impact.

Social impacts are changes to the status quo (and capacity to sustain these) in groups of people and/or community in one or more of the following ways:

- *'Liveability: people's way of life, life chances, housing, recreation, open space, lifestyles;*
- *Community cohesion and connectedness;*
- *Cultural traditions, shared beliefs and customs;*
- *Health and wellbeing: physical and mental health, safety, personal and community aspirations;*
- *Economic prosperity: jobs, income, business opportunities; and*
- *Human rights and participatory democracy'.*

Port Stephens Council Community Strategic Plan 2013-2023 specifies the following strategic direction for Sustainable Development: -

11.1 Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.

To deliver this, Council develops strategic land use plans, infrastructure plans and prepares and maintains statutory planning instruments including local environmental plans, development control plans and policies.

Council also has a statutory obligation under Section 79C of the Environmental Planning and Assessment Act 1979 to consider the social impact of a proposal when assessing a specific development application.

Key aims of the draft Port Stephens Local Environmental Plan (LEP) 2013 are:

- 1.2 (2) (b) 'To cultivate a sense of place that promotes community well being and quality of life'
- 1.2 (2) (j) 'Seek to achieve effective inter-generational equity by managing the integration of environmental, social and economic goals in a sustainable and accountable manner'

This Policy will play a key role in supporting the achievement of the strategic outcomes, as stated above, through an integrated and informed approach to considering social impacts across Council.

OBJECTIVE

- 1) To ensure potential social impacts are balanced with environmental and economic impacts in the consideration of all relevant Council activities including planning, policy and strategy development, decision making and resource allocation.
- 2) To facilitate the preparation and assessment of developments with respect to social considerations in the interests of the developer, the broader community and the future of Port Stephens.

PRINCIPLES

- **Equity:** Social impacts should not fall disproportionately on certain groups of the population, in particular children and women, the disabled and socially excluded, certain generations or certain religions. The needs of the present generation should be met without compromising the ability of future generations to meet their own needs.
- **Precaution:** Lack of certainty about potential impacts should not be used as a reason to approve planning decisions or not require mitigation measures and monitoring.

- **Prevention:** It is preferable and cheaper in the long run to prevent negative social impacts from happening than having to restore or rectify damage after the event.
- **Diversity:** Communities are demographically structured (age and generation), and they comprise of different groups with various value systems and different skills. Planning decisions should not lead to a loss of social diversity or cohesion in a community.
- **Good Governance:** Consistent processes that are supported by policies are the mechanism for local government to ensure the realisation of human rights.

Adapted from: Alison Ziller, 2012: 54-55, 'The new social impact assessment handbook'

POLICY STATEMENT

The purpose of this Policy is to establish a framework under which Port Stephens Council will effectively and efficiently manage social impacts ensuring:

- Council officers, applicants, developers, or consultants who are required to consider the social impacts of a proposed development, planning proposal, or project will be required to prepare either a Social Impact Comment or a Social Impact Assessment.
- The Social Impact Assessment Guidelines provide the process and describe the two types of social assessment. The guidelines will describe the development proposal types which require assessment and provide details on the information that should be included in social assessments. The guidelines will provide consistency with relevant statutory requirements and will assist in the application of this policy.

RELATED POLICIES

- 1) Sustainability Policy;
- 2) Disability Policy;
- 3) Community Engagement Policy;
- 4) Community Services Policy;
- 5) Asset Management Policy.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Social Impact Policy facilitates Council's ability to determine, with accurate researched findings, appropriate modifications to developments, infrastructure and plans, where necessary.

ECONOMIC IMPLICATIONS

The Social Impact Policy can result in socially favourable development that can contribute to job creation and community safety benefits which in turn can be a catalyst to economic activity and growth.

ENVIRONMENTAL IMPLICATIONS

The Social Impact Policy can contribute to protecting and/or enhancing the built and natural environment. This Policy will provide Council a platform to consider social impacts in conjunction with environmental considerations, providing a greater balance of the principles of Ecological Sustainable Development.

RELEVANT LEGISLATIVE PROVISIONS

Environmental Planning and Assessment Act 1979
Disability Discrimination Act 1992
NSW Disability and Services Act 1993
Local Government Act 1993
NSW Gaming Machines Act 2001
Liquor Legislation Amendment Act 2008
State Environmental Planning Policy
Premises Standards 2011

IMPLEMENTATION RESPONSIBILITY

All relevant staff involved in Social Impact Assessment.

PROCESS OWNER

Community Planning and Environmental Services Manager

REVIEW DATE

March 2016

ATTACHMENT 2
Social Policy – 2003



Adopted: 27/5/2003
Minute No: 186
Amended:
Minute No:

FILE NO: 7120.016

TITLE: SOCIAL POLICY

RESPONSIBLE OFFICER: SOCIAL PLANNING CO-ORDINATOR

BACKGROUND

The term 'Social' is generally used to describe the interaction of people, participation in communal activities, civic engagement, cultural traditions and practices, and quality of life of all citizens.

In recent years the term 'Social Capital' has been used to describe the social cohesion that binds people together as a community. A number of indicators such as connectedness and trust are commonly used to measure the social capital within a community. The Author Robert Putnam who coined the term 'Social Capital' argues that social capital is equally important for the public good as economic well-being.

Council recognises the inter-connection between responsible economic development and the protection and enhancement of the community's core social values. This is reflected in Council's 'Story of Sustainability' which portrays life in the year 2030 as follows: -

"Socially, Port Stephens is considered a good place to live. There are a variety of housing, work and transport options. There is access to quality educational and medical services. There is good community infrastructure giving people access to childcare, youth programs, aged services and support networks. There are few homeless, people have access to quality food and they feel safe. Crime rates are well below the state average and when asked, residents say they feel connected to the community through their pursuit of interests and involvement in decision making. They believe there is a strong feeling of community spirit within their area. Honesty, fairness, friendliness and tolerance are all considered important community values on which Council and the broader community base their decision making".

The aim of this policy is to ensure that the community's social values are recognised, protected and promoted in all Council's activities. The policy will be used to guide Council's decision making, policy setting, planning and the

allocation of resources. This will ensure that Council is moving towards achieving its social vision as outlined in the *'Story of Sustainability'*.

POLICY OBJECTIVE

To ensure the impacts on people are considered on equal terms with environmental and economic considerations by raising the awareness and consideration of the likely social implications on all Council activities including planning, policy development, decision making and resource allocation.

PRINCIPLES

The following principles have been developed based on the results of community consultation with residents. Council will aim to both abide by and encourage these principle values within the community:

People:

- A community where individuals and families are valued regardless of differences such as age, gender, race, religion, culture, ability, income level or place of residence
- A community where people's basic needs of having a roof over their head, access to food, water, clothing, education and health care are met

Opportunity:

- An empowered community where there are opportunities for people to genuinely participate in community life and in decisions that affect their lives.
- A community where people can get around to where they want to go, and can access appropriate paid and unpaid work
- A community where there are opportunities for potential community leaders to obtain and develop skills in community leadership
- A community where people can create opportunities to better themselves by participating in lifelong learning and by building upon their community's assets and gifts

Sustainability:

- A community where through our actions, we leave it for our children and grandchildren as good or better than it is now

Support & Connectedness:

- A community where people can develop good relationships, give support and encouragement to each other, have someone to turn to in times of difficulty
- A community where there are things to do and places to meet that will enable people to participate

Equity:

- A community where residents under stress are cared for by providing equitable access to resources for disadvantaged and marginalised groups

Community Spirit:

- A community where people have the opportunity to contribute positively and endeavour to make things better for everybody

Safety:

- A community where people feel safe at home, at work, and when they are out and about

POLICY STATEMENT

Decision Making:

- Council planning, policy development, budget setting and decision-making shall give due regard to the above principles when making decisions.
- Council reports shall include an identification and assessment of likely social impacts.
- Council's forward works program shall give recognition and an appropriate weighting to social considerations.
- Council will encourage opportunities for community members to actively participate in the membership of Council committees.
- Council will understand, document and respond to the social needs of the community and establish priorities for community service provision.
- Council's consultative and decision making processes will recognise and encourage broad based community participation reflective of the community's demographic profile

Community Services & Facilities:

- Council will plan for, and support the development and provision of a range of community services and facilities that will assist in meeting the community's needs and aspirations.
- Council will where possible support the development and maintenance of a range of external community services delivered by the community sector
- Council will develop a co-operative relationship with all levels of government, acting as an advocate on identified high needs to ensure the highest quality of service and facilities to residents.
- Council will where appropriate seek and encourage partnerships amongst local community service providers, residents and Local/State/Federal Government bodies.
- Council will endeavour to ensure all residents have equitable access to Council services and facilities.

Socially Responsible Development:

- Council will where possible encourage the development of a range of housing types in appropriate locations to suit different lifestyles, mobility, age and incomes.
- Council will develop a framework to ensure that the assessment of social impacts of development and decision-making is conducted in a systematic and transparent manner, which is understandable, relevant and embraced by Council staff and the development industry.

Strengthening Communities:

- Council will where possible place an emphasis on supporting people under stress.
- Council will encourage the development of a community based skills register to ensure the skills and talents of community members are identified and connected with opportunities to fully utilise these skills in response to community needs.
- Council will where possible encourage opportunities for growth in the number and choice of local employment opportunities.
- Council will where possible encourage the provision of relevant skills based training programs aimed at addressing the training needs of local residents.
- Council will employ community development staff to work with communities in the planning, establishment and maintenance of services.

- Council will encourage programs and activities that celebrate the community's cultural heritage and diversity.
- Council will endeavour to identify, understand and document the communities safety concerns and will where appropriate develop and implement programs and initiatives designed to address these issues.
- Council will endeavour to ensure the Port Stephens community is serviced by an integrated transport network that is safe for all users and encourages choice in modes of travel.
- Council will where possible support initiatives aimed at developing and strengthening social capital, building of community networks and the creation of opportunities for community participation in Council activities and decision-making.
- Council will encourage individual localities to identify and promote their history, unique qualities, lifestyle and the development of these assets.
- Council will where possible promote up to date information on Council and non-Council services and facilities that are available to the community.
- Council will endeavour to identify and promote appropriate opportunities for members of the community to gain skills and experience in community leadership.

RELATED POLICIES

- Multicultural Affairs Policy
- Community Services Policy
- Equal Employment Opportunity Policy
- Tenancy Policy
- Community Information & Communication Policy

REVIEW DATE

December 2004

RELEVANT LEGISLATIVE PROVISIONS

- Local Government Act (1993)
- Local Government Amendment (Community and Social Plans) Regulation (1998)
- NSW Anti-Discrimination Act (1977)

IMPLEMENTATION RESPONSIBILITY

The policy shall be implemented on an organisational wide basis.

ATTACHMENT 3

Draft Social Impact Assessment Guidelines 2014

Social Impact Assessment Guidelines



**SOCIAL IMPACT ASSESSMENT
GUIDELINES
2014**

SOCIAL IMPACT ASSESSMENT GUIDELINES

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1.0 INTRODUCTION

These guidelines have been developed according to international and national best practice in social impact assessment, and are to be used as a resource to ensure Council and the community benefit from socially responsible decision making.

These guidelines outline the information and processes required for a proposed development.

The guidelines describe:

- what a social impact is,
- the two types of social assessment,
- the development types which require assessment, and
- the information to be included within social assessments.

1.1 Defining Social Impact

A Social Impact Assessment (SIA) refers to the assessment of the social consequences of a proposed decision or action e.g. development proposals, plans and projects. An action or decision can positively and/or negatively contribute to social issues and this in turn could result in a social impact.

Social impacts are changes to the status quo (and capacity to sustain these) in groups of people and/or community in one or more of the following ways:

- *Liveability*: people's way of life, life chances, housing, recreation, open space, lifestyles;
- *Community cohesion and connectedness*;
- *Cultural traditions, shared beliefs and customs*;
- *Health and wellbeing*: physical and mental health, safety, personal and community aspirations;
- *Economic prosperity*: jobs, income, business opportunities; and
- *Human rights and participatory democracy*.

1.2 Purpose of Guide

This guide aims to:

- Assist applicants and Council to identify and quantify social impacts;
- Provide best practice guidelines so to ensure that social issues are considered at the earliest stage of a development;

- Ensure consistency and transparency in assessing and commenting on the social impacts of development applications;
- To enhance positive social changes and either mitigate or eliminate negative social changes to achieve a more sustainable and equitable environment.

1.3 Legislative Context

Environmental Planning and Assessment Act 1979

Council has a statutory obligation under Section 79C of the Environmental Planning and Assessment Act 1979 to consider the social impact of a proposal, where relevant, when assessing a development application and planning proposal.

Port Stephens Community Strategic Plan 2013-2023

Council's Integrated Community Strategic Plan 2023 and the 2013-2017 Delivery Program, outlines sustainable development as a key objective to balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.

Draft Port Stephens Local Environmental Plan (LEP) 2013

The key aims of the Draft Port Stephens Local Environmental Plan (LEP) 2013 assist in explaining the need for the guidelines:

- 1.2 (2) (b) *To cultivate a sense of place that promotes community well being and quality of life*
- 1.2 (2) (i) *'Seek to achieve effective inter-generational equity by managing the integration of environmental, social and economic goals in a sustainable and accountable manner'*

These guidelines should also be read in conjunction with other relevant legislation, statutory plans, Council reports and policies. Such as:

Disability Discrimination Act 1992
Premises Standards 2010
Liquor Act 2007
NSW Liquor Regulation 2008
Gaming Machines Act 2001
Port Stephens Council, Sustainability Policy 2003

2.0 LEVELS OF SOCIAL IMPACT ASSESSMENT

Two levels of social impact assessment for developments apply including:

- i) Social Impact Comment - This is a basic level of assessment that is a part of the environmental effect.
- ii) Social Impact Assessment - When significant social impacts are anticipated or likely due to the scale and type of development or proposal a social impact assessment is required to be submitted. This is a standalone more detailed assessment.

2.1 Social Impact Comment

2.1.1 Where it applies?

The Social Impact Comment process is triggered by the submission of a development application.

A Social Impact Comment will **not** be required for the following:

- development types listed for Social Impact Assessment; or
- minor DAs such as: minor building works, alterations, additions, outbuildings

2.1.2 Types of impacts to consider

Below provides some broad examples of social impacts that may be relevant and require analysis in the SIC (particularly comparative examples on existing social conditions and predicted impacts from the proposed development). Note the assessment checklist and mitigation strategies appendix 4.2 and 4.3).

Demographic change (population size and characteristics)	Health Impacts
Interaction between new development, surrounding and existing community	Public safety and crime
Accessibility	Social equity
Accommodation & housing	Recreation facilities & open space
Community identity & cohesion	Employment
Community services & facilities	Impact on future generations
Community values	Groups with particular needs (women, men, elderly, people with disabilities, children, youth, indigenous, and people from culturally and linguistically diverse backgrounds)
Cultural Impacts	
Economic Impacts	

2.1.3 What a Social Impact Comment should include?

For the majority of cases the anticipated social impacts can be adequately addressed by a social impact comment in the Statement of Environmental Effects which is required to be lodged with all Development Applications.

The social impact comment should:

- identify and describe any potential social impacts of a proposal (positive and negative/ benefits and losses);
- provide basic information and details about the community likely to be impacted by the proposal (i.e. likely affected groups and individuals);
- include community consultation with key stakeholders and immediate neighbours; and
- consider how to enhance positive social impacts and mitigate negative social impacts.

2.2 Social Impact Assessment

2.2.1 Where it applies?

The Social Impact Assessment process is triggered by the submission of a development application for the following, but not limited to:

- Controversial and sensitive uses (e.g. sex service premises, drug rehabilitation centres, gaming or liquor outlets, licensed premises, registered clubs and restricted premises);
- Boarding houses, hostels, student housing, caravan parks, backpacker accommodation, seniors housing, group homes and manufactured home estates; or
- Applications for new development for entertainment facilities and large scale tourist accommodation.

In addition to the triggers above, an application may require a Social Impact Assessment depending on the answer to the following questions.

If the answer to any of the following questions is YES (or LIKELY) the issue needs to be appropriately addressed in a SIA, when a development type is not automatically triggered.

1. Is the proposal likely to give rise to a significant increase or reduction in the number of persons living or working on or visiting the locality?
2. Is the proposal likely to disadvantage or benefit any particular social group?
3. Is the proposal likely to give rise to an increase or decrease in employment opportunities in the locality?

4. Is the proposal likely to have a significant impact on the existing housing stock in the locality, particularly low rental housing?
5. Is the proposal likely to have an impact upon existing community meeting places or give rise to an increased demand for community facilities or services in the locality?
6. Will on-site support services be required?
7. Does the proposal have the potential to give rise to increased conflict in the community?
8. Is the proposal likely to adversely impact upon community identity?
9. Is the proposal likely to enhance or detract from the cultural life of the community?
10. Will the proposal create areas of risk for occupants or pedestrians within or adjacent to the development?
11. Is the proposal likely to give rise to increased community concern regarding public safety?

The above list is indicative only. Council reserves the right to request a Social Impact Assessment when it determines it necessary, depending upon the circumstance, scale and nature of the proposal.

2.2.2 Types of impacts to consider

Below provides some broad examples of social impacts that may be relevant and require analysis in the SIA (particularly comparative examples on existing social conditions and predicted impacts from the proposed development). Note the assessment checklist and mitigation strategies appendix 4.2 and 4.3).

Demographic change (population size and characteristics)

Interaction between new development, surrounding and existing community

Accessibility

Accommodation & housing

Community identity & cohesion

Community services & facilities

Community values

Cultural Impacts

Economic Impacts

Health Impacts

Public safety and crime

Social equity

Recreation facilities & open space

Employment

Impact on future generations

Groups with particular needs (women, men, elderly, people with disabilities, children, youth, indigenous, and people from culturally and linguistically diverse backgrounds)

2.2.3 What a SIA should include?

As impacts are diverse and vary with the circumstances, the social impact assessment should be tailored to the proposed development issues and should be prepared by a qualified professional.

Generally an SIA should contain the following information:

Scoping and Profiling	<ol style="list-style-type: none"> 1. Scope of Assessment – The breadth of the SIA should be defined including: the geographical boundaries of the study area; examination of the surrounding land uses; stakeholders including the developer, affected individuals, groups or communities and the way in which they are to be included in the assessment process. 2. Proposal – A description of the proposed development and scope of change. Maps and drawings may be utilised where relevant. 3. Community/social profile – A detailed description of the current community affected by the proposal (includes residents and workers). As a minimum, the profile should describe the existing social characteristics of the affected community and preliminary investigation of possible issues.
Prediction and Identification of Impacts	<ol style="list-style-type: none"> 1. Social Changes – Identification of social changes that may occur as a result of the proposal, including significant change, positive and negative, long term and short term, temporary and cumulative changes. 2. Probable Impact – The probable impact of the change and who is likely to be affected by the development. This should include who will be advantaged or disadvantaged, indicating whether the group impacted are identifiable by their income levels, race, cultural affiliations, gender, age, physical or mental ability, and place of residence. 3. Comparative Impact – The proposal should be examined in relation to available alternatives. An assessment must examine and compare alternatives and their social impacts (including the 'no go' option and an option that includes significant modification of the proposal).
Assessment and evaluation	<ol style="list-style-type: none"> 1. Relative Equity – Identification of the relative equity of the impacts and how benefits and losses will be distributed to different sections of the community (i.e. describe if many or few people will experience the benefits and losses). It should include the long-term risks and impact on future generations. 2. Consultation – The type of consultation used will depend upon the type of proposed development and its potential impacts. Consultation should identify public values and concerns. It should occur with the community, stakeholders, relevant groups and experts (e.g. local Police for crime statistics). It can include personal contact, focus groups, surveys and workshops. Feedback from

	<p>stakeholders should be discussed.</p> <p>3. Analysis – Analysis of the negative and positive impacts, direct and indirect impacts, likelihood to affect minority groups, marginalised groups, different ages, income and cultural groups, and future generations.</p>
Recommendations and mitigation strategies	<p>1. Recommendations – Outlines overall benefits and costs of the proposal, including the level of importance of the predicted impacts. This should outline the responses or conditions that should be implemented to help mitigate or avoid any social impacts, and to enhance the social benefits. A review mechanism should be included where appropriate and include a review of effectiveness of mitigation methods.</p> <p>2. Mitigation Strategies – Where an assessment identifies negative impacts, mitigation measures must be investigated. The measures (both short term and long term) should aim to minimise the impact of the proposal where possible so that impacts are acceptable within the context of the proposal. The proposal should demonstrate an overall net benefit to the community (see appendix 4.3 for information on mitigation strategies).</p> <p>3. SIA Author – Description of the report author, their qualifications and capacity to complete assessment.</p>

2.2.4 Determining levels of impact significance

Consideration of the significance of social impacts should include:

- The degree of change likely to arise relative to existing circumstances;
- The number of people likely to be affected;
- The likelihood of controversy that the development will cause, in relation to perceived negative social impacts;
- The type and duration of impact (either benefit or cost, direct or indirect, short-term or long-term or cumulative impact); and
- How the impact will affect the community (both in the short-term or long-term) with regards to social justice principles of equity, access, fairness, participation) and inter-generational impacts?

2.2.5 Competency to undertake Social Impact Assessment

To identify potential impacts early in the process and ensure better decisions can be made about how to proceed with mitigation measure; it is important to ensure assessments are completed by technically skilled or qualified impact assessors.

An appropriately qualified professional will have:

- Qualifications in social or urban/town planning;
- Referees (in the profession or within Government) who can validate the relevant experience within the SIA field;

- Demonstrated competent experience in undertaking SIA and provide evidence of similar technical reports for other agencies; and
- Be a member, or be eligible to be a member, of the Social Planning Chapter of the Planning Institute of Australia.

2.2.6 Monitoring

An applicant should identify any impacts that need monitoring and how monitoring will be achieved. Council may require regular reports to be provided on specific impacts. If it is established by a condition of development consent that monitoring is a requirement, the onus will be on the developer/ owner to undertake and submit to Council at the nominated frequencies.

Compliance with these conditions of development consent will be monitored by Council. If the conditions are not complied with (e.g. if not provided at the appropriate time or found to contain the required information), Council may initiate action for failing to comply with the conditions of development consent.

3.0 REFERENCES AND ADVICE

3.1 Council Advice

Applicants should consult with Council early in the development stage on social assessment requirements and issues.

Council staff are available to discuss particular matters and provide guidance in completing the Social Impact Assessment that are relevant to the proposal.

Please contact Council for further assistance on when and how to prepare a Social Impact Assessment:

- Duty Planner (9am-12pm) on (02) 4900 440;
- Social Planning Team on (02) 4900 288; or
- visit Council's Administrative Building at 116 Adelaide Street, Raymond Terrace during business hours.

3.2 Helpful Resources & Data Sources

Allison Ziller. (2012) 'The new social impact assessment handbook'
Australian Bureau of Statistics, available at: www.abs.gov.au/
Centrelink- Department of Human Services, available at:
www.humanservices.gov.au/customer/information/centrelink-website
Department of Education, Employment and Workplace Relations, available at: deewr.gov.au/

Department of Education and Training- NSW Government, available at: www.det.nsw.edu.au/
Department of Planning and Infrastructure - NSW Government, available at: www.planning.nsw.gov.au/
Destination NSW, available at: www.destinationnsw.com.au/
Family & Community Services- NSW Government, available at: www.community.nsw.gov.au/
Health- NSW Government, available at: www.health.nsw.gov.au/
Health- NSW Government South Western Sydney Local Health District, Healthy Urban Development Checklist, available at: www.sswahs.nsw.gov.au/populationhealth/healthy_urban_development_checklist.html
Hunter New England Population Health. (2007) Building Liveable Communities in the Lower Hunter Region
Housing NSW, available at: www.housing.nsw.gov.au/
International Association for Impact Assessment. (2003) International Principles for Social Impact Assessment, available at: www.iaia.org
NSW Bureau of Crime Statistics and Research, available at: www.bocsar.nsw.gov.au/
NSW Department of Urban Affairs and Planning. (2001) Crime Prevention and the Assessment of Development Applications
NSW Police, available at: www.police.nsw.gov.au/
Planning Institute of Australia – NSW Branch. (2010) Social Impact Assessment National Position Statement, PIA: Kingston, ACT
Port Stephens Council, Integrated Plans (Community Strategic Plan 2013-2023)
Transport for NSW – NSW Government, available at: www.transport.nsw.gov.au/
Griffiths University Urban Research Program (URP) Toolbox
<https://app.secure.griffith.edu.au/03/toolbox/>

3.3 Acknowledgements and References

Byron Shire Council, 2009, Policy No. 09/008 Social Impact Assessment Policy
City of Newcastle, 1999, Social Impact Assessment Policy for development applications
Halroyd City Council, 2012, Social Impact Assessment Policy
Lake Macquarie City Council, 2012, Social Impact Assessment Guideline
Leichhardt Council, 2009, Guidelines for Council Officers for completing social impact assessments for significant projects, policies, or plans
Leichhardt Council, 2009, Social Impact Assessment Policy
Leichhardt Council, 2009, Social Impact Guidelines for Development Applicants
Port Macquarie- Hastings, 2009, Social Impact Assessment Policy
Randwick City Council, 2006, Social Impact Assessment Guidelines for Assessing Development Applications
Cessnock Council, 2010, Development Control Plan Chapter 8 Social Impact Assessment and Crime Prevention Through Environmental Design Guidelines for a Proposed Development

4.0 APPENDICIES

4.1 Glossary

Assessment

An opinion, a judgement, an appraisal, an evaluation, an analysis of the worth or value of something

Equity

The state, quality or ideal of being just, impartial, and fair

Social

'Of or relating to human society and its modes of organisation: social classes, social problems; a social issue' and 'of relating to, or occupied with matters affecting human welfare: social programs'

Social Impact Assessment

A Social Impact Assessment (SIA) refers to the assessment of the social consequences of a proposed decision or action e.g. development proposals, plans and projects. An action or decision can positively and/or negatively contribute to social issues and this in turn could result in a social impact.

Social Impact Comment

Is a statement which can be addressed in the Statement of Environmental Effects and is required to be lodged with all Development Applications. The social impact comment briefly identifies any potential social impacts of a proposal; basic information about the community likely to be impacted; and consideration of how to enhance or mitigate social impacts.

Social Wellbeing

A society that is healthy and well educated, in which unemployment and poverty are insignificant and the benefits and resources of the society are equitable distributed. Social wellbeing is a relative concept and is often discussed in terms of indicators, for example mortality rates and unemployment rates. Indicators are attempts to measure aspects of wellbeing, but are not the phenomenon itself.

4.2 Assessment Reference Checklist

Social Impact Checklist			
Impact	Likely to result from the proposed development		Comments: (impact analysis and mitigation strategies)
	Yes	No	
Demographic change <ul style="list-style-type: none"> Changing population size and characteristics 			
Accommodation & housing <ul style="list-style-type: none"> Low income housing, affordable housing, housing for special needs groups, housing for older people and those with a disability 			
Access <ul style="list-style-type: none"> Equitable access for all Easy access to surrounding development and community Public transport needs 			
Needs of older people <ul style="list-style-type: none"> Access issues Availability of support services 			
Needs of people with a disability <ul style="list-style-type: none"> Access issues Availability of support services 			
Needs of young people <ul style="list-style-type: none"> Children, youth and childcare needs 			
Community identity, cohesion and values <ul style="list-style-type: none"> changing community needs, equity and expectations public safety and crime 			

Social Impact Assessment Guidelines

<ul style="list-style-type: none"> prevention strategies opportunities for social interactions connectivity and interaction between developments (new and old) enhance or detract cultural heritage or cultural life 			
<p><i>Facility and infrastructure needs</i></p> <ul style="list-style-type: none"> recreational and open space needs on-site community/support facilities transport needs (public and private) social/community services and facilities state government provided facilities (education and health) local meeting places 			
<p><i>Cultural impacts</i></p> <ul style="list-style-type: none"> needs of Aboriginal and Torres Strait Islander issues people from culturally and linguistically diverse backgrounds religious needs 			
<p><i>Economic impacts</i></p> <ul style="list-style-type: none"> local employment generation unemployment business development 			
<p><i>Health impacts</i></p> <ul style="list-style-type: none"> physical activity and connectivity air and water quality noise, odour and light pollution potential for hazards (both natural and man made) risk perceptions in community 			

<i>Impact on future generations</i> <ul style="list-style-type: none"> ▪ Affects of similar types of developments in the locality ▪ Redundant facilities and possible re-use ▪ Social equity - displacement 			
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4.3 Mitigation Strategies

Information on mitigation strategies can be found in the following publications:

For social impact mitigation measures	<ul style="list-style-type: none"> • Health Urban Development Checklist (2009) from the NSW Department of Health, North Sydney. Strategies for: <ul style="list-style-type: none"> ◦ Health and Urban Development ◦ Physical Activity ◦ Housing and affordable housing ◦ Transport and Physical connectivity ◦ Employment ◦ Public open space ◦ Social infrastructure ◦ Social cohesion and social connectivity • Building Liveable Communities in the Lower Hunter Region (2007) from Hunter New England Population Health. Strategies for: <ul style="list-style-type: none"> ◦ Connectivity ◦ Sustainability ◦ Accessibility ◦ Flexibility • Port Stephens Liveable Communities Assessment: Final Report 2011
For crime prevention measures	<ul style="list-style-type: none"> • Crime Prevention and the Assessment of Development Applications (2001) from the NSW Department of Urban Affairs and Planning. Strategies for: <ul style="list-style-type: none"> ◦ Surveillance ◦ Access control ◦ Territorial reinforcement ◦ Space management

ITEM NO. 2**FILE NO: PSC2013-03965****REVIEW OF THE YOUTH ADVISORY PANEL****REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL
SERVICES SECTION MANAGER****GROUP: DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Support the continuation of the Youth Advisory Panel for a 3 year period, to be reviewed in 2017.

**ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

MOTION

078	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council support the continuation of the Youth Advisory Panel for a 3 year period, to be reviewed in 2017.

BACKGROUND

The purpose of this report is to:

- Report on the outcomes of the trial of the Youth Advisory Panel (the Panel) and;
- Seek endorsement for the continuation of the Panel as an ongoing program of Council.

Council's 2013-14 Operational Plan included an action for Council to trial a Youth Advisory Panel. One of the Panel's first tasks was to assist Council to develop a Youth Strategy which will help to address the current and future needs of youth in Port Stephens. The Youth Strategy will be submitted to Council for endorsement before 31 June 2014.

The Panel was formed in September 2013 following expressions of interest, advertised widely throughout Port Stephens. Forty nine (49) applications were received and twenty (20) Port Stephens residents, representative of a broad demographic profile (including age, gender, cultural background and location) were selected.

The panel's terms of reference are shown at **(ATTACHMENT 1)**. In summary, the purpose of the Panel is to:

- Help to provide a means of engaging young people in Port Stephens.
- Involve young people in the development of relevant Council plans and strategies.
- Increase young people's knowledge and understanding of Council processes.
- Help to increase young peoples' leadership skills.
- Increase the participation of young people in broader community issues.
- Help to raise awareness of issues that affect young people in the LGA.

The Panel met monthly with members sharing the role of Chairperson. Panel members attended a number of team building activities, leadership training sessions, participated in community workshop sessions and youth related activities. Overall, the results of the trial were very positive and in some cases exceeded expectations. The results of the trial are summarised below.

The Panel has assisted Council with the development of a draft Youth Strategy by providing a strong youth perspective that would not have been possible without the participation of Panel members.

The Panel commented on a number of plans of management including Boomerang Park master plan. The comments from the Youth Panel will inform the more detailed design work for the park, particularly the proposed playground and skate-park.

Youth Panel members have been helping to build relationships between local youth and the broader community. Examples include collaboration between Panel members, local schools and the Lions Club. Three Youth Panel members were included in Lions Young Person of the Year and one was successful in being invited to the state level of this competition. A number of Youth Panel representatives were also included in an indigenous advocacy and leadership group through Irrawang High School. There is now an opportunity for Panel members to raise indigenous issues at a regional and state level as part of this program.

Panel members were surveyed for their views on their involvement on the panel. Overwhelmingly the results were very positive with all participants supporting the work of the panel and its continuation. In particular they valued their involvement in the Youth Strategy and expressed their willingness to stay involved in its implementation. They commented that they now have a greater understanding of Council processes and have been acting as champions for Council when engaging with youth and the general community.

It is intended that if Council endorses the continuation of the Panel, it will continue in a similar manner to the existing Panel. The Terms of Reference will remain essentially

MINUTES FOR ORDINARY MEETING – 8 APRIL 2014

the same as drafted in 2013 except for a number of minor changes including a requirement for the panel to report on progress to Council via the two way process every 12 months.

As well as providing input into Council strategies and plans and continuing to engage with the broader community, Panel members expressed a desire to work more closely with Councillors if the Panel's continuation is supported. See proposed Youth Panel Future Activities 2014/15 (**ATTACHMENT 2**).

FINANCIAL/RESOURCE IMPLICATIONS

The continuation of the Panel would not significantly impact on Council's budget. The cost of organising and administering the panel would be absorbed into the existing operational budget with the Development Services Group.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	20,000	From existing recurrent budget. This budget would support the administration of the panel as well as some limited training opportunities.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The National Strategy for Young Australians (2010) articulates a vision that:
All young people have the opportunity and skills they need to learn, work and engage in community life and decisions that affect them.

The NSW state plan also outlines strategies that are designed to increase young people's participation in decisions and processes that impact upon them and to increase young people's knowledge and skills including leadership.

Council has a clear commitment to supporting young people through its current Operational Plan (2013-14) and the draft 2014-15 Operational Plan and is consistent with the national strategy and state plan. Continuing the Panel is consistent with Council's policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the Youth Panel does not continue, there will be	Medium	Council to endorse the continuation of the Youth Panel.	Yes

limited opportunities to engage with Port Stephens youth.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Panel provides a mechanism for young people to be actively involved in social, economic and environmental issues that affect them and their community. It provides an opportunity for Council to obtain a youth perspective and provides youth with the ability to influence Council in a way that would not be possible.

CONSULTATION

Consultation on the establishment of the Youth Advisory Panel was extensive, including workshops presented at:

- Local high schools including Irawang High, Tomaree High, St Phillips Christian School and Medowie Christian School;
- Promotion on Port Stephens Council website;
- Social media (e.g. Facebook);
- Presentation at the Port Stephens Youth Interagency; and
- Promoted on Social Planning team networks including Mylink.

There was internal consultation both with members of the internal working party and younger employees of Council.

Once up and running panel members engaged with a number of community organisations including Toast Masters, PCYC and Lions Club. Their research work also lead to their involvement in a number of community events including:

- Medowie Club House event October 2013/ February 2014;
- Tilligerry Festival November 2013;
- Seaham Community event November 2013; and
- Raymond Terrace Market Place World Café January 2014.

OPTIONS

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

ATTACHMENTS

- 1) Youth Panel Terms of Reference;
- 2) Youth Panel Proposed Future Activities 2014/15.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Youth Panel Terms of Reference

Attachment 1.

Document Last Reviewed: 20 March 2014



Terms of Reference:
Port Stephens Youth Advisory Panel

Terms of Reference: Port Stephens Youth Advisory Panel

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- Meeting procedures and proceedings.....page 4
- What constitutes a decision?.....page 4
- A summary of proposed future activity of Port Stephens Youth
Advisory Panel 2014/2015.....page 5

1. Roles and Purpose

The role of Port Stephens Youth Advisory Panel (PSYAP) is to:

- 1.1 Help to provide a means of engaging young people in Port Stephens on Council business.
- 1.2 Involve young people in the development of relevant Council plans and strategies
- 1.3 Increase young people's knowledge and understanding of Council processes.
- 1.4 Support the development of leadership skills of young people in Port Stephens.
- 1.5 Increase the participation of young people in broader community issues and activities.
- 1.6 Advocate on key issues and raise awareness of those issues that affect young people in the Local Government Area (LGA)

2. Responsibilities of the Port Stephens Youth Advisory Panel

- 2.1 Maintain communication with the wider youth population of Port Stephens using a range of social media forums.
- 2.2 Help steer local Youth Week activities.
- 2.3 Be actively involved in developing and workshopping local initiatives and programs aimed at youth in Port Stephens.
- 2.4 Be actively involved in advocating on important issues on the behalf of the youth of Port Stephens at a local, regional, state and national level when appropriate.

3. Membership

- 3.1 Members minimum age shall be 15 years with a maximum age of up to 25 years. A member must stand down from the PSYAP declaring membership vacancy upon turning the age of 26 years
- 3.2 The panel shall consist of 20 members who represent a broad demographic based of age; gender; social/cultural background and place of residence from across LGA.
- 3.3 Notice of membership will be advertised in local media, and communicated to Youth Network Groups/Organisations/Institutions. Young people will be chosen based on merit, with applications assessed by a panel of Council officers according to selection criteria

4. Termination of Membership

- 4.1 A member of the PSYAP may be stood down for the following reasons:

- Unprofessional conduct towards other Members/Chairperson including abuse and general disrespect for other persons and property.
- Failure to follow the Terms of Reference or the Panel's Code of Conduct.
- Failure to attend three consecutive meetings (without formal approval) of the PSYAP (does not include Extra-Ordinary Meetings)

5. Tenure of Membership

- 5.1** The members will remain on the PSYAP for a period of two years. New members may be nominated and added via a PSYAP majority resolution during any term provided the maximum number is not exceeded.

6. Vacancies

- 6.1** Vacancies are those created by member termination or resignation from PSYAP.
- 6.2** A notice of Vacancy shall be advertised as described at item 3.2
- 6.3** A Vacancy will (where possible) be filled by a nomination from the same Council Ward as that of the person standing down or termination.
- 6.5** Where a Vacancy cannot be filled from the same Council Ward the PSYAP shall by resolution and a majority ruling decide upon acceptance of a nomination from another Council Ward.

7. Meeting procedures and proceedings

- 7.1** Ordinary Meetings of the PSYAP will be held monthly at venues to be determined.
- 7.2** The role of Chair and Secretary of ordinary meeting will be rotated amongst members. At the end of each meeting a decision will be made on Chair and Secretary for next meeting.
- 7.3** Minutes of the PSYAP meetings shall be made available to Council at the earliest opportunity after each meeting of the PSYAP.
- 7.4** All matters discussed at PSYAP meetings are to be considered confidential.
- 7.5** An invitation to attend quarterly meetings is to be extended to:
- The Mayor
 - At least one Councillor (appointed by Council)
 - An external community partner to be determined by panel members
- 7.6** A quorum at meetings is 50% of membership present.

8. What constitutes a decision of PSYAP

- 8.1** A decision by a majority of the votes at a meeting of the PSYAP is a decision of the Panel.

ATTACHMENT 2

Youth Panel Proposed Future Activities 2014/15

Attachment 2

**A summary of proposed future activity of Port Stephens
Youth Advisory Panel 2014/2015**

The Youth Panel will:

- Comment on Council plans and strategies;
 - Open Space Strategy and plans to address cycle ways and footpaths in LGA
 - Raymond Terrace / Heatherbrae Strategy (post discussion paper)
 - Meadowie Strategy
 - Community Engagement and Communication Strategy Review (would include Social Media Strategy)
 - Councils Crime Prevention Plan (future actions)
 - Councils Employment Strategy.
 - Councils Community Survey and Customer Satisfaction Survey.
 - Relevant Council Policies including Multicultural Policy and Disability Access Policy. Panel members have indicated a strong desire to get more involved in Policy.
 - Education, Training and Employment strategic planning.
 - Planning Proposals (where relevant)
- Represent Council and advocate at the NSW Youth Advisory Panel. Panel members will also act as ambassadors of Council and attend future Youth Forums including Youth Week.
- Support the delivery of the Draft Youth Strategy action plan with a particular focus on;
 - Providing a link for young people in community to communicate with Council, this will include maintaining a strong social media presence and for panel members to mentor their peers in the process, and engage them about Council business.

- Providing a link to Resident's Panel to compliment community engagement processes of Council. Panel members are very interested to build strong community partnerships.
- Continuing community engagement to better understand local issues and plan future action e.g. Youth events that have a 'youth identity' and programs in community that address environmental needs.
- Promoting youth leadership and volunteering by participation in local youth events / gatherings hosted by community groups. Will involve participation in Council events including Australia Day and Naidoc Week celebration. Will also include promotion of youth leadership opportunities such as Lions Youth of the Year in all communities across the LGA.

Note:

All panel members have indicated a desire to build a culture in our community where young people can grow into active citizens, and feel supported. This can be facilitated by supporting panel members and engaging them in Council business at every opportunity.

ITEM NO. 3

FILE NO: 16-2013-757-1

DEVELOPMENT APPLICATION FOR SENIORS LIVING SELF CARE VILLAGE AT NO. 118 & 118A SOLDIERS POINT ROAD, SOLDIERS POINT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2013-757-1 subject to the conditions contained in **(ATTACHMENT 4)**.
-

**ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	The Chair advised that Item 3 has been withdrawn from the agenda.

MOTION

	The Chair advised that Item 3 has been withdrawn from the agenda.

BACKGROUND

The purpose of this report is to present a development application to Council for determination. Whilst it is acknowledged the site has a Site Compatibility Certificate for Seniors Living development issued by the NSW Department of Planning and Infrastructure, the application is put before Council due to potential impacts on threatened species, bulk and scale and neighbour impacts. Councils 'Development applications to be reported to Council' policy enables the Development Assessment and Compliance Section Manager to report a development application to Council for determination as required. Through the assessment process, provision of additional information and recommended conditions of consent, staff are of the view that these issues have been satisfactorily addressed or mitigated.

The development application was lodged 9 December 2012 under the provisions of Port Stephens Local Environmental Plan 2000 and is considered permissible development subject to the Site Compatibility Certificate dated 15 November 2013.

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The proposal comprises a three-staged development of six (6) separate seniors living building blocks which includes one hundred (100) seniors living units inclusive of community facilities.

FINANCIAL/RESOURCE IMPLICATIONS

The application has been assessed within Council's existing resources. The development will attract Section 94 contributions of \$6228.00 per seniors living unit which equates to a total developer contribution of \$622,830.00.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	Yes	6,228	The development conditions will levy \$6,228.00 per seniors living unit, pursuant to Port Stephens Section 94 Plan.
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's Local Environmental Plans and local policy including Development Control Plan 2007 and Section 94 Plan.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the development application is approved Council will be challenged in the Land and Environment Court by a third party or NSW Office of Environment & Heritage.	Medium	Require applicant to undertake further ecology assessment in the form of a Species Impact Statement (SIS). Council as the consent authority is satisfied the proposal will not result in a significant impact on threatened species.	Yes. The proposed recommendations and conditions should mitigate the risk.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the development will provide a positive social impact. The development will provide for a purpose built seniors living residential development to support the ageing population.

It is considered that the development will provide a positive economic impact. The capital investment value as stated on the application and confirmed in the submitted quantity surveyors report is approximately \$17million. The construction phase and ongoing operation will provide employment and cumulative economic benefit.

In addition to the \$17 million in direct economic output during construction, further economic output of \$13.2 million will occur in terms of supporting goods and services being supplied during the construction (from other sectors in the economy). A further \$3.0 million worth of economic output will occur (as those working on the project get paid and spend money in the local economy). Meaning total economic output for this development (direct, indirect and consumption) is \$33.2 million.

From a direct increase in output of \$17 million the corresponding creation of direct jobs is estimated at 39 jobs. Additionally a further 48 jobs will be created as a result of employment creation occurring as a result of the indirect and consumption effects. Meaning total employment for this development (direct, indirect and consumption) is 87 jobs.

A significant proportion of the vegetation on the site is proposed to be removed to facilitate the development. A seven part test was submitted and Council's Natural Resources team has assessed the proposal.

The submitted Flora and Fauna Report and Council's natural resources assessment suggests that the most significant fauna impact of the development is on the koala and most significant flora impact is likely to be *C. doweringii* (Red Helmet Orchid) which are endangered and vulnerable species respectively under the Threatened Species Conservation Act 1995.

Council's natural resources assessment stated approval of the DA is not recommended at this stage for these reasons and also requested a Species Impact Assessment be undertaken.

The site can be described as partially disturbed land with various weed invasion, introduced species and bushfire Asset Protection Zone (APZ) disturbance. No physical ground connectivity to the site exists except for the Bowling Club car park entry. Recent development, namely the Ash Street residential development removed a key fauna linkage to the site (removal of approximately 18 Koala feed trees) and via subsequent residential fencing practically isolated the subject property for movement by larger ground mammals such as Koalas.

The submitted seven part test by Wildthing Environmental Consultants July 2013 states in relation to the habitat:

"The site is believed to provide habitat for a number of native fauna species, however it is recognised that due to the relatively small size of the site and isolation as a result of surrounding development the habitat quality has been markedly reduced.

"Considering the level of surrounding development within the locality, native habitat within the site would be subject to a considerable amount of isolation from other areas of habitat. More mobile species such as birds, flying foxes and microchiropteran bats would be the most likely fauna to utilise the site"

In relation to Endangered Ecological Communities, the report states the coastal sand apple/swamp open forest has a number of similarities to and is likely a disturbed example of the endangered ecological community swamp sclerophyll forest. The report does note the proposal is unlikely to place the local occurrence of this community at risk of extinction.

It is acknowledged in the report that Koalas have frequented the site. Access to the site has recently been restricted via residential fencing which doesn't allow free movement of Koalas to the site. The proposal will remove the majority of vegetation including Koala foraging species (approximately 18 feed trees). There is some scope for replacement planting on site and the recommended conditions of consent recommend forty (40) replacement trees.

The report states "the proposal will result in an incremental decline of primary Koala habitat in the local area. However, considering the difficulty in currently accessing the site for Koalas and recent loss of an area of preferred Koala habitat that joined the site to the south and recommendations of compensatory plantings the impact on the local Koala population would be reduced".

The report states the "proposal is likely to result in the removal of all specimens of *C. dowlingii* from the site resulting in an incremental reduction in the local population of the orchid species. Without any active protection for *C. dowlingii* on site such as weed control by experienced bush regenerators and restricted access to areas of suitable habitat the long-term survival of *C. dowlingii* on site would be unlikely. Considering the presence of larger local populations of *C. dowlingii* within Stoney Ridge Reserve and Lemon Tree Passage and the current land practices on site the proposal is unlikely to significantly place any viable local populations of this orchid species at risk of extinction".

Whilst the site does support threatened flora and fauna, extenuating circumstances primarily being the nature of surrounding development has detrimentally isolated the site and the key species (Koala and *C. dowlingii*) as identified in the submitted report.

For the above reasons it is considered that the request for a Species Impact Statement is not required. Based on the information contained in the submitted Flora & Fauna report it is considered the impact on the identified Threatened Flora and Fauna species is already stated and the definition of what is a 'significant' impact is a highly subjective matter, and a decision which is within Council's jurisdiction.

It is considered that an appropriate assessment with respect to S79C and Part 5A of the Environmental Planning & Assessment Act 1979 has been undertaken with the information submitted.

Furthermore, should the application be approved appropriate conditions of consent shall be imposed to ensure that the site will be managed appropriately during construction to mitigate any potential environmental impacts.

CONSULTATION

In accordance with Council's Notification Policy, adjoining neighbours were notified of the proposed development and the application was advertised. In response, seven (7) submissions were received. It is noted that one submission from the Tomaree Residents and Ratepayers Association generally supports the proposal. It is noted the previous application (16-2010-980-1) received eleven (11) submissions. The following points of objection were raised in the submissions with subsequent planning comment:

- Neighbour Privacy, Overshadowing and Amenity

Comment

Privacy, overshadowing and amenity has been considered in the assessment of the application. The overlooking from proposed dwellings onto neighbouring dwellings private open space is of concern to some neighbours. This privacy implication is considered to be appropriately mitigated due to the large boundary setbacks of the buildings (10m north, 5m-13m west, 8m south, Bowling Club car park to the east). In addition, privacy screens have been added to decks on the northern elevation of Block E, which has balconies facing residential development to the north of the site. Screen tree plantings along this elevation will also help alleviate privacy issues and minimise impact.

Shadow diagrams submitted with the application indicate all surrounding properties will maintain at least three hours of sunlight to their private open space between 9am and 3pm midwinter.

- Noise

Comment

The development is not expected to generate noise greater than what is experienced in any other residential development. The building setbacks from boundaries are greater than the minimum setback for other residential development. The development is not expected to generate any offensive noise.

- Impact on Flora and Fauna

Comment

This is discussed in detail in Attachment 2. In summary, there will be a loss of habitat however on balance of all factors relating to the proposal, the development is considered appropriate.

- Objection to Permissibility of Development

Comment

The proposed use permissible development pursuant to the Site Compatibility Certificate issued by the Director General of NSW Planning and Infrastructure dated 15 November 2013 under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

- Access and Traffic

Comment

The proposal has been assessed with respect to access and traffic and the proposal provides for adequate parking, vehicle manoeuvring (including servicing and community vehicles) and access to the public road network.

- Height, Bulk and Scale

Comment

It is noted that the site has no required height limit given it is not zoned residential. Height, bulk and scale must be assessed on merit. This is discussed in detail in Attachment 2. In summary, the bulk and scale of building with respect to neighbouring development, site topography, setbacks to road networks and public places is considered acceptable in this instance.

- Concern regarding access to Bowling Club site through Ash Street development.

Comment

The walkway is not subject of this application however it is likely there will be a raised pedestrian walkway through the Ash Street detention basin to access the Bowling Club. Council has already resolved at a meeting in February 2014 to support the walkway through the detention basin.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Defer the Development Application and seek additional information;
- 4) Reject the Development Application.

ATTACHMENTS

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

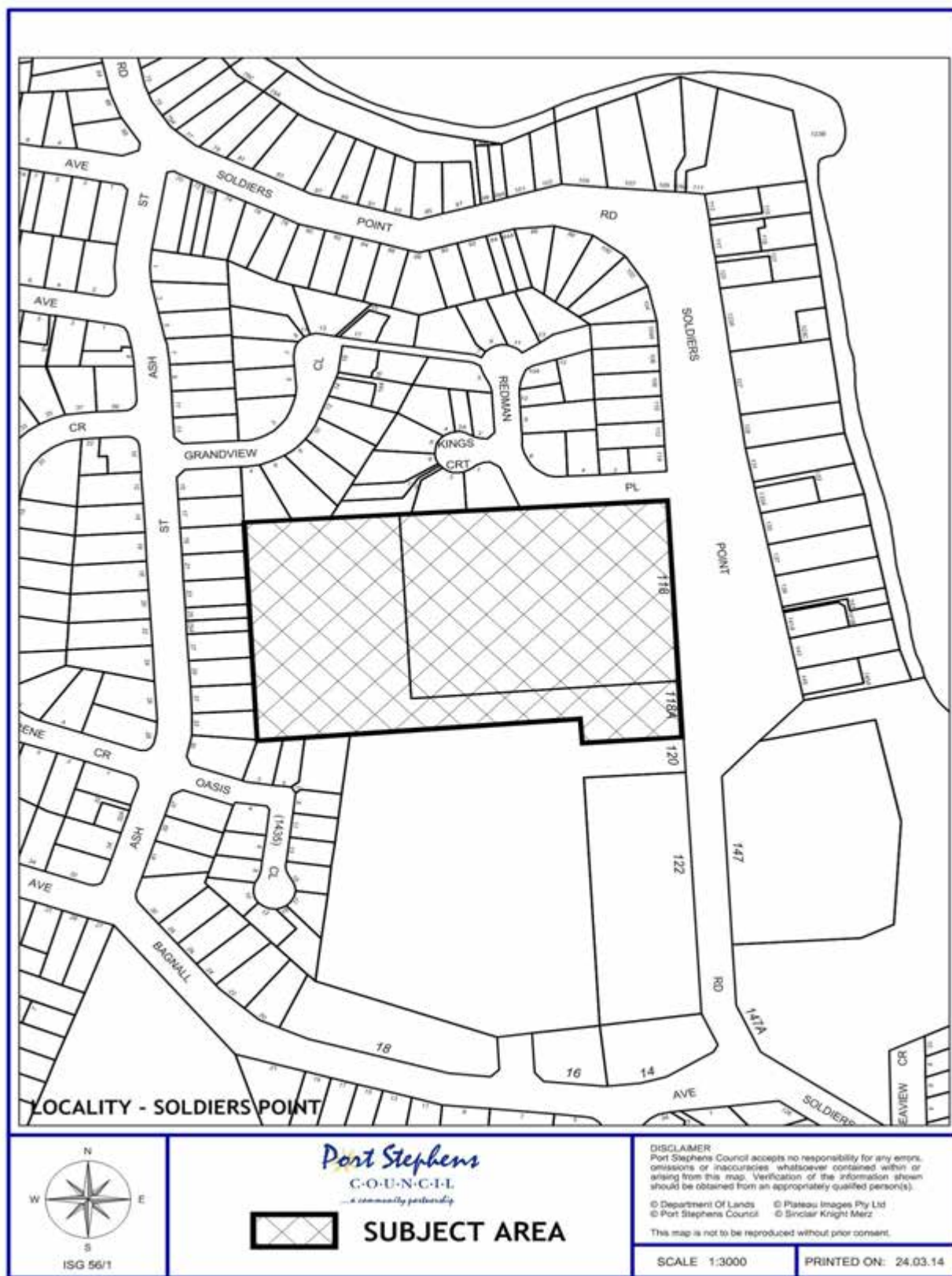
COUNCILLORS ROOM

- 1) Statement of Environmental Effects including sub-reports;
- 2) Development Plans.

TABLED DOCUMENTS

- 1) Site Plan.

ATTACHMENT 1 LOCALITY PLAN



ATTACHMENT 2**ASSESSMENT**

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

- **THE PROPOSAL**

The proposal comprises a three-staged development of six (6) separate Seniors Living building blocks which includes one hundred (100) Seniors Living Self-Care Units and associated community facilities.

Stage 1 involves the construction of Block A (three-storey, ground level parking) on the southern part of the site and includes twenty (20) two-bedroom units and Block B which includes the three-storey Community Building and Pool and six (6) one bedroom units. Stage 1 also includes the construction of thirty seven (37) car parks along the eastern edge of the development adjacent to the existing Bowling Club car park.

Stage 2 involves the construction of Block D and E (stepped 3-storey buildings) which includes two (2) three-bedroom units, twenty eight (28) two-bedroom units and eleven (11) one-bedroom units and associated parking.

Stage 3 completes the development and involves the construction of Block C and F (three storey semi-detached buildings) which includes the construction of thirteen (13) three-bedroom units, fifteen (15) two-bedroom units and five (5) one bedroom units and associated parking.

- **THE APPLICATION**

Owner	Soldiers Point Bowling Club Ltd
Applicant	Nicholas Sovechles C/- Soldiers Point Bowling Club Ltd
Detail Submitted	Statement of Environmental Effects including sub-consultant reports Development Plans

- **THE LAND**

Property Description	The site is located off Soldiers Point Road and the majority of works is proposed on the allotment directly behind the existing Bowling Club. The site is heavily vegetated and slopes up to the north west of the site. The site is bordered by residential development on the north and west and caravan park on the south.
Address	118 & 118A Soldiers Point Road Soldiers Point

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Area	34,000m ² (approx.)
Dimensions	240mx140m (inclusive of existing Bowling Club site)

Site Description

The site is located off Soldiers Point Road and the majority of works is proposed on the allotment directly behind the existing Bowling Club. The site is heavily vegetated and slopes up to the north west of the site. The site is bordered by residential development on the north, south and west and also a caravan park to the south.

Site Constraints

The most noticeable site constraint is the significant amount of vegetation ranging from large trees to some undergrowth and managed grassland with scattered trees on the lower ground. The site is also bushfire prone and is tagged as Koala Habitat. The land is classed as Acid Sulfate Soils Class 4 and 5. Class 4 relates to work below 2m of natural ground level and Class 5 relates to work within 500m of an adjacent class.

Surrounding Development

The site is bordered by residential development on the north, south and west and caravan park to the south.

• THE ASSESSMENT

HISTORY

Site History:

Soldiers Point Bowling Club has been operating on the site for over 30 years. Various alterations, additions and modifications to the Bowling Club and associated facilities have been approved on the site.

Relevantly, Development Application (16-2010-980-1) for a similar proposal on the site was lodged in December 2010. This application was withdrawn by the applicant in September 2011 in response to a number of assessment matters that were not able to be resolved.

Whilst similar in concept to the previous application, the current application has been amended in a number of ways in response to the matters. Including updated ecological assessment.

DA History:

DA lodged: 9 December 2013

INTERNAL REFERRALS

Engineering (Including Traffic)

Recommendation: Approval subject to conditions

Building

Recommendation: Approval subject to conditions

Natural Resources

Recommendation: Request applicant submits a Species Impact Statement to address impact on Koala, hollow bearing trees and *C. dowlingii* (Red Helmet Orchid).

Comment

Refer Natural Environment Section Below

Community Planning (Access & Disability)

Recommendation: Approval subject to conditions

EXTERNAL REFERRALS

NSW Rural Fire Service

The development is identified as integrated under clause 91 of the EP&A Act 1979 and S100B of the Rural Fires Act 1997. A referral to the NSW Rural Fire Service is required under Section 100B of the Rural Fires Act, 1997.

This referral was made on the 12th December 2013. A Bushfire Safety Authority was issued on the 15th January 2014 with no General Terms of Approval required.

STATUTORY PROVISIONS

Environmental Planning and Assessment Act 1979.

Clause 91 – The development is identified as integrated under these provisions given the site is mapped as bushfire prone. A referral to the NSW Rural Fire Service is required under Section 100B of the Rural Fires Act, 1997.

This referral was made on the 12th December 2013. A Bushfire Safety Authority was issued on the 15th January 2014 with no General Terms of Approval required.

State Environmental Planning Policies (SEPP)

SEPP 44 - Koala Habitat Protection

The SEPP applies to the proposal. The application has been assessed with respect to the SEPP. Refer to Natural Resources Section for further comment.

SEPP 71 – Coastal Protection

This application has been assessed having regard to the aims of the SEPP. It is not expected that the proposed development will have adverse impact in achieving the aims of the SEPP.

SEPP – (Housing for Seniors or People with a Disability) 2004

Clause 24

Site Compatibility Certificate

A Site Compatibility Certificate has been issued by the Director General NSW Planning & Infrastructure dated 15 November 2013 for the development under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004. This Certificate effectively permits the development subject to the following stated requirements;

1. *Regarding the provision of on-site services, in order to satisfy the requirements of the SEPP, the applicant will need to provide the following information with the development application:*
 - a. *names of the service provider/s that will provide the services/s.*
 - b. *the terms under which the services are to be provided, and*
 - c. *confirmation that the services will be provided for the life of the development.*

This information should be evidenced by a servicing management plan and draft contracts with the relevant service providers;
2. *Building height, bulk and scale are to be determined as part of the development assessment process, noting the need for the development to be compatible with surrounding development;*
3. *Access to local services shall be provided via a 'suitable access pathway', as defined in the SEPP; and*
4. *Impact upon a threatened species, population or ecological community, or its habitat, must be considered as part of development assessment, and if necessary through consultation and concurrence of the Office of Environment and Heritage.*

Comment

A Draft Servicing Management Plan with relevant service providers has been submitted with the application.

Building height, bulk and scale has been assessed and is discussed elsewhere in this report and is considered acceptable.

A suitable access pathway is 'a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like'. The development has been assessed with respect to accessibility and is considered to comply with the intent of the

accessibility clause and is provided with suitable links to public transport and other appropriate internal linkages.

Ecology has been considered as part of the assessment and is discussed elsewhere in this report.

Schedule 1 – Assessment Criteria

The development has been assessed against the following relevant criteria outlined in Schedule 1 of the SEPP.

Site Compatibility Certificate

The proposal is considered to comply with the section. The development has appropriate location and access to facilities, is suitable with respect to bush fire threat and has available water and sewer facilities as required by the section.

Design Requirements

The proposal is considered to comply with the section. Design requirements, neighbourhood amenity, streetscape, visual and acoustic privacy, solar access, stormwater, crime prevention and accessibility has been considered in the design and assessment of the application.

Development Standards to be complied with

The proposal complies with the minimum lot size and frontage requirements of this section.

Development on land adjoining land zoned primarily for urban purposes

This section details requirements for such development to be provided with servicing and facilities such as home nursing and assistance, transport to local services, availability to facilities and services.

The development is considered to be able to comply with this section.

Standards concerning accessibility and useability for hostels and self-contained dwellings AND Additional Standards for Self-Contained Dwellings

These sections outline standards including security, letterboxes, car parking, accessibility of entry points and internal design of dwellings. The development is considered to comply with the section.

In addition, a comprehensive Disability Access Report (Lindsay Perry Access & Architecture, 18 February 2014) has been provided with respect to access and disability standards in the SEPP and the SEPP Guideline. The recommendations in the report are conditioned in the draft conditions of consent.

Port Stephens Local Environmental Plan 2000 (PSLEP 2000)

The development application was lodged 9 December 2012, while Port Stephens Local Environmental Plan 2000 (PSLEP2000) was still in force. PSLEP 2000 is therefore the primary Local Environmental Plan for which the application is to be assessed under.

The site was zoned 6(c) Special Recreation pursuant to PSLEP2000.

Clause 29 Recreation zonings

The 6(c) Special Recreation zone description states;

The Special Recreation "C" Zone includes privately and publicly owned land used for recreational purposes such as licensed clubs, golf courses, bowling clubs and the like.

Comment: Whilst the development is not for a recreational purpose, it is considered compatible with the existing use on the land, being the Bowling Club. For further compatibility/permisibility information refer to State Environmental Planning Policy - (Housing for Seniors or People with a Disability) 2004 section above.

The 6(c) Special Recreation zone objectives states;

The objectives of the Special Recreation "C" Zone are to enable privately and publicly operated recreational development in suitable and accessible localities and to ensure facilities do not reduce the amenity of the locality or its environmental quality.

Comment: Seniors Living as a form of residential development is not listed as permissible development under the clause, however the development is considered permissible development subject to the Site Compatibility Certificate dated 15 November 2013.

Clause 42 – Development along arterial roads

The development is considered appropriate with respect to the clause. Traffic volumes and the nature of traffic generated by the development has been assessed by the applicant and Council with no adverse impacts identified.

Clause 44 - Appearance of land and buildings

The intent of this clause is to ensure development is appropriate with respect to views, vistas and the built and natural environment. The development is considered to be consistent with the clause for reasons discussed elsewhere in this report. In summary, the site distance of the proposed buildings to main roads, lack of building dominance over predominant public or private view points and the integration of buildings into the ground (cut) provide an acceptable appearance with respect to the clause.

Clause 47 – Services

The proposal is consistent with the clause. All essential services are readily available to the site.

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

The development site is identified as Class 4 and Class 5 Acid Sulfate Soils (ASS). Class 4 relates to works below 2m of Natural Ground Level, and Class 5 relates to works adjacent to any other class.

Cut and fill is required on the northern buildings blocks. Particularly Blocks D and E require cut into the higher part of the site

The majority of cut is located in Class 5 ASS. The required cut as identified on the development plans for Block E ranges from 2m-6m and averages approximately 3m. An analysis of the topography of the site with respect to the ASS Planning Map determined that the required cut is unlikely to reach a depth that is mapped as likely to experience Acid Sulfate Soils.

Given these depths it is considered unlikely that the development will expose or disturb Acid Sulfate Soils. A condition will be included to cover the unlikely event that Acid Sulfate Soils are disturbed.

Other LEP Considerations

PSLEP 2000 does not specify development standards for maximum Height, Floor to Space Ratio (FSR) or Density on the site given the land is not zoned residential.

In effect, these variables must be assessed on merit and with respect to any other requirements in SEPP (Housing for Seniors of People with a Disability) 2004.

The surrounding residential land has a maximum building height of 9m, minimum site area per dwelling of 500m² and maximum FSR of 0.5:1.

The northern building Blocks C, D and E are stepped into the higher ground and effectively achieve 5 stories but no more than 3 stories (at 'mid-block') in any one section. The maximum height of all the buildings above the existing ground level is 3 stories. The height of all building is considered acceptable.

The gross floor area of the development is approximately 7600m² which equates to a FSR of less than 0.5:1.

The density and FSR of the site is considered appropriate given all units achieve suitable amenity and services and the development complies with the Development Control Plan and SEPP - (Housing for Seniors or People with a Disability) 2004.

It is noted that Clause 50 of the SEPP outlines 'Standards that cannot be used to refuse development consent for self-contained dwellings' and in this regard the FSR standard is 0.5:1 and the development complies with this standard.

Port Stephens Local Environmental Plan 2013 (PSLEP 2013)

At the time of lodgement, PSLEP 2013 was in Draft form. Subject to S79C(1)(a)(ii) of the NSW Environmental Planning & Assessment Act 1979, the Draft LEP should be considered in the assessment of the application.

Consideration of the proposal with respect to PSLEP2013 has been undertaken.

The land is zoned RE2 – Private Recreation under PSLEP 2013. Similarly to the provisions of PSLEP2000, the proposal would remain permissible under PSLEP 2013 under the provisions of the Site Compatibility Certificate.

There are no other relevant clauses of PSLEP2013 that relate to the development.

POLICY PROVISIONS

Port Stephens Development Control Plan 2007.

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

B2 - Environmental and Construction Management

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

B3 - Parking and Access

The application is considered satisfactory with regards to B3 – Parking and Access.

Section B3.8 – Number of Parking Spaces

The total number of car parking spaces is referred to in section B9 of the DCP.

For self-contained dwellings, 0.5 spaces are required for each bedroom, with a minimum of 1 space per dwelling. One visitor space per 5 units or part thereof is required.

For the development, this equates to:

- 100 spaces for the 100 units plus;
- 7.5 (say 8) additional spaces for the 15 units with three bedrooms plus;
- 20 visitor spaces.

The development provides 128 spaces which complies with the DCP requirement. It is noted the DCP requirement is the same as the SEPP requirement.

B9 – Seniors Living

The application has been assessed against the applicable provisions of Port Stephens Development Control Plan, 2007 – Seniors Living, and considered satisfactory with regards to the section.

C10 – Disability Access

In accordance with the requirements of chapter C10, the application was accompanied by an Access Report (Lindsay Perry Access & Architecture, 18th February 2014). The report indicates the development complies with the required standards for access. The development is to be conditioned to comply with the recommendations of this report.

SECTION 94 CONTRIBUTIONS

The application, should it be approved would attract the following Section 94 Contributions payable prior to the issue of a Construction Certificate –

	Per Lot	Total
Civic Administration	(\$558)	(\$55,750)
Public Open Space, Parks and Reserves	(\$1156)	(\$115,600)

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Sports and Leisure Facilities	(\$2726)	(\$272,600)
Cultural and Community Facilities	(\$1370)	(\$137,000)
Roadworks	(\$308)	(\$30,780)
Fire & Emergency Services	(\$111)	(\$11,100)

100 Units

Total: \$622,830

Whilst some development categories levy a S94A of 1% of the cost of development, Seniors Living development is a specified development type in Port Stephens Section 94 Development Contributions Plan 2007 and is levied at 50% of the specified rate for all infrastructure categories except roadworks which is levied at 20%.

Options into the pedestrian walkway linkage through the Ash Street development stormwater detention basin are currently underway. There has been previous commitment from Soldiers Point Bowling Club to pay a proportion of the cost of the walkway.

The final cost of the walkway is unknown at this stage but it is noted that Council will have the opportunity to approve (subject to further Council report and meeting) a reduction in the above S94 contribution equal to the Bowling Club's walkway contribution on the basis that the walkway would be providing net community benefit and connectivity to facilities and services in the locality.

Any implications of such reduction would be detailed in a future report. The above S94 figures are included in the draft conditions of consent,

LIKELY IMPACTS

Built Environment

Adjoining Properties

The construction of the proposed development at the subject site is considered unlikely to result in any ongoing adverse impacts upon adjoining properties.

The type of development (Seniors Living) is not a land use that is expected to produce noise impacts. Privacy impacts, where identified are considered to be reasonably mitigated to a level that can be reasonably expected in an urban environment. The addition of architectural privacy screens and screen-tree planting mitigates impacts between the development and existing residents of dwelling to the north. Privacy impacts on the south and west are considered lesser due to the orientation of building away from those dwellings and no private open space areas of proposed units facing these elevations,

Streetscape and Amenity

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon the local streetscape and amenity of adjoining properties.

Whilst it is acknowledged the development will change the nature of the immediate locality with the removal of large trees and the development of large buildings, the streetscape is not considered to be detrimentally affected for what is primarily an urban environment. The building is considered to be well sited and designed with respect to the topography of the land.

Similarly, the amenity of adjoining properties is not expected to be detrimentally affected or produce an impact greater to that which is reasonably expected in an urban environment.

Landscaping

The applicant has provided a landscape plan, prepared by a suitable professional.

The landscape plan has been amended during the assessment to include endemic species to the area and the retention of seven (7) hollow bearing trees.

Whilst the capacity to retain the majority of vegetation on the site is removed, the landscape plan is considered appropriate for the development.

Should the application be approved additional conditions of consent with respect to koala feed tree planting and other conditions relating to ecology will be imposed.

Views

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing views of neighbouring properties.

Local vistas are generally to the east towards Port Stephens. Currently properties to the west of the site do not have the benefit of these views. The development will not impact views from these properties. Similarly, existing views for northern adjoining properties will not be affected.

Access and Traffic

The proposed development utilises the existing Bowling Club access off Soldiers Point Road.

As the proposal is not considered likely to generate significant additional traffic to the existing road network, the development is considered satisfactory with regards to Access, Transport and Traffic.

Natural Environment

A significant proportion of the vegetation on the site is proposed to be removed to facilitate the development. A seven part test was submitted and Council's Natural Resources team has assessed the proposal.

Council's Natural Resources assessment of the DA stated approval is not recommended at this stage for a number of ecological reasons.

The submitted Flora and Fauna Report and Council's Natural Resources Assessment suggests that the most significant fauna impact of the development is on Koala and most significant Flora impact is likely to be *C doweringii* (Red Helmet Orchid) which are Endangered and Vulnerable species respectively under the Threatened Species Conservation Act 1995.

The submitted Seven Part Test (Wildthing Environmental Consultants, July 2013) indicates that there is evidence of previous Koala activity on the site and it also acknowledges presence of Koala habitat and feed trees. Similarly the report details evidence of *C doweringii* throughout the site.

Site assessment comment – Planning

The site can be described as partially disturbed land with various weed invasion, introduced species and bushfire Asset Protection Zone (APZ) disturbance. The Flora and Fauna Report confirms the vegetation consists of Coastal Sand Apple/Swamp Open Forrest and Smooth-barked Apple-Red Bloodwood – Forrest Oak Open Forrest. The site is not mapped on Council's system as Endangered Ecological Community however the Flora and Fauna Report states the Coast Sand Apple/Swamp Open Forrest has a number of similarities to and is likely a disturbed example of the Endangered Ecological Community Swamp Sclerophyll Forest.

A large area of the understorey of the Coastal Sand Apple/Swamp Open Forrest has been removed and replaced with introduced grassed and maintained parkland type land with barbeque and seating areas and a number of introduced tree species.

No physical ground connectivity to the site exists except for Bowling Club car park entry. Site inspection confirmed that the site is fully bordered by 1.8m high colorbond fencing, effectively restricting the free movement of koalas to the site. There is some evidence that Koalas are continuing to access the site under some fencing panels that are not touching the ground.

Recent development, namely the Ash Street residential development removed a key fauna linkage to the site (removal of approximately 18 Koala feed trees) and via subsequent residential fencing practically isolated the subject property for movement by larger ground mammals such as Koalas.

Proposal

The proposal will remove the majority of vegetation from the site. There are potential areas for tree retention to the west of proposed Block B and on the boundaries. It is likely that the majority of *C. dowlingii* will be removed from the site along with 'up to 17 Koala feed trees', a number of hollow bearing trees and various other existing native and some introduced species.

Seven Part Test (Flora and Fauna Report)

The submitted Seven Part Test by Wildthing Environmental Consultants July 2013 states in relation to the habitat:

"The site is believed to provide habitat for a number of native fauna species, however it is recognised that due to the relatively small size of the site and isolation as a result of surrounding development the habitat quality has been markedly reduced"

"Considering the level of surrounding development within the locality, native habitat within the site would be subject to a considerable amount of isolation from other areas of habitat. More mobile species such as birds, Flying Foxes and Microchiropteran Bats would be the most likely fauna to utilise the site"

In relation to Endangered Ecological Communities, the report states the Coastal Sand Apple/Swamp Open Forrest has a number of similarities to and is likely a disturbed example of the Endangered Ecological Community Swamp Sclerophyll Forest. The report goes on to state the proposal is unlikely to place the local occurrence of this community at risk of extinction.

In relation to threatened species, the report states that *C. dowlingii* (Red Helmet Orchid) is the only threatened or rare flora species found on site. The threatened fauna species recorded on site are East Coast Freetail Bat, Glossy Black-Cockatoo and Koala.

The report states that in relation to the East Coast Freetail Bat and Glossy Black Cockatoo, the proposal is unlikely to place any viable local populations of these mobile species at risk of extinction.

Koala

It is acknowledged in the report that Koalas have frequented the site. Access to the site has recently been restricted via residential fencing which doesn't allow free movement of Koalas to the site. The proposal will remove the majority of vegetation including Koala foraging species (approximately 18 feed trees). There is some scope for replacement planting however given the isolated nature of the site; the (beneficial) impact of this would be reduced.

The report states "the proposal will result in an incremental decline of primary Koala habitat in the local area. However, considering the difficulty in currently accessing the site for Koalas and recent loss of an area of preferred Koala habitat that joined the site to the south and recommendations of compensatory plantings the impact on the local Koala population would be reduced".

Red Helmet Orchid

The report states the "proposal is likely to result in the removal of all specimens of *C. dowlingii* from the site resulting in an incremental reduction in the local population of the orchid species. Without any active protection for *C. dowlingii* on site such as weed control by experienced bush regenerators and restricted access to areas of suitable habitat the long-term survival of *C. dowlingii* on site would be unlikely. Considering the presence of larger local populations of *C. dowlingii* within Stoney Ridge Reserve and Lemon Tree Passage and the current land practices on site the proposal is unlikely to significantly place any viable local populations of this orchid species at risk of extinction".

The request for a Species Impact Statement is understood to be for the purpose of a targeted investigation of impact of the development on threatened species. It is considered the submitted Seven Part Test outlines the likely impacts on the identified threatened Flora and Fauna species. In particular it is considered the report addresses the impact on Flora and Fauna, if not in as much detail as an Species Impact Statement but appears to make reasonable conclusions, in this case in relation to the Red Helmet Orchid and Koala.

Conclusion

Whilst the site does support threatened flora and fauna, extenuating circumstances primarily being the nature of surrounding development has detrimentally isolated the site and the key species (Koala and *C. dowlingii*) as identified in the submitted report.

For the above reasons it is considered that the request for a Species Impact Statement is not required. Based on the information contained in the submitted Flora & Fauna report it is considered the impact on the identified Threatened Flora and Fauna species is already stated and Council can make an informed and appropriate assessment. The definition of what is a 'significant' impact is a highly subjective matter, and a decision which is within Council's jurisdiction.

It is also considered that the applicant has demonstrated an increased compliance with elements of the Comprehensive Koala Plan of Management via retention of additional trees within boundaries and the provision of an updated landscaping plan, tree retention and hollow bearing tree retention plan.

It is considered that an appropriate assessment with respect to S79C and Part 5A of the Environmental Planning & Assessment Act 1979 has been undertaken with the information submitted.

Furthermore, should the application be approved appropriate conditions of consent shall be imposed to ensure that the site will be managed appropriately during construction to mitigate any potential environmental impacts.

Water

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing water within the locality.

Noise

The construction of the proposed development at the subject site is considered unlikely to result in any adverse acoustic impacts within the locality.

Social and Economic Impacts -

The construction of the proposed development at the subject site is considered unlikely to result in any adverse social or economic impacts upon the local community.

SUITABILITY OF THE SITE

The Site Compatibility Certificate relevantly states:

I, Director General of the Department of Planning and Infrastructures determine the application made by RPS on 16 September 2013 by issuing this certificate under clause 25(4)(a) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability (2004).

I certify that in my opinion:

- the site described in Schedule 1 is suitable for more intensive development; and*
- the development described in Schedule 1 is compatible with the surrounding environment having had regard to the criteria specified in clause 25(5)(b); and*
- that the development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding land uses only if it satisfies certain requirements specified in Schedule 2 of this certificate.*

On balance of all social, economic and environmental issues relating to the development the site is considered to be suitable for the proposed development.

All requirements under the Site Compatibility Certificate have been considered in the assessment of the application, as have the requirements of S79C of the Environmental Planning and Assessment Act 1979 and the site is therefore considered suitable for the development.

PUBLIC INTEREST

Similarly to above, the approval of the application is considered to be in the public interest. The need for Seniors Housing is highlighted as a growing need in the NSW and particularly in localities such as Port Stephens that has a higher than average retirement age population.

**ATTACHMENT 4
CONDITIONS**

1. Development Consent is granted for a staged development of a Self-Care Senior Living development as indicated on the approved plans and documentation.
2. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
3. All building work must be carried out in accordance with the provisions of the Building Code of Australia and the Premises Standard.
4. 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.
5. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
6. 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.

7. It is the responsibility of the applicant to erect a PCA sign and to ensure the PCA sign remains in position for the duration of building works.
8. A waste containment facility for shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. 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.

9. Landscaping shall be carried out in accordance with the approved Landscape Plan. A qualified landscape designer must provide a compliance certificate to the Principal Certifying Authority certifying that the landscaping has been carried out in accordance with the approved plan, prior to the issue of the Occupation Certificate. Where Council is not the Principal Certifying Authority, a copy of the certificate must be provided for Council's records.
10. In addition to the plantings indicated on the approved landscape plan, Forty (40) replacement Koala feed trees (minimum 75L pot size) to replace the trees removed from the site shall be planted **prior to the issue of the occupation certificate**. Replacement trees are to be maintained to maturity through use of mulch and watering to achieve their natural height.
11. A fauna ecologist shall be employed to supervise the removal of all trees and to advise the site manager and tree clearing staff of any habitat potential and precautions necessary during tree felling. The following strategies need to be employed to mitigate the effect of this clearing on native fauna that occur on the site:
 - Prior to removal of habitat trees licensed wildlife carers or consultants shall relocate any fauna species.
 - Clearing of hollow-bearing and nesting trees should be restricted to Autumn or Winter months so as to avoid dislocation of wildlife during breeding seasons.
 - Remove and modify hollows and nests from felled trees and re-establish these on the site or as near as possible to the site to provide compensatory habitat. This could include mounting of hollows& nests on trees or poles, or on other buildings or structures.
 - Where original hollows cannot be retained, artificial nesting boxes must be provided to provide compensatory habitat at a ratio of 2:1.
 - In circumstances where native fauna is detected during the removal of habitat trees, clearing should cease until a licensed wildlife carer or consultant relocates the fauna species.
 - Should a threatened species be positively identified, all clearing works shall cease until a plan of management for the possible relocation of the

species has been approved by council in consultation with the Office of Environment & Heritage.

- Where in spite of precautions, wildlife is injured, the fauna ecologist is to take the necessary action to treat the animal, which may include veterinary treatment or transfer of the animal to a volunteer wildlife carer group such as the Native Animal Trust Fund or Hunter Koala Preservation Society.
12. All tree protection works including protective fencing shall be carried out before excavation, grading and site works commence. Stockpiling or storage or mixing of materials, vehicle parking, disposal of liquids/materials shall not occur within the dripline of trees identified to remain on the site.
13. The common fencing along the southern boundary of the site and the Ash Street development stormwater detention area shall be modified to allow the potential for safe movement of koalas to the site. The preferred option for minimising restrictions to safe koala movement is that there be no fencing, however noting the need for some site security suitable fencing may include:
- i. fences where the bottom of the fence is a minimum of 200mm above ground level that would allow koalas to move underneath;
 - ii. fences that facilitate easy climbing by koalas; for example, sturdy chain mesh fences, or solid style fences with timber posts on both sides at regular intervals of approximately 20m; or
 - iii. open post and rail or post and wire (definitely not barbed wire on the bottom strand).
14. Prior to occupying the approved Seniors Living dwelling(s), contact Council's Mapping Section via email at: addressing@portstephens.nsw.gov.au stating your Development Approval number, address of the property and the assessing officer, to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
15. The development shall provide 128 on-site car parking spaces, including disabled parking spaces. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with the Section B3 – Parking, Traffic and Transport, of Port Stephens Development Control Plan 2007. Car parking must be provided prior to the issue of the occupation certificate or use of the development.
16. The development shall comply with all recommendations outlined in the Disability Access Report prepared by Lindsay Perry Access & Design dated 18 February 2014.

The qualified access adviser shall certify that the access and facilities has been

constructed in accordance with the submitted design details and report, **prior to the issue of the occupation certificate.**

17. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
18. Advisory signs shall be prominently located adjacent to the stormwater detention area detailing the purpose of the system, the depth indicators and warning of the dangers associated with the detention basin.
19. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of Council or the Certifying Authority prior to issue of the Occupation Certificate.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

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

	Per Lot	Total
Civic Administration	(\$557.50)	(\$55,750)
Public Open Space, Parks and Reserves	(\$1156)	(\$115,600)
Sports and Leisure Facilities	(\$2726)	(\$272,600)
Cultural and Community Facilities	(\$1370)	(\$137,000)
Fire & Emergency Services	(\$111)	(\$11,100)
Roadworks	(\$307.80)	(\$30,780)
Total	(\$6228)	(\$622,830)

Note:

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

b) Contributions are to be paid prior to **issue of construction certificate for each stage.**

In this instance:	Stage 1 (26 Units)	= \$161,936
	Stage 2 (41 Units)	= \$255,360
	Stage 3 (33 Units)	= \$205,534
	Total (100 Units)	= \$622,830

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

21. A Construction Management Plan shall be submitted and approved by Council, **prior to the issue of the Construction Certificate**. The construction management plan shall specify operational details to minimise any potential impact to adjoining properties. The construction management plan should include but not limited to the following information:- Construction techniques, noise and vibration management, storage of equipment and building materials, hours of work:, primary route for truck movements, etc.
22. The trees marked on the approved tree retention plan and hollow bearing tree retention plan shall be retained. The trees must be clearly identified on the site prior to commencement of work. A detailed tree management plan will be submitted for all trees to be retained on site and shall be approved by Council **prior to issue of the Construction Certificate**. The tree management plan will address:-

SULE Safe Useful Life Expectance

Tree protection measures including fence design

Tree valuations (community based) using the Draft Australian standard DR 99307 Amenity Trees - Guide to Valuation

Remediation of the trees to be retained including pruning and mulching works

Tree hazard evaluation form consistent with the International Society of Arboriculture including photographs

ENGINEERING

23. Where car spaces are adjacent to obstructions greater than 150mm, a further clearance of 300mm shall be provided in accordance with Australian Standards AS2890.1:2004. Details shall be submitted and approved by the Certifying Authority **prior to the issue of the Construction Certificate**.
24. The loading bay as shown on Drawing 'DA1201 issue CCC' dated 25/02/14 shall have a minimum length of 8.8m in accordance with AS2890.2-2002. Details shall be submitted and approved by the Certifying Authority **prior to the issue of the Construction Certificate**.

25. Parking spaces 6, 9, 12, 15, 28 and 53 as shown on Drawing 'DA1201 issue CCC' dated 25/02/14 shall be deleted from the design due to lack of turning area. Six (6) replaces parking spaces shall be constructed in the development to compensate. Details shall be submitted and approved by the Certifying Authority **prior to the issue of the Construction Certificate.**
26. The development shall provide a safe pedestrian connection from the development site to the frontage of Soldiers Point Road. The pedestrian connection shall be separate to that of the vehicle travel path. A 1.2m wide footpath shall be constructed from the development, alongside the battle-axe handle and connect to the footpath within the road reserve in Soldiers Point Road. Grades to be in accordance with the State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
27. The stormwater detention system shall be designed and built in accordance with the approved concept plan and the table provided below. A staged orifice structure shall be provided that restricts site discharge to pre-developed flows as per the minor and major events listed in the table. Full calculations shall be provided demonstrating that the staged discharge rates are achieved (i.e. minor volume up to minor event discharges at minor discharge rate and volume in excess of minor volume discharges at equal to or below major discharge rate).

The construction detail shall also include details of the location and type of detention system, orifice, pipes, pits, major overland flow path and the discharge point to the public drainage system.

Details shall be submitted and certified by a suitably qualified and practising drainage engineer, and approved by the certifying authority **prior to issue of the construction certificate.**

Average recurrence Interval	PSD (l/s) per site	Storage site specific (m ³) per site
10	150	70.3
100	150	220

28. The stormwater detention system shall include design features in accordance with **Section 8.11** of **Australian Standard AS3500.3:2003.**

A Construction Certificate cannot be issued until full details of the stormwater

detention system have been provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

29. A bio-retention basin shall be incorporated into the onsite detention system with a filter area of 100 m² with a filter depth of 0.45m as per the 'water quality assessment' dated 3rd March 2014 by Peter Sullivan & Associates Pty Ltd. The filter volume shall be additional to the storage volume required for the onsite detention. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
30. The construction of the bio-retention water quality structure shall be in accordance with the Water by Design – Construction and Establishment Guidelines: swales, bio-retention systems and wetlands Document. Design details shall be approved **prior to issue of the Construction Certificate.**
31. All storm events up to the 1% AEP critical storm duration shall be safely diverted around the retaining walls and conveyed from the North Western corner of the lot to the onsite detention basin via the use of catch drains, storm water pipes and alike. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
32. A **Soil & Water Management Plan** in accordance 'Managing Urban Storm water; Soils and Construction document, Landcom 2004' is to be prepared by an Engineer whose qualifications are acceptable for membership of the Institution of Engineers Australia (or other professional approved by Council) detailing temporary and permanent measures proposed to be installed and maintained. The plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**
33. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

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

The required works to be designed are as follows:

- a) The bus stop on the western side of Soldiers Point Road approximately 90m south of the development shall be upgraded to ensure it complies with The Disability Discrimination Act 1992.
- b) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
- c) Payment of applicable fees and bonds; and
- d) Contractor's public liability insurances to a minimum value of \$10 million dollars.

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The engineering plans must be approved by Council **prior to the issuing of a Construction Certificate required under this consent.**

SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION

Statement of Environmental Effects report number PR118872 prepared by RPS dated November 2013

Stamped plans prepared by Kevin Snell Architects titled/numbered/dated:

- Site Analysis Plan DA0701 Issue CC dated 27.02.14
- Site Plan DA1003 Issue CCC dated 25.02.14
- Levels Study Plan DA1004 Issue CC dated 27.02.14
- Staging Plan DA1005 Issue CC dated 27.02.14
- Site Tree Retention Plan DA1006 Issue AA dated 25.02.14
- Ground Floor Plan DA1201 Issue CCC dated 25.02.14
- First Floor Plan DA1301 Issue CCC dated 27.02.14
- Second Floor Plan DA1302 Issue CCC dated 27.02.14
- Third Floor Plan DA1303 Issue CC dated 17.02.14
- Fourth Floor Plan DA 1304 Issue CC dated 17.02.14
- Fifth Floor Plan DA1305 Issue CC dated 17.02.14
- Roof Plan DA1404 Issue B dated 26.02.14
- Elevation01 DA1501 Issue CC dated 18.02.14
- Elevation02 DA1502 Issue CC dated 18.02.14
- Elevation03 DA1503 Issue CC dated 18.02.14
- Elevation04 DA1504 Issue CC dated 18.02.14
- Sections1 DA1601 Issue CC dated 18.02.14
- Section2 DA1602 Issue CC dated 18.02.14

Engineering Plans prepared by Michael Fitzgerald Consulting Engineers Pty Ltd Job No. 10-3853:

- Sedimentation & Erosion Control Plan Drawing C4 Issue 1 dated 28.02.14
- Details and Sections Drawing C3 Issue 1 dated 28.02.2014
- Stormwater Outlet Pipe Plan C2 Issue 1 dated 28.02.14
- Stormwater Drainage Plan C1 Issue 1 dated 28.02.14

Water Quality Assessment dated 3.3.14 by Peter Sullivan & Associates Pty Ltd

Bushfire Threat Assessment prepared by RPS dated December 2010

BASIX Certificate Number 517588M

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Seven Part Test prepared by Wildthing Environmental Consultants Job No: 12122 dated July 2013

Traffic Assessment Report prepared by TPK & Associates dated December 2010
--

Landscaping Plan prepared by Lee Rowan's Landscaping (as amended by applicant including Hollow Bearing Tree retention Plan), dwrg no. LA3:02
--

Disability Access Report prepared by Lindsay Perry Access & Architecture Ref 1413 dated 18 February 2014
--

ITEM NO. 4**FILE NO: PSC2009-0064****POLICY REVIEW: PARKING ENFORCEMENT POLICY AND GUIDELINE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Parking Enforcement Policy and Guidelines shown at **(ATTACHMENT 1)**;
- 2) Place the Parking Enforcement Policy and Guidelines, as amended on public exhibition of a period of 28 days and should no submissions be received, adopt the policy as amended, without a further report to Council;
- 3) Revoke the Parking Enforcement Policy and Guidelines dated 9 March 2010 (Min No. 069), should no submissions be received.

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COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Ken Jordan
	That the recommendation be adopted.

MOTION

079	Councillor Bruce MacKenzie Councillor John Morello
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the amendments to the Parking Enforcement Policy and Guidelines shown at (ATTACHMENT 1);2) Place the Parking Enforcement Policy and Guidelines, as amended on public exhibition of a period of 28 days and should no submissions be received, adopt the policy as amended, without a further report to Council;3) Revoke the Parking Enforcement Policy and Guidelines dated 9 March 2010 (Min No. 069), should no submissions be received.

BACKGROUND

The purpose of this report is to forward to Council a report outlining amendments to the current policy and seek endorsement from Council.

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

The subject of this report includes one (1) policy recommended to be repealed and an amended policy to be adopted in its place.

The current policy – Parking Enforcement Policy and Guideline was originally adopted on 9 March 2010, Minute Number 069.

The policy sets out to demonstrate Council's leadership and commitment to improving and protecting pedestrian safety within the community as well as providing Council with a tool to guide parking enforcement.

The amended Parking Enforcement Policy and Guideline is recommended for adoption and is provided in **(ATTACHMENT 1)**. In respect of content there are minimal changes including recent amendments to legislation

The policy is currently working effectively with the daily operations it underpins, often receiving favourable customer feedback.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial or resource implications with regard to the endorsement of the amended policy. While it is not expected that endorsement of the amended policy will have significant financial impacts, it should be noted that changes in focus, priorities and resourcing of this function can have budget implications.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing existing policies and determining the appropriateness of policy to assist in providing advice to the

MINUTES FOR ORDINARY MEETING – 8 APRIL 2014

community and facilitating more accurate and robust decision making by Council staff.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk of making poor decisions as a result of outdated policy.	High	Repeal current policy and replace with an amended policy that provides a tool to guide parking enforcement as well as enabling the public to become aware of Council's parking enforcement policy and procedures.	Yes

SUSTAINABILITY IMPLICATIONS

Includes social, economic and environmental implications.

The community benefits from safe and fair parking enforcement with the most important objective of Council being the preservation of safety of pedestrians and drivers.

Council's parking enforcement function can have economic impacts for Council and the general public and business. Business benefits from enforcement which stimulates turnover of parking spaces and access to CBDs. It is therefore important that Council apply parking legislation consistently and fairly.

There are no recognised environmental implications.

CONSULTATION

- 1) Ranger Services Team.

OPTIONS

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

ATTACHMENTS

- 1) Parking Enforcement Policy and Guidelines (amended policy and guideline).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Parking Enforcement Policy and Guidelines (amended policy and guideline)



POLICY

Adopted: 9 March 2010

Minute No: 069

Amended:

Minute No:

FILE NO: PSC2009-00647

TITLE: PARKING ENFORCEMENT POLICY AND GUIDELINE

REPORT OF MANAGER ENVIRONMENTAL SERVICES

BACKGROUND

Council has resolved to prepare a policy to guide parking enforcement in Port Stephens. The draft policy and guideline was prepared after consultation with Councillors, key staff and through analysis of the policies of other Councils.

OBJECTIVE

The purpose of the policy is to provide Council with a tool to guide Parking Enforcement.

The Parking Enforcement Policy and Guideline provides standard procedures to be followed by staff in parking enforcement, establishes good practice and enables the public to become aware of Council's parking enforcement policy and procedures.

PRINCIPLES

- 1) Council is the primary responsible regulatory authority for parking enforcement.
- 2) Council has a duty of care to reasonably enforce available legislation in order to maintain pedestrian and driver safety, promote commerce through turnover of parking spaces and to enable fair and equitable access to parking for special groups of motorists.

Changes

Delete:

Manager Environmental Services

Insert:

Coordinator Environmental Health and Compliance

- 3) Council's enforcement policies cannot modify or exceed or fall short of legislative expectation but can set the culture and priorities of the Organisation in regard to the enforcement function having regard to local issues and resourcing available.
- 4) The Policy and Guideline has been prepared to guide the enforcement function having regard to existing legislation.

POLICY STATEMENT

See attached policy document

RELATED POLICIES

Compliance Policy

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The community benefits from safe and fair parking enforcement with the most important objective of Council being the preservation of safety of pedestrians and drivers.

ECONOMIC IMPLICATIONS

Councils parking enforcement function can have economic impacts for Council and the general public and business. Business benefits from enforcement which stimulates turnover of parking spaces and access to CBDs. It is therefore important that Council apply parking legislation consistently and fairly.

The adoption of the Parking Enforcement Policy and Guideline is not expected to have financial implications for Council. An annual budget projection is made for fine income consistent with resource allocations to the function. Other Council revenue that is related to parking enforcement is revenue from paid parking in Nelson Bay.

Whilst it is not expected that the adoption of a Parking Enforcement Policy and Guideline would have significant financial impacts, it must be recognised that changes in focus, priorities and resourcing of this function can have budget implications.

ENVIRONMENTAL IMPLICATIONS

Nil recognised Environmental implications

Insert:

Road Transport Act 2013
Road Rules Regulation 2008

RELEVANT LEGISLATIVE PROVISIONS

Australian Road Rules
Local Government Act

IMPLEMENTATION RESPONSIBILITY

Co-ordinator Environmental Health and Regulation
Rangers Team

REVIEW DATE

3 years from adoption

Local Government Act 1993

Delete:

Australian Road Rules
Local Government Act

Insert:

Coordinator Environmental
Health and Compliance
Ranger Services Team

Delete:

Coordinator Environmental
Health and Regulation
Rangers Team



**PARKING ENFORCEMENT
GUIDELINE**

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PART 1 - OBJECTIVES

VISION

We value safe parking practices and the provision of equitable and fair access to parking facilities for all Port Stephens residents and visitors.

1.1 THE PURPOSE OF THE GUIDELINE

The purpose of this guideline is to:

- Provide standard procedures to be followed by all Officers.
- Provide guidelines so that all Officers can carry out their duties to the same standard and avoid using different interpretations.
- Act as an ongoing reference document for Officers, Managers and Council so that all stakeholders apply a consistent approach to parking enforcement.
- Aid new Officers during their initial training period.

To enable the public to become aware of Council's parking enforcement procedures and policies.

1.2 WHAT IS THE PURPOSE OF PARKING SURVEILLANCE?

The purpose of parking surveillance is to:

- Monitor and promote road and pedestrian safety
- Ensure the equitable use of kerbside parking spaces.
- Ensure parking turnover to assist commerce and trade or access to areas of high demand.
- Ensure compliance with the Australian Road Rules 1999 and associated Regulations.
- To improve vehicular and pedestrian access for residents, workers shoppers and visitors to the LGA.
- Provide Civic Information
- Investigate and act on complaints
- Represent Port Stephens Council in a professional and courteous manner.

1.3 LINK TO COUNCIL POLICIES

Changes

Insert:
Managers
Delete:
Managers

Insert:
Road Rules 2008
Delete:
Australian Road Rules
1999

This guideline has been developed under Port Stephens Council's Parking Policy xxxx. Reference should also be made to Council's Compliance Policy

PART 2 –OFFICERS RESPONSIBILITIES

2.1 OFFICER'S OBLIGATION

Officer's obligations are that:

- Officers conduct activities with the highest standards of ethics and integrity
- Officers ensure policies and procedures are followed and internal controls are adhered to.
- Officers take responsibility for their own decisions, performance and achievements.
- Officers support an equitable working environment by treating colleagues and customers fairly and with dignity and respect.
- Officers work within the team to achieve team goals.
- Officers embrace new ideas, technology, systems and processes.
- Officers recognise the efforts, contributions and achievements of others within the Team.
- Officers respect the diversity of individuals and value their contribution to Port Stephens Council.
- Officers must be consistent,
- Officers should be courteous and polite.
- When new signs are installed a minimum period of 1 day is to be given as a grace period unless otherwise informed by the Coordinator Environmental Health and Regulation. If an officer is unsure or notices any new installation they are to contact the Facilities and Services Group for verification of when the signs were installed.
- All signs that are missing, damaged or obscured by foliage are to be reported to the Facilities and Services Group.
- Port Stephens Council is a Smoke Free workplace. There is to be no smoking in any Council building or vehicle. An Officer should not smoke while actively engaged in Council functions.

Insert:
PSC2009-00647
Delete:
XXXX

Insert:
Coordinator

2.2 OFFICERS' CHECKLIST

It is the Officers' responsibility to ensure they have all equipment necessary to carry out their daily duties.

All necessary PPE equipment including Hat and Vest

- Pinforce handheld and printer
- Mobile Phone
- Digital Camera
- Notebook
- Complaint List
- Pen
- Chalk
- Offence booklet
- Business Cards
- Uniform clean and tidy
- Equipment clean and working
- Test Token

It is the Officers responsibility to ensure that their uniform is clean and tidy, that all their equipment is charged and operational and that they are carrying enough Parking Penalty Notices.

2.3 UNIFORM AND ISSUED EQUIPMENT

First Impressions have the greatest impact and are lasting impressions

The Officers uniform is intended to present a smart efficient appearance.

Officers should be conscious that the image projected by one Officer will influence the overall picture of how Officers are regarded or viewed in general.

Port Stephens Council issues each Officer with an allotment of uniforms sufficient to allow for frequent changing.

Uniforms are to be maintained in a neat, clean and presentable condition.

Hats or caps are to be worn at all times when an officer is in the field.

- Shoes/boots – As issued by Council
- Safety Vests are to be worn at all times when working within a road related area. This is a Workcover and Council

Environmental Health and Compliance

Delete:

Coordinator
Environmental Health and Regulation

requirement.

- Only long sleeve shirts are to be worn without a jumper or jacket in accordance with Council's Sunsafe Policy.

2.3A OFFICIAL NOTEBOOKS

Storage and maintenance of notebooks is the officer's responsibility. Daily entries are to be made e.g. day, date, work activities. These notebooks are to be used to record incidents, conversations or other unusual events that may take place during a shift. These entries may or may not be used in any proceedings at a later date. All entries must be made neatly and concisely. Commencing with page 1, all entries should be in order of date and time. A line should be ruled under each entry and a one line space left before commencing the next entry. When an error occurs put a line through and the wording inserted in such a manner as to leave the original legible. Note book storage is the Officers responsibility.

Notebooks are to be used as a supplement to the Pinforce hand held device. All notes that are relevant to a Parking Penalty Notice are to be recorded on the Pinforce handheld device.

2.3B MOBILE PHONES

Mobile Phones are the property of Port Stephens Council. They are to be used for work related matters in accordance with Council's Code of Conduct and any Management Directive issued in relation to the use of mobile phones.

It is the responsibility of the Parking Officer to have their issued mobile phone fully charged at the commencement of their shift.

Note: Mobile phones are not to be on loud speaker or hands free by an officer while on the street.

2.3C CAMERA

Each officer has been provided with a digital camera. Cameras are to be used in accordance with the Code of Conduct.

2.4 ISSUING A PARKING PENALTY NOTICE

2.4A RELEVANT ACTS

- 1) Local Government Act 1993

Parking can be enforced on land that is owned by the Local Authority, entrusted or controlled by the Local Authority, or where Council has entered into an agreement with private property owners to enforce parking restrictions applicable to free carparks.

Council owns time limited free carparking areas in Raymond Terrace and Nelson Bay.

Council has also entered into agreements to patrol time limited carparks at Raymond Terrace Marketplace, Salamander Shopping Centre and the D'Albora Marina private carparks.

2) Roads Act and Australian Road Rules

The Australian Road Rules (ARR) are safety related and were first adopted in NSW in December 1999. These rules govern Parking on road and road related areas so as to make the rules that relate to travel between the States and Territories consistent nationally. Council Officers are authorised to enforce the Australian Road Rules within all road related areas within Port Stephens. The following legislation is also applicable to Councils parking surveillance activities.

- Road Transport (Safety and Traffic Management)
- Road Rules Regulation 1999
- Road Transport (General) Act 1999

2.4B WHAT AN OFFICER SHOULD CONSIDER BEFORE ISSUING A PARKING PENALTY NOTICE

An Officer should consider the following before issuing a Parking Penalty Notice:

- Be in full view of the public and in full uniform when issuing a Parking Penalty Notice. An exemption to this is where an Officer witnesses an offence that represents a significant risk to the health and safety of the public whether the officer is on duty or not. Evidence relating to such an offence may be collected whether or not the officer is within view of the public or irrespective as to whether the officer is in official uniform or on duty.
- Form an opinion based on facts; if in doubt don't issue.
- Identify the offence.
- Examine the signage, markings, ticket machine or chalk mark.
- Consult with Supervisor if necessary.

PART 3 - SPECIFIC PARKING OFFENCES

3.1 PROCEDURES TO BE FOLLOWED FOR SPECIFIC PARKING OFFENCES

3.1A TICKET PARKING OFFENCES

Delete:
by an officer

Insert:
were amended in NSW in July 2008

Delete:
were adopted in NSW in December 1999.

Insert:
Road Rules 2008
Road Transport Act 2013

Delete:
Road Rules
Regulation 1999
Road Transport
(General) Act 1999
Road Transport
(Safety and Traffic
Management)

During patrols of the Nelson Bay foreshore area all machines within the patrolled area are to be checked for the following:

- Correct time;
- Any lights flashing, or Out Of Order Display;
- Any visible damage to the machine.
- Or any other indiscretion.

Where faults are detected they are to be reported to the appointed contractor immediately for repair.

Officer discretion is to be used in determining whether patrols of the area should continue having regard to the number of machines out of order and the fair and reasonable capability of drivers to access alternative machines within a short distance of the faulty machine.

3.1A.1 PARK WITHOUT CURRENT TICKET OR EXPIRED TICKET

Officers must:

- Check the closest machine to any offending vehicle for proper operation as in 7a above, prior to issuing an infringement notice
- Check vehicles for tickets that have expired or vehicles that do not have tickets. Checking is to involve a complete view of all possible display surfaces including the front dash, co-seats, and rear dash.
- If no ticket is displayed or time has expired - **a Parking Penalty Notice is to be issued.** Officers should give a reasonable grace period before issuing an infringement notice taking into account that the driver may be temporarily absent from the vehicle for reasons such as obtaining change for ticket machines.
- If a ticket is upside down (face down) and the ticket is unable to be read, issue a Parking Penalty Notice and make a note describing the position of the ticket. Take a photo when possible.
- If two tickets are on the dashboard and were purchased within a short period of time, total the two tickets to arrive at a correct time of expiry.
- Photographs are to be taken, if possible, of the registration plate along with sufficient photographs to demonstrate that a ticket has expired or is not reasonably displayed.
- If officers are approached by drivers after an infringement notice has been commenced or completed and provided with reasons as to why the infringement should not be issued, the officer must listen to these reasons and use discretion as to whether the infringement notice is to be cancelled.

Insert:
3.1A
Delete:
7a

3.18 PERMISSIVE PARKING (TIME LIMITED)

A driver may park a vehicle for the period indicated on a permissive parking sign.

A number immediately to the left of the letter **P** indicates that a driver must not park on the length of road, or in the area continuously for longer than the number of hours or minutes shown.

A number together with the word minute, immediately to the right of the letter **P** indicates that a driver must not park on the length of road, or in the area continuously for longer than the number of minutes or hours shown.

If a vehicle is parked for longer than the time indicated (with the addition of the grace period)-a **Parking Penalty Notice is to be issued.**

3.18.I EXCEEDING TIME

Vehicles suspected of being parked in a ticket or time limited parking area should be issued with a parking penalty notice if it is determined that they have exceeded time.

Various methods can be used to mark vehicles to establish that time has been exceeded. These include -

- Electronic marks or valve stemming. (not available at present time)
- Chalk mark across the tyre tread in a location which can be verified by the Officer.
- If doubt exists as to whether or not the vehicle has moved no penalty notice is to be issued.

3.18.II EXCLUSIONS

Vehicles found committing a ticket or exceed time offence are to be checked for the following permits:

- Mobility Parking Scheme - Check expired date
- Special event authority that may be issued from time to time.
- Any other note or message left by the driver to indicate that the vehicle is incapacitated or providing any other sustainable reason why the vehicle has not complied with parking requirements.

3C NO STOPPING

The enforcement of No Stopping Zones is important as these zones are invariably placed in locations to preserve pedestrian and driver lines of sight with the objective of preserving safety.

Delete:
(not available at

If a vehicle stops in an area clearly sign posted as No stopping - a penalty notice is to be issued. (present time)

3D NO PARKING

In accordance with the Australian Road Rules, the driver of a vehicle parked in a No Parking zone must be within 3 metres of the vehicle and must not exceed a stay of 2 minutes.

If an officer observes that a vehicle is unattended in accordance with the above Rule or stays in location longer than 2 minutes with the driver in attendance- a penalty notice is to be issued.

3E LOADING ZONE

The enforcement of Loading Zones is important to ensure that commercial vehicles can access central business districts for the loading and unloading of goods and passengers. When these areas are used illegally, dangerous parking practices can occur.

The New South Wales Road Rules (Road Transport - Safety and Traffic Management) indicate that in a Loading Zone the following rules apply:

- Sedans are not permitted unless they are setting down/picking up passengers
- Station Wagons or a motor bike that has 3 wheels and is constructed principally for the conveyance of goods are permitted to park for a period of up to 15 minutes
- If the vehicle is constructed principally for the conveyance of goods other than a station wagon or a 3 wheel bike you may park for a period of up to 30 minutes

If a sedan vehicle is unattended in a loading zone,- a parking penalty notice is to be issued.

If a sedan is attended, the Officer should advise the driver to move off the loading zone immediately. If the driver does not comply then a Parking Penalty Notice is to be issued for Stop in Loading Zone. Vehicles must not be simply waived on, but driver spoken to.

For vehicles that are permitted to park in a Loading Zone (Road Transport - Safety and Traffic Management) they are to be "chalked" or "observed" for the nominated periods (time limit plus Grace period) and issued with a Parking Penalty Notice if they exceed this time.

3F TAXI ZONE

If a vehicle other than a taxi is unattended, it is to be issued with a

parking penalty notice. If a person is approaching the vehicle and the officer has not commenced the parking penalty notice, the Officer should advise the driver that they are not permitted to park in a taxi zone. If the parking penalty notice has been commenced, the penalty notice is to be issued.

If the vehicle is attended, verify with the driver that the vehicle is not disabled. If the vehicle is drivable request the driver to move on immediately. If the driver refuses issue a Parking Penalty Notice for Stop in Taxi Zone.

3G BUS ZONE

If a vehicle other than a bus stops in a bus zone, a parking penalty notice is to be issued.

If a vehicle is stopped within 20 metres on the approach and 10 metres on the departure side of a Bus Stop a Parking Penalty Notice is to be issued.

A vehicle, other than a bus cannot set down or pick up passengers in a bus zone. If a vehicle is observed using a bus zone in this manner, a Parking Penalty Notice is to be issued.

Buses must only use bus zones for the setting down and picking up of passengers. Where a bus is observed to be unattended (parked) in a bus zone it is to be issued with a penalty notice. If the bus is attended, the driver is to be requested to move out of the bus zone immediately. If the driver does not do this then a penalty notice is to be issued.

3H Disobey Clearway sign

If a vehicle stops on a Clearway a Parking Penalty Notice is to be issued.

3I WORK ZONE

Works Zones are created to allow for the delivery of materials to construction or building sites or to allow access for vehicles which are related to the building activity. The Australian Road Rules do not specify which class of vehicle is permitted to use Work Zones and therefore enforcement is difficult as the Officer needs to determine whether or not the vehicle is related to the activities on the adjacent site. Therefore Work Zones are enforced based largely upon complaint or if an Officer witnesses the parking offence. In these cases a Parking Penalty Notice is to be issued to the offending vehicles.

3J MAIL ZONE

Mail Zones are designed so that only Australia Post vehicles may stop no other vehicles are permitted at any time. If a vehicle other than an Australia Post Vehicle is stopped or parked a Parking

Penalty Notice is to be issued.

3K TRUCK ZONE

Any vehicle under 4.5 tonne is not permitted to stop in a Truck Zone, however a driver is permitted to drop off or pick up passengers. If a vehicle is unattended a Parking Penalty Notice is to be issued.

3L PARKING ACROSS DRIVEWAY ACCESS TO/FROM LAND

If a vehicle is parked across a driveway and is unattended, the Officer is to allow 2 minutes and if the vehicle remains unattended a Parking Penalty Notice is to be issued.

3M PEDESTRIAN CROSSING/CHILDREN CROSSING

Vehicles are not permitted to stop on or near a Pedestrian Crossing /Children Crossing under any circumstances; a Parking Penalty Notice is to be issued. There is zero tolerance for this offence in school zones.

3N OBSTRUCT TRAFFIC

A vehicle parked in a manner as to obstruct traffic is to be issued with a Parking Penalty Notice, unless the vehicle is disabled or has been involved in a collision.

3O PARK ON PATH STRIP IN A BUILT UP AREA

If a vehicle is parked across a formed footpath **a penalty notice is to be issued.**

If a vehicle is parked or partly parked on a strip or road reserve (without a formed footpath) in a manner that is ,or is likely to obstruct the movement of pedestrians or the line of site of pedestrians or drivers, the Parking Officer is to **issue a Parking Warning Notice on the first occasion.**

If the vehicle is observed to be parked on path or strip on subsequent occasions, a penalty notice may be issued.

For the purpose of this section, it is considered that sufficient space for movement of pedestrians can be achieved where a clear unobstructed and accessible path of travel of a minimum width of 1m is available along the road reserve. Notwithstanding this, the issuing officer must also consider whether line of sight has been compromised due to the position of the parked vehicle.

3P PARK ON MEDIAN STRIP

If a vehicle is parked or partly parked on a median strip, the Parking Officer is to issue a Parking Penalty Notice.

3Q PARK ACROSS MARKING OF SPACE OR TOO CLOSE TO FRONT/BACK OF VEHICLE

When vehicle/s are parked in this manner, before issuing a penalty notice it has to be determined beyond reasonable doubt which vehicle was parked first. This can be determined by the officer witnessing the parking event. In this case the Officer would advise the driver of the parking regulations and request that the driver corrects their position. If the driver corrects his/her position, no further action is to be taken. If the driver leaves the vehicle and ignores your caution a Parking Penalty Notice is to be issued.

3R STOP ON/NEAR INTERSECTION

The regulation states that a vehicle should not be parked within 10 Metres of an intersection with the exception of areas indicated by a sign. Vehicles parked within 10 metres of an intersection (No Traffic Lights) are to be issued with a Parking Penalty Notice as such parking creates a safety hazard to pedestrians and other motorists.

A vehicle must not stop or Park within 20 meter's of the nearest point of an intersecting road at an intersection with traffic lights with the exception of area indicated by sign.

Vehicles parked within 20 meter's of an intersection (Traffic Lights) are to be issued with a Parking Penalty Notice

3S DOUBLE PARK

A driver must not stop on a road:

- If the road is a two-way road between the centre of the road and another vehicle that is parked at the side of the road. If this is witnessed by an Officer then a Penalty Notice is to be issued.
- If the road is a one-way road-between the far side of the road and another vehicle that is parked at the side of road, if this is witnessed by an officer then a Parking Penalty Notice is to issued.

A vehicle can be considered to be double parked whether or not it is attended

Eg double parking to drop off or pick up a passenger is an offence.

3T PARKING IN MARKED BAYS

A driver must not park on a length of road, or in an area, to which a park in bays only sign applies; except within a parking bay.

If a vehicle is parked outside a marked bay and unattended a Parking Penalty Notice is to be issued for the offence of "Not park wholly within parking bay".

3U POSITION OF VEHICLE IN RELATION TO KERB

Vehicles must be parked in accordance with directions provided on

signage applicable to each parking space. Eg, rear to kerb, nose to kerb. These requirements are imposed having regard to safe parking manoeuvring and traffic safety and must be complied with whether or not all surrounding parking spaces are occupied. A vehicle parked not in accordance with signage requirements may cause a dangerous traffic hazard when entering or leaving its parking spot.

Where a vehicle is unattended and has been identified as not complying with signage directing the parking position, a penalty notice is to be issued. When the driver is present, a direction shall be given for the driver to safely reposition the vehicle to comply with signage.

Officers must ensure that reasonable visibility of signage describing vehicle position is available from the parking space.

3V NOT PARK IN THE DIRECTION OF TRAVEL

Vehicles (including trailers, boats, caravans) must be parked in the direction of travel in accordance with Australian Road Rule 208.

Vehicles that are parked against the flow of traffic (and subsequently on the wrong side of the road in most instances) have been parked in a manner that has required crossing onto the wrong side of the roadway and departure from the parking place in all likelihood will require the same dangerous driving practice.

Vehicles parked in the wrong direction are also dangerous at night time because the reflective devices on most vehicles are prevalent on the rear and not the front and visibility of these vehicles by other drivers is compromised during periods of low visibility eg night time, rain, dawn, dusk.

The practice of parking in the wrong direction is one which is usually done for convenience and has become informally accepted due to lack of enforcement in the past.

Where a registered vehicle is noticed to have parked not in the direction of travel and is unattended, a penalty notice may be issued.

Where the driver is present, a direction shall be given for the vehicle to be repositioned so that it is parked correctly. If the driver does not comply with this direction immediately, then a penalty notice may be issued.

3.2 MOBILITY PARKING SCHEME AUTHORITY (DISABLED PARKING)

Mobility Parking spaces are in various locations in Port Stephens.

When carrying out parking surveillance, the following action should be taken in relation to clearly signposted disabled parking areas:

- A Parking Penalty Notice should be issued to a vehicle not displaying a valid Mobility Permit in a designated Mobility Zone.
- Mobility Permit Holders who have parked over the time allowed by the Mobility Parking Scheme concession will receive a Parking Penalty Notice for exceeding time.
- Where parking is limited to more than 30 minutes the vehicle can park for an unlimited time.
- Where parking limit is 30 minutes the vehicle can park for 2 hours.
- Where the parking is limited to less than 30 minutes the vehicle can park to a maximum of 30 minutes.
- Where the Mobility Parking Symbol is displayed and a time limit on the same parking control sign a driver must not exceed the time stipulated.
- A 7 day grace period will be given for an Expired Mobility Parking Scheme Authority.

Officers must carry out an extensive check of the vehicle prior to issuing any penalty notice. This should include checks of the dash (front and rear) seats and floor of the vehicle to determine whether a mobility parking permit is present within the vehicle and that may have been dislodged from the required display location.

PART 4 - GENERAL PROCEDURES

4.1 PROCEDURE FOR CHALKING TYRES

Chalk marking of tyres is a fundamental process in policing parking controls in relation to time limits.

When marking tyres, the Officer must ensure the mark is placed across the tread of the tyre and not on the edge of the tread or side wall.

A Parking Officer must mark the tyres with the time the vehicle is initially observed correctly by using chalk.



If the mark is placed on the edge of the tyre, the mark may remain even if the vehicle is moved, because the edge of the tread may not come in contact with the road surface.

It is inappropriate to rely on any mark made on the face of a tyre for evidence that a vehicle has parked for longer than the permitted time.

The officer must ensure that the mark is in the same place and condition when it was marked. Take a photo of the chalk mark when possible. If there is any concern don not infringe.

4.2 VALVE STEMMING.

Using the location of valve stems to determine if a vehicle has moved or not is the most effective method of detecting vehicles that overstay the signposted time limits. Recording valve stems should be done in lieu of using chalk marks whenever possible.

Valve stemming is not available at present to Port Stephens officers but will be introduced in the future.

4.3 ROAD RELATED AREA

Is any of the following:-

- an area that divides a road
- a footpath or nature strip adjacent to a road
- an area that is not a road and that is open to the public and designated for use by cyclists or animals
- an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles.

4.4 PATROLLING AT SCHOOLS ZONES

When patrolling at a school the primary purpose is to ensure child safety. Children are vulnerable because they are small, harder to see and behave unpredictably. Parking and traffic conditions around schools are designed to preserve lines of sight and the safe set down and pick up of children.

A Zero tolerance policy applies to all parking offences detected within school zones.

In June 2006, the then Minister for Local Government issued a circular to all Councils advocating a zero tolerance policy in school zones.

Council will undertake to provide all schools with educational material to disperse to parents and other carers in relation to the use of school zones. Council will endeavour to disperse this

information to schools, as a reminder, at the beginning of each school term.



- If a vehicle parks in an illegal manner, a parking penalty notice is to be issued.
- Where an Officer cannot issue the parking penalty notice on the spot, the details of the offence and the vehicle are to be noted in order that the parking penalty notice can be posted to the registered owner of the vehicle.
- An Officer must be in full view of the public when patrolling schools. It is appropriate for the officer to remain within a legally parked vehicle for the purposes of surveillance of school zones.
- Photographs may be taken of vehicles for enforcement purposes in school zones. Care should be taken to ensure that wherever possible, persons are not readily identifiable if they appear in photographs. (see section "Taking and storage of photographs")

4.5 INFRINGING TRAILERS AND CARAVANS.

Caravans and Trailers are considered to be vehicles, and are treated as such in accordance with the Australian Road Rules. Parking Penalty Notices issued to Trailers or Caravans are to be posted.

4.6 REPORTING DAMAGED OR MISSING SIGN

Where Officers notice that parking signage is damaged, missing, out of date or requires improvement, the matter is to be referred immediately to the Facilities and Services Group.

Enforcement of parking requirements is to be suspended immediately if it is considered by the Officer that enforcement is not fair and reasonable due to inadequate signage.

4.7 TAKING AND STORAGE OF PHOTOGRAPHS

Photographs are an important evidentiary tool in parking enforcement.

Officers must consider which photographs are necessary in supporting any parking offence and where possible take appropriate photographs for each offence

When issuing a Parking Penalty Notice, photographs showing the following must always be considered:

- A photo of the registration plate in order to ensure that there is no dispute over the attendance of the vehicle.
- A photo of the vehicle's location.
- A photo of the vehicle showing its proximity to relevant signage and road markings.
- A photo of any chalk marks should also be taken for permissible time limited offences.
- Care should be taken to ensure that wherever possible, persons are not readily identifiable if they appear in photographs.

Generally, all photographs taken in relation to parking enforcement are to be taken with the PINFORCE handheld device.

Photographs of the following offences may be taken using the Council issued digital cameras as they require a quicker response time-

- Offences in school zones
- Offences relating to no stopping zones

Photographs may not be taken from vehicles.

4.7A STORAGE OF PHOTOGRAPHS

Photographs may be taken with either the PINFORCE handheld device or the officer's digital camera.

All Officers are responsible for ensuring that date and time stamps on devices are correct at the beginning of each shift.

Photographs taken with the PINFORCE handheld devices are attached automatically to the infringement and uploaded to the PINFORCE database when the handheld is synchronised. These photographs are not to be otherwise downloaded or stored on any other database or personal computer.

Photographs taken on digital cameras shall be transferred to handheld devices and attached to applicable infringement records prior to handheld devices being synchronised. Once successfully transferred, photographs are to be deleted from digital cameras and any personal computer drive.

The PINFORCE database is only accessible by Officers having security classification.

PART 5 – OCCUPATIONAL HEALTH AND SAFETY

5.1 OCCUPATIONAL HEALTH AND SAFETY

Confrontation at Work

Council's objective is to ensure, so far as is reasonable and practicable, that all employees are safe and without risk to health whilst at work. Council takes all reasonable steps to minimise the likelihood of conflict and confrontation and any trauma that results from this

Parking Surveillance is considered a high risk area where confrontation and conflict with the public is common. Officers must be aware of this risk and have regard to the following survival rules –

5.1A SURVIVAL RULES

In most instances, violence at work happens without provoking the offender. Officers can mitigate the risk of serious confrontation by practicing the following:

Controlling your own reaction

Stay calm, pause and think about your reaction.

Be aware of your body language

Don't act defensively, Don't raise your voice. Act in accordance with the Code of Conduct at all times

Being aware of the other person's body language

Pay attention to their body language, facial expressions, physical appearance. Anticipate any aggressive or physical action towards you and plan evasion action /escape route.

Pay attention to verbal signs of aggression

Actively listen, take threats seriously, listen for tone & volume of voice and do not enter a person's personal space. Be careful not to aggravate the situation through your own words.

Use assertive communication techniques

Request the behaviour to stop. Be direct, concise, and confident.

Walk Away

To prevent confrontation between customers and Parking Officers, it is imperative that Parking Officers recognise the importance of **walking away** from the confrontation. Council supports its Officers when they walk away from potentially dangerous situations.

5.1B IDENTIFYING THE OFFENDER

If an Officer lays a complaint to the Police about an incident, the police will require a detailed re-construction of the events and description of the offender, you will be asked to identify the offender.

When identifying the Offender, any small detail may be of help to the police. Things to watch for are:

Physical Appearance:

- Height
- Age
- Build
- Colouring
- Hair
- Tattoos, scars, prominent or unusual features
- Clothing

Behaviour:

- Speech - accents, language used, actions
- Body Language - Behaviour

Other Aspects:

- Vehicle Description
- Direction of travel when left the area

5.1C POST CONFLICT RESOLUTION

Post conflict resolution will include the following:

- Injured and/or traumatised officers should be reassured and medical attention sought if needed.
- For all confrontations verbal or physical, an Incident report form must be completed by the Officer and provided to the Co-ordinator Environmental Health and Regulation and the Occupational Health and safety Officer.
- Council offers an Employee Assistance Program (EAP) which is an independent and completely confidential service, offering free professional guidance and counselling.

Things to remember when carrying out parking patrols:

- Be aware of your position as a provider of Customer Services.
- If a customer becomes verbally abusive or aggressive, Officers must avoid engaging in a verbal argument with the customer. Acting in accordance with the Code of Conduct Policy at all times.
- If a member of the public asks for an Officer's name, the officer must provide it.

PART 6- OFFICER DISCRETION

6.1 DISCRETION OF OFFICERS

Rangers have been advised to use their discretion in applying the Australian Road Rules having regard to the following risk concepts:

- The impact of the parking offence on safety of pedestrians and motorists.
- Local conditions such as width of roadways i.e. what are the practical matters that need to be taken into consideration?
- The volume of traffic flow and estimated risk involved.

6.2 FETTERING DISCRETION

Whilst Council officers are offered some discretion in enforcement matters there are some interesting legal opinions relating to the matter. The Pedestrian Council of Australia believes that Councillors and Management need to tread carefully if considering directing or "fettering" officer discretion. The following is a legal opinion from

Malesons Legal (obtained by Sydney City Council but used by the Pedestrian Council)

"Any discretion must be exercised lawfully. It must not be exercised (or not exercised) for any improper or irrelevant reason or the exercise (or non exercise) is unlawful conduct and indeed may be even corrupt conduct depending on the circumstances.

As a consequence, it is our opinion that while the statute confers a power (rather than imposes a duty), an authorised officer, if satisfied that the offence has been committed, would only be able to exercise discretion not to issue the penalty notice in very limited circumstances. To do otherwise runs the real risk of having acted unlawfully (because of a miscarriage of the exercise of discretion).

The Authorised officer should also appreciate that a failure to issue a penalty notice, in circumstances where the offence appears to have been committed, may not only run the risk of improperly exercising discretion but may also expose the Council and the officer to claims for damages if harm is caused by the breach.

Accordingly while we are satisfied that there is a power to issue warnings rather than penalty notices, it is our view that this power is very limited."

In summary:

- Legal opinions express the view that officers have limited discretion in issuing infringements when offences are detected.
- Not issuing infringements, particularly for safety related offences can increase Councils liability and risk in the event of an event occurring eg an accident or fatality in the area.
- Councillors and Managers must consider legal/risk ramifications of directing authorised officers to enforce or not to enforce various offences.
- Fettering of discretion is referred to in Councils Compliance Policy.

Part 7 - Adjudication

7.1 ADJUDICATION OF REPRESENTATIONS

Council has entered into a PREMIUM servicing agreement with the State debt Recovery Office (SDRO) for the processing and adjudication of all infringements.

A copy of the SDRO's service agreement with Council (November 2007) can be found on file PSC2007-4136.

Generally the SDRO accepts and processes all representations in accordance with their review guidelines. The SDRO review guidelines can be found at www.sdronsw.gov.au. There is a link to

this site on Council's website.

Under the Premium Servicing agreement, Council has the right to consider direct representations and advise the SDRO of decisions made. Council's decision is final notwithstanding whether the decision has had regard to the SDRO guidelines.

Where direct representations are made in relation to Parking Enforcement matters, the following procedure applies-

- The representation will be considered by the Co-ordinator Environmental Health and Regulation.
- Details of the offence will be obtained by the Co-ordinator from the PINFORCE database and the issuing officer.
- The Co-ordinator may consult other staff to determine the representation.
- The Co-ordinator advises SDRO by email of the decision.
- The Co-ordinator advises the defendant of the decision.
- The Co-ordinator advises the issuing officer of the decision.

Where Parking infringements are Court elected, the matter is dealt with by the Police Prosecutor to conclusion under Council's Premium agreement with SDRO. Council officers co-operate with the Police prosecutor as requested to provide evidence for Court elected matters.

PART 8 - REVIEW

8.1 REVIEW OF GUIDELINE

This guideline will be reviewed within 3 years of adoption of the Parking Policy or as required by legislative change.

Insert:
Coordinator
Environmental Health
and Compliance

Delete:
Coordinator
Environmental Health
and Regulation

ITEM NO. 5

FILE NO: PSC2014-01192

SUSTAINABILITY REVIEW - ECONOMIC DEVELOPMENT AND COMMUNICATIONS SECTION

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Sustainability Review – Economic Development & Communications Service Strategy presented as **(TABLED DOCUMENT 1)**;
- 2) Endorse the implementation of the recommendations detailed in the Sustainability Review – Economic Development & Communications Service Strategy.

ORDINARY COUNCIL MEETING – 8 APRIL 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Morello Councillor Paul Le Mottee
	That the recommendation be adopted.

MOTION

080	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none"> 1) Note the information contained in the Sustainability Review – Economic Development & Communications Service Strategy presented as (TABLED DOCUMENT 1); 2) Endorse the implementation of the recommendations detailed in the Sustainability Review – Economic Development & Communications Service Strategy.

BACKGROUND

The purpose of this report is to present to Council the outcomes of the Sustainability Review into the Economic Development & Communications section and seek endorsement of the recommendations contained in the service strategy.

A comprehensive review of this service has been undertaken in accordance with section 15.1 of the community strategic plan to ensure that services and assets delivered to the community are sustainable in the longer term. The section is responsible for delivery across a range of sections in the community strategic plan, specifically 6.1.1.4 and 7.1.1.4, as well as sections 12.1, 14.1, 17.1, 18.1 and 19.1 in their entirety.

The sustainability review comprises three key stages:

Stage 1 – reviewing what is currently delivered (service drivers);

Stage 2 – reviewing what should be delivered (service levels);

Stage 3 – reviewing how services should be best delivered (service delivery method).

The Economic Development & Communications Section is a member of the Development Services Group, formed in 2012 following the merging of the Communications & Customer Relations and the Economic Development & Tourism Sections.

The section is comprised of six service packages – Communications & Marketing; Publications & Website; Customer Relations; Business Development & Investment; Visitor Information & Events; and Tourism Marketing (Destination Port Stephens). As well as serving key external stakeholders, each service package (with the exception of Tourism Marketing) also provides advice and assistance to internal customers across a wide range of Council business. The section comprises 18 equivalent full time positions, based at the Raymond Terrace administration centre and the Nelson Bay Visitor Information Centre.

Adopting the recommendations detailed in the service strategy will allow for existing resources to be directed towards addressing a number of high priority action items, including improving service delivery in the areas of Community Development & Engagement, Digital & Website, and Public Relations & Marketing. In addition, the recommendations give greater clarity to the management of tourism and visitor economy related matters in Port Stephens (while continuing Council's commitment to Destination Port Stephens), and will also allow for Council's economic development service to add value to strategic planning matters through its relocation to the Strategy & Environment section.

Further information is contained in the Economic Development & Communications section service strategy **(TABLED DOCUMENT 1)**.

FINANCIAL/RESOURCE IMPLICATIONS

The Economic Development & Communications section has a budget of \$2,632,565. Additional recurrent costs related to the implementation of the proposed structure will be sourced via internal transfer, meaning there will be nil net impact to Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources used to conduct the sustainability review and structure review are covered within existing budgets.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to engage and consult its citizens in the development of plans for the future of the local government area. It is also required to undertake statutory advertising. In addition, a business rate levy is in place to fund work in the economic development and tourism areas, including providing funding to Destination Port Stephens for the ongoing promotion and marketing of Port Stephens as a destination for travellers and event providers.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that reduction in the levels of service provided in community engagement will have an adverse impact on decision making and Council's public perception.	High	Reallocate existing resources to establish a business unit tasked with improving Council's engagement with its community.	Yes
There is a risk that failing to invest in the technologies and human resources required to deliver online services will see the cost of service delivery rise in future.	High	Reallocate existing resources to establish a business unit tasked with improving Council's website & digital properties.	Yes
There is a risk that a reduction in the provision of specialist advice may lead to non-compliance with legislative requirements resulting in fines and reputation damage.	Medium	Section staff continue to provide, and in some cases increase the delivery level of, specialist advice to managers and staff to inform decision making.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Economic Development & Communications Section plays a key role in supporting the organisation to develop its internal capacity in the areas of community development and engagement, customer relations, communications, and tourism, to ensure there is alignment with Council's strategic direction.

CONSULTATION

- 1) Councillors;
- 2) Executive Leadership Team;
- 3) Section Managers & Coordinators.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Economic Development & Communications Section Service Strategy.

ITEM NO. 6**FILE NO: PSC2011-04342****SUSTAINABILITY REVIEW – CONSTRUCTION AND ROAD MAINTENANCE****REPORT OF: GREG KABLE – CAPITAL WORKS MANAGER****GROUP: FACILITIES AND SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Construction and Road Maintenance;
- 2) Endorse the implementation of the recommendations detailed in Service Strategy – Construction and Road maintenance.

**ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

MOTION

081	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none">1) Note the information contained in the Service Strategy – Construction and Road Maintenance;2) Endorse the implementation of the recommendations detailed in Service Strategy – Construction and Road maintenance.

BACKGROUND

The purpose of this report is to present to Council the outcomes of the sustainability review for Construction and Road Maintenance and to seek endorsement to implement the recommendations detailed in the Construction and Road Maintenance Service Strategy.

Construction and Road Maintenance provides resources to deliver construction projects and road maintenance programs within time, quality and cost constraints. Road maintenance is undertaken on the local road network on behalf of Council, and the State Road Network on behalf of Roads and Maritime Services under the

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Routine Maintenance Council Contract. Resources are also provided to undertake User Safety Routine Assessment in accordance with agreed service level requirements.

FINANCIAL/RESOURCE IMPLICATIONS

Council's Construction and Road Maintenance function is funded from a number of sources and includes both capital and operating expenditure.

Process and efficiency improvements identified in the sustainability review have the capacity to significantly reduce unit rates for production across construction and maintenance works. Improvements of only 5% across the function could realise savings of up to \$680,000.00 annually, while these improvements would not alter Councils expenditure it would represent better value for money and increase the amount of work completed within the existing budget.

The proposed restructure will reduce expenditure from Councils budget as the new Project Managers Position will be funded by the RMS and Capital Funding. Estimated savings of \$61,000 will be utilised within the Local Roads Budget to increase works on the ground while maintaining the same maintenance budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	13,267,117	Funded by Asset Section for the start of the 2013/14 financial year. Funding will vary as budget is adjusted throughout the year.
Reserve Funds	No		
Section 94	No		
External Grants	Yes	5,798,805	RMS Routine Maintenance Council Contract (includes routine maintenance and ordered works)
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council has a legal obligation under the Local Government Act and the Roads Act to maintain the Road Network within the Local Government Area. Works completed for Roads and Maritime Services are on a contract basis and Council is under no legal obligation to undertake these works.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may not be able	Medium	Adopt the recommendation and continue to improve	Yes

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to provide quality road works at a competitive rate which may lead to loss of the Road Maintenance Council Contract.		efficiencies through process improvement	
There is a risk that Council not providing competitive services internally may result in projects being delayed or cancelled due to lack of available / suitable contractors.	Medium	Continue to provide cost competitive services in house while improving efficiencies through process improvement.	Yes
There is a risk that Council stops improving efficiencies through continuous improvement that may result in projects not being completed to standard, and a subsequent loss of reputation.	High	Continue to provide cost competitive services in house while improving efficiencies through process improvement.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Benchmarking of major processes within the function clearly indicates Council is providing these services at a highly competitive rate with many unit rates superior to the outsourced options. With a level of uncertainty surrounding the format of the new Road Maintenance Council Contract these rates will need to be maintained and perhaps improved if maintenance is undertaken on a regional basis. Process improvement will be essential in providing cost competitive services on a regional basis.

There is a risk to the local economy if Council was to lose the Road Maintenance Council Contract as it would reduce the scope of works available to support current staff and plant levels. The contract currently provides essential funding that allows extra resources to be utilised on Councils own road network.

The restructure proposed as part of this review provides for a Project Manager to concentrate their efforts on our continuing relationship with RMS and providing us with a strong relationship into the future.

All works completed within this function are undertaken within existing environmental controls and specifications which are tailored to minimise the environmental impact of our works.

CONSULTATION

- 1) Executive Leadership Team;
- 2) Human Resources Manager;
- 3) Construction Coordinator;
- 4) Road Maintenance Coordinator;
- 5) Civil Assets Manager;
- 6) Roads and Maritime Services Contract Manager;
- 7) Consultative Committee;
- 8) Councillors (Two Way Conversation 18 February 2014).

OPTIONS

- 1) Adopt the recommendations contained in the Sustainability Review – Construction and Road Maintenance;
- 2) Amend the recommendations contained in the Sustainability Review – Construction and Road Maintenance;
- 3) Reject the recommendations contained in the Sustainability Review – Construction and Road Maintenance.

ATTACHMENTS

- 1) Construction and Road Maintenance Sustainability Review Recommendations.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Construction and Road Maintenance.

ATTACHMENT 1
Construction and Road Maintenance Sustainability Review Recommendations

Service	Details	Net One Off costs/ savings	Recurrent costs/savings
Capital Works Section services	Undertake restructure	<p>Improve focus on RMS projects funded by the RMCC.</p> <p>Improve scheduling across maintenance and construction service delivery areas in accordance with Capital Works priorities.</p> <p>Improved technical consistency across Capital Works services.</p> <p>Reduced expenditure from Councils budget as the new Project Managers Position will be funded by RMS and Capital Funding.</p> <p>Estimated saving of \$61,000 to be utilised increasing works in the field while maintaining the same maintenance budget.</p>	\$61,000.00

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Service	Details	Net One Off costs/ savings	Recurrent costs/savings
Pot Hole Patching	<ul style="list-style-type: none"> Utilise Reflect program with GPS capabilities for recording of all defects patched along with location and response times, this will allow far greater scrutiny of the patching process and has provided data for the development of effective lead and lag indicators. Provides excellent information for control of risks and Councils defence should a claim arise from striking a pot hole. Continue with communication of pot hole patching process to elected members and ratepayers. Pothole patching is far less about preserving or extending the life of the asset and much more about reducing the risk of someone hitting an open pot hole. There are other far more effective methods of permanent repair however response times could not be met and Council would be exposed to possible litigation. <p>Implementation Date :- Currently underway</p>	<p>More accurate data will allow for improved scheduling and will provide the basis for future crew formations matched to required outcomes.</p> <p>Monitoring and trialling of different materials will be an ongoing process that will provide longer patch life and reduce reworks.</p>	

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Service	Details	Net One Off costs/ savings	Recurrent costs/savings
	<p>Future improved level of service</p> <p>Utilisation of current patching truck to form nucleus of new heavy patching crew, truck to be utilised for pot hole patching when peak pot hole patching demand is evident. Implementation would lead to an improved level of service as the long term benefits for the road network would be significant. Implementation would be reliant on an annual increase of funding to the sealed road network of \$700,000. The increased budget is required to fund the running costs of new plant items and an increase in the amount of hot mix used in the process.</p> <p>Implementation Date :- As asset maintenance funding becomes available</p>		
Road Rehabilitation / Construction	<p>1) 3 Months lead time from Design to Construction</p> <p>Construction plans completed at least 3 months prior to construction commencing. Establish and track lead and lag indicators around milestones and individual project components. Needs to remain the top priority for the design section in the next 12 months.</p> <p>Implementation Date :- Currently underway</p>	Provides the biggest opportunity for process improvement as delays at this level have compounding effects throughout the entire project. Quality control, cost control and public relations have all suffered in the past because of insufficient time to plan the construction phase of the works.	

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Service	Details	Net One Off costs/ savings	Recurrent costs/savings
	<p><u>2) Review of Councils infrastructure specifications</u></p> <p>Review to ensure Capital Works has the ability to comply and to assess the cost benefit ratio of the proposed construction methods. Alternative construction methods may need to be considered and reflected in Councils construction specifications.</p> <p>Implementation Date :- July 2015</p>		

MINUTES FOR ORDINARY MEETING – 8 APRIL 2014

Service	Details	Net One Off costs/ savings	Recurrent costs/savings
	<p><u>3) Implement laser and GPS guidance systems on all Council Construction works.</u></p> <p>Industry estimates predict savings on materials of up to 20% once system is fully operational. On a standard Council road rehabilitation job this would represent a saving of approximately \$20000 that could fund the cost of purchasing the system outright. Apart from savings in materials the system delivers a much higher conformance to plans and specification and finished surface shape is controlled with far greater accuracy than current methods.</p> <p>Some delays have been experienced in the implementation of this technology with heavily timbered sites and areas with very poor sub grade conditions presenting technical challenges for the survey equipment. Councils survey section will continue to refine methods of use and improve quality of information prior to a fully integrated system being purchased.</p> <p>Implementation Date :- January 2015</p>		

Completed by: Greg Kable
Position: Works Manager
Review Team involves: Various PDSA teams
Date: 14 March 2014

ITEM NO. 7**FILE NO: PSC2005-3695****REVIEW OF DOG EXERCISE AREAS IN PORT STEPHENS COUNCIL****REPORT OF: JOHN MARETICH - CIVIL ASSETS SECTION MANAGER****GROUP: FACILITIES AND SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the draft Dog Exercise Area maps on public exhibition for 28 days. If no submissions are received, the maps are to be formally adopted by Council immediately;
- 2) If submissions are received at the conclusion of the exhibition period, a further report to be prepared for Council's consideration.

**ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Chris Doohan
	That Council: <ol style="list-style-type: none">1) Place the draft Dog Exercise Area maps on public exhibition for 28 days. If no submissions are received, the maps are to be formally adopted by Council immediately;2) An additional area be included in the Fisherman's Bay area;3) Receive and note the Supplementary Information; and4) If submissions are received at the conclusion of the exhibition period, a further report to be prepared for Council's consideration.

MOTION

082	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none">1) Place the draft Dog Exercise Area maps on public exhibition for 28 days. If no submissions are received, the maps are to be formally adopted by Council immediately;2) An additional area be included for the Fisherman's Bay area on the reserve at Park and Pacific Streets, Fisherman's Bay;3) Receive and note the Supplementary Information; and4) If submissions are received at the conclusion of the exhibition period, a further report to be prepared for Council's consideration.

BACKGROUND

The purpose of this report is to place the reviewed Dog Exercise Area maps on public exhibition. The mapping has been created following a consultation period that included the use of online forms as well as community meetings to provide interested parties the opportunity to comment on the revised mapping.

At Council's meeting on the 26 February 2013, Council resolved to review its provision for dog exercise areas. As a result of this, the dog exercise area mapping was reviewed internally by Council staff and placed on exhibition for 28 days in October 2013 to allow for public comment. This exhibition period resulted in over 750 submissions. The submissions as well as a two way conversation with Councillors held on the 19 November 2013, were used to make alterations to the dog exercise area maps. The reviewed mapping presented in this report, is proposed to be placed back on public exhibition to allow further public comment.

The revised mapping provides additional off leash facilities to those currently provided in Soldiers Point, Mallabula, Raymond Terrace, Fingal bay, Shoal Bay and Anna Bay. This proposal will raise the number of off leash areas from 11 to the 16 off leash areas that are provided in the proposed mapping.

The NSW Companion Animal Act is the overall guide and statutory basis which must be abided by when providing dog exercise areas. This Act sets down a guide for the provision of exercise areas, where Companion Animals exercise areas are permitted and also prohibits companion animals from certain areas eg: schools and playground areas.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that failure to comply with policy, standards and legislation may affect Council's objective to provide a safe environment for people to enjoy their lifestyle leading to litigation and damage to reputation.	Low	Educate the community of the designated areas for dog exercise. Implementation of appropriate signage at each of the sites.	Yes
There is a reputation risk that Council has not been inclusive in decision making when allocating these dog exercise areas.	Low	Advertisement in print and social media of exhibition period to ensure wide cross section of community is aware of the review.	Yes
There is a risk that usage of reserves as dog exercise areas may have an adverse impact on other users of the facility.	Low	Educate the community of the designated areas for dog exercise. Implementation of appropriate signage at each of the sites. Enforcement of regulations in the allocated areas.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Dogs form an integral part of many households throughout the Port Stephens Council area. Dog owners are looking for areas to exercise and socialise their dogs safely and at times, the areas they utilise may be in breach of the Animal Companion Act. The review of these Dog Exercise Maps and the installation of the appropriate signage will give dog owners options for exercising their dogs as well as ensuring Council the ability to better manage the interactions between users of the facilities with a dog and other user groups on our public reserves.

This new mapping will also protect those areas that have wildlife, such as koalas and birdlife, by ensuring that sensitive locations are mapped either prohibited or on leash to ensure the interaction between dogs and these animals does not have an adverse impact on the local wildlife.

CONSULTATION

- 1) Extensive consultation was completed with Port Stephens Council Staff to ensure that the mapped areas were realistic to manage.
- 2) Online community forum (Facebook) which had 254 members and was open from 22/07/2013 to 19/08/2013.
- 3) A number of Community Consultation Meetings were held. These include:
 - 05/08/13 - Raymond Terrace – 15-20 interested parties attended
 - 07/08/13 – Nelson Bay – 50-60 interested parties attended
 - 08/08/13 – Lemon Tree Passage – 30-40 interested parties attended
 - 12/08/13 – Nelson Bay – consulted Tomaree Residents and Ratepayers Association
 - 14/08/13 - Medowie – 5-10 interested parties attended.
- 4) Councillor two way conversation on the 19/11/2013.

OPTIONS

- 1) Place the Dog Exercise Area maps on public exhibition for 28 days. If no submissions are received, the maps are to be adopted immediately;
- 2) Amend the Dog Exercise Area maps;
- 3) Reject the recommendation and maintain the current provision of dog exercise areas.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Dog Exercise Area maps
 - a. Anna Bay – Boat Harbour
 - b. Corlette – Nelson Bay
 - c. Fingal Bay
 - d. Karuah
 - e. Medowie
 - f. Nelson Bay – Shoal Bay
 - g. Raymond Terrace
 - h. Seaham
 - i. Soldiers Point – Salamander Bay
 - j. Tilligerry Peninsula

ITEM NO. 8

FILE NO: T02-2014

T02-2014 - TENDER FOR THE SUPPLY OF ONE (1) FOUR WHEEL DRIVE CENTRE MOUNT BACKHOE

REPORT OF: PETER MATWIJOW – PUBLIC DOMAIN & SERVICES SECTION MANAGER

GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 8, Tender for the Supply of one Four Wheel Drive Centre Mount Backhoe on the Ordinary Council agenda namely **T02-2014 TENDER FOR THE SUPPLY OF ONE FOUR WHEEL DRIVE CENTRE MOUNT BACKHOE;**
 - 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 **T02-2014 TENDER FOR THE SUPPLY OF ONE FOUR WHEEL DRIVE CENTRE MOUNT BACKHOE;**
 - 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)
 - i) Accept the tender from Hitachi Construction Machinery (Australia) Pty Ltd for the supply of one (1) John Deere 310SK four wheel drive centre mount backhoe at the tendered price of \$155,000.00 ex GST;
 - ii) That the tendered offer for the trade price for Council's existing backhoe plant number 35301 (JCB 3CX Backhoe) be accepted from Hitachi Construction Machinery (Australia) Pty Ltd at the tendered price of \$35,000.00 ex GST.
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**ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Bruce MacKenzie Councillor Ken Jordan
	That Council: 1) i) Accept the tender from Hitachi Construction Machinery (Australia) Pty Ltd for the supply of one (1) John Deere 310SK four wheel drive centre mount backhoe at the tendered price of \$155,000.00 ex GST; ii) That the tendered offer for the trade price for Council's existing backhoe plant number 35301 (JCB 3CX Backhoe) be accepted from Hitachi Construction Machinery (Australia) Pty Ltd at the tendered price of \$35,000.00 ex GST.

MOTION

083	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council: 1) i) Accept the tender from Hitachi Construction Machinery (Australia) Pty Ltd for the supply of one (1) John Deere 310SK four wheel drive centre mount backhoe at the tendered price of \$155,000.00 ex GST; ii) That the tendered offer for the trade price for Council's existing backhoe plant number 35301 (JCB 3CX Backhoe) be accepted from Hitachi Construction Machinery (Australia) Pty Ltd at the tendered price of \$35,000.00 ex GST.

BACKGROUND

The purpose of this report is to ask Council to consider and accept the tender for one (1) four wheel drive centre mount backhoe and the disposal of the existing unit

In accordance with Council's Plant Replacement Schedule, tenders were called for the supply and delivery of one (1) four wheel drive centre mount backhoe and trade or outright purchase of one (1) of Council's existing backhoes (plant number 35301 JCB 3CX).

Four tenders were received by the advertised closing date, Tuesday 11 February 2014.

The following four companies tendered for the supply and trade of Council's existing backhoe

- Semco Equipment Sales (Terex model TLB840CM)
- Newcastle Commercial Vehicles trading as JCB Newcastle (JCB model 3CX CM)
- Hitachi Construction Machinery (Australia) Pty Ltd (John Deere model 310SK)
- WesTrac Pty Ltd (Caterpillar model 430F)

Two tenders were deemed non-conforming due to not completing mandatory schedules as requested:

- Semco Equipment Sales
- Newcastle Commercial Vehicles

There were no tender submissions for the outright purchase only of the tendered Council owned backhoe.

Council staff have compared the tendered prices, including tenders for the purchase of Council's existing backhoe.

FINANCIAL/RESOURCE IMPLICATIONS

The item is listed in the 2013-14 Plant Replacement Schedule and it is proposed to purchase the item using funds from the Fleet Management Restricted Fund.

All tendered items at the initial stage of evaluation were evaluated and ranked by Fleet Management using:

- Financial Analysis, including Net Present Value and Value Selection methodologies
- Specification compliance and equipment performance
- Risk evaluation
- Operator and maintenance assessments

The remaining two compliant companies were invited to submit their proposed models for demonstration.

The next stage of the evaluation required one qualified, experienced operator and a Council workshop mechanic to complete a technical assessment on each backhoe demonstration. These scores are the last component of the evaluation and ranking process and are listed as operator evaluation and maintenance evaluation.

Overall ranking based on the scores achieved in each of the nominated selection criteria according to the make and model of backhoes tendered have been undertaken by Council staff.

MINUTES FOR ORDINARY MEETING – 8 APRIL 2014

Based on the assessment ratings and comments from the operator and workshop mechanic the John Deere 310SK backhoe would be considered an ideal option for Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	155,000	From Plan Restricted Asset
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The recommended item of plant complies with all State and Federal statutory or authority requirements

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the procurement of an unsuitable replacement plant item may result in a sub-optimal outcome	Low	Minimise risk by following a tendering and specification process that involves other stakeholders such as workshop and actual operator	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social or economic implications.

Environmental Efficiency Features

The EPA IT4/EU Stage IIIB technology in John Deere's engines is simple, fuel efficient, fully integrated, and fully supported. It employs field-proven cooled exhaust gas recirculation (EGR) for reducing NOX, and a diesel particulate filter (DPF) and diesel oxidation catalyst (DOC) to reduce particulate matter.

The John Deere 310SK meets EPA IT4 standards without after-treatment components. It's an excellent choice for Council's fleet.

CONSULTATION

- 1) Facilities and Services – Roads Coordinator and Operators;
- 2) Corporate Services – Procurement;
- 3) Facilities and Services – Fleet Operations.

OPTIONS

- 1) Accept recommendation;
- 2) Reject recommendation;
- 3) Recall tender.

ATTACHMENTS – all provided under separate cover

- 1) Confidential: Tender Cost Analysis Table; Tender Ranking; Estimated Hour Rate.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil..

ITEM NO. 9

FILE NO: T03-2014

T03-2014 - TENDER FOR THE SUPPLY OF ONE (1) ROAD GRADER

REPORT OF: PETER MATWIJOW – PUBLIC DOMAIN & SERVICES SECTION MANAGER

GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 9, Tender for the Supply of one Road Grader on the Ordinary Council agenda namely **T03-2014 TENDER FOR THE SUPPLY OF ONE (1) ROAD GRADER;**
 - 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 **T03-2014 TENDER FOR THE SUPPLY OF ONE (1) ROAD GRADER;**
 - 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)
 - i) Accept the tender from Hitachi Construction Machinery (Australia) Pty Ltd for the supply of one (1) John Deere 670G road grader at the tendered price of \$317,900.00 ex GST
 - ii) That the tendered offer for the trade price for Council's existing grader, plant number 34202 (John Deere 670CH) be accepted from Hitachi Construction Machinery (Australia) Pty Ltd at the tendered price of \$90,000.00 ex GST.
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**ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Bruce MacKenzie Councillor Ken Jordan
	That Council: 1) i) Accept the tender from Hitachi Construction Machinery (Australia) Pty Ltd for the supply of one (1) John Deere 670G road grader at the tendered price of \$317,900.00 ex GST; ii) That the tendered offer for the trade price for Council's existing grader, plant number 34202 (John Deere 670CH) be accepted from Hitachi Construction Machinery (Australia) Pty Ltd at the tendered price of \$90,000.00 ex GST.

MOTION

084	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council: 1) i) Accept the tender from Hitachi Construction Machinery (Australia) Pty Ltd for the supply of one (1) John Deere 670G road grader at the tendered price of \$317,900.00 ex GST; ii) That the tendered offer for the trade price for Council's existing grader, plant number 34202 (John Deere 670CH) be accepted from Hitachi Construction Machinery (Australia) Pty Ltd at the tendered price of \$90,000.00 ex GST.

BACKGROUND

The purpose of this report is to ask Council to consider and accept the tender for one (1) road grader and the disposal of one existing unit (plant number 34202 John Deere 670CH).

In accordance with Council's Plant Replacement Schedule, tenders were called for the supply and delivery of one (1) road grader and trade or outright purchase of one (1) of Council's existing graders.

Four (4) tenders were received by the advertised closing date, Tuesday 11 February 2014.

The following four companies tendered for the supply and trade of Council's existing grader

- G.C.M. Agencies Pty Ltd (Sany model SMG200)
- Komatsu Australia Pty Ltd (Komatsu model GD555-5)
- Hitachi Construction Machinery (Australia) Pty Ltd – (John Deere model 670G)
- Westrac Pty Ltd (Caterpillar model 12 M)

There were no tender submissions for the outright purchase only of the tendered Council owned grader.

Council staff have compared the tendered prices, including tenders for the purchase of Council's existing grader.

FINANCIAL/RESOURCE IMPLICATIONS

The item is listed in the 2013-14 Plant Replacement Schedule and it is proposed to purchase the item using funds from the Fleet Management Restricted Fund.

All tendered items at the initial stage of evaluation were evaluated and ranked by Fleet Management using:

- Financial Analysis, including Net Present Value and Value Selection methodologies
- Specification compliance and equipment performance
- Risk evaluation
- Operator and maintenance assessments

The three (3) highest ranking companies were considered the cut-off point to enter the next stage of the tender evaluation and were invited to submit the proposed models for demonstration. The Sany product was eliminated at the initial stage indicating that this item would not be financially viable and therefore not asked to supply a demonstration machine.

The next stage of the evaluation required one qualified, experienced operator and a Council workshop mechanic to complete a technical assessment on each demonstration grader. These scores are the last component of the evaluation and ranking process and are listed as operator evaluation and maintenance evaluation.

Overall ranking based on the scores achieved in each of the nominated selection criteria according to the make and model of graders tendered have been undertaken by Council staff.

Based on the assessment ratings and comments from the operator and workshop mechanic the John Deere 670G Grader would be considered an ideal option for Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	317,900	From Plant Restricted Asset
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The recommended item of plant complies with all State and Federal statutory or authority requirements

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the procurement of an unsuitable replacement plant item may result in a sub-optimal outcome	Low	Minimise risk by following a tendering and specification process that involves other stakeholders such as workshop and actual operator	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social or economic implications.

Environmental Efficiency Features

The EPA IT4/EU Stage IIIB technology in John Deere's engines is simple, fuel efficient, fully integrated, and fully supported. It employs field-proven cooled exhaust gas recirculation (EGR) for reducing NOX, and a diesel particulate filter (DPF) and diesel oxidation catalyst (DOC) to reduce particulate matter.

The John Deere 670 G meets EPA IT4 standards without after-treatment components. It's an excellent choice for Council's fleet.

CONSULTATION

- 1) Facilities and Services – Roads Coordinator and Operators;
- 2) Corporate Services – Procurement;
- 3) Facilities and Services – Fleet Operations.

OPTIONS

- 1) Accept recommendation;
- 2) Reject recommendation;
- 3) Recall tender.

ATTACHMENTS– all provided under separate cover

- 1) Confidential: Tender Cost Analysis Table; Tender Ranking; Estimated Hour Rate.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 10**FILE NO: PSC2010-03190****REMOVAL OF BUSINESS UNITS FROM COUNCIL'S ANNUAL FINANCIAL STATEMENTS****REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER**
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to no longer include business units as part of Council's annual financial statements.

ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION

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

MOTION

085	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council no longer include business units as part of Council's annual financial statements.

BACKGROUND

As part of the preparation of Council's annual financial statements, a series of special purpose reports are prepared each year detailing the financial results of a number of internal activities. These activities are known as business units.

The purpose of this report is to propose that Port Stephens Council no longer reports any business unit as part of the annual financial statements.

One of the main reasons for preparing the Special Purpose Financial Reports is to satisfy the disclosure requirements under competitive neutrality. The origins of Competitive Neutrality go back to 1993 when the report by the Independent Committee of Inquiry, National Competition Policy (the Hilmer Report), proposed principles for a National Competition Policy framework. In April 1995, the Council of Australian Governments considered the report's recommendations.

A key outcome of that meeting was the Competition Principles Agreement signed by all Australian governments and committing them to applying competition

principles to government activities. The Competition Principles Agreement provided the background for the development of the Government's Commonwealth Competitive Neutrality Policy Statement, released in June 1996.

In July 1997 the Department of Local Government released a publication called "Pricing and Costing for Council Businesses – A Guide to Competitive Neutrality". The aim of this document was to assist councils on applying the principle of competitive neutrality as part of the Competition Principles Agreement.

These policy statements set out a small number of activities which are classified by the Australian Bureau of Statistics as business activities. Council was required therefore to regard these activities as businesses. These activities are:

- Water Supply;
- Sewerage Services;
- Abattoirs;
- Gas Production and Reticulation.

Council was also required to proactively look at all other functions to determine whether or not it had any other activity that should be classified as a 'business'.

There are a number of issues that Council has to consider in determining whether an activity should be classified as a business.

These include, but are not limited to:

- Is the activity intended to make a profit?
Clearly, if the intention is to run the activity at a profit, this suggests a clear business activity link;
- Does the Council bid for external contracts?
An activity that bids for external contracts again, is more likely to be considered a business activity than one which is entirely internally focused;
- What economic impact does the activity have?
For example, a small scale activity included as part of a larger scale function may not have a significant impact on the local or regional economy. It may also be inefficient to separate it from the larger function;
- What is the nature of the activity and how important is it to the local community?
Some activities that have a clear community service focus may be extremely difficult to consider as a business activity no matter how large the turnover.

The fact that a function satisfies one or more of the criterion above does not necessarily in and of itself mean that Council is carrying on a business. Council was also required to examine a cost benefit analysis in determining whether or not it discloses and reports on business units.

Once council had determined what activities it would treat as businesses, Council then needed to look at what category of business the activity will fall into for the

purposes of competitive neutrality. The categories are based upon the annual sales turnover (annual gross operating income) of the activity:

- Business activities grossing over \$2M per year had to be treated as Category 1 businesses;
- Businesses under this threshold were Category 2 businesses.

The \$2M threshold has been set as a rule of thumb measure of the significance of those activities for the purpose of applying a corporatisation model and pricing requirements.

In determination of the above criterion, Council determined to classify the following activities as a "Category 1 business":

- Property Development;
- Holiday Parks;
- Civil Works;
- Newcastle Airport.

FINANCIAL/RESOURCE IMPLICATIONS

The current process of reporting on the existing four (4) business units being Property Development, Holiday Parks, Civil Works and the Newcastle Airport is manual by nature, time consuming to prepare, confusing to the users of the financial statements, and when assessed on the whole adds no benefit to the users of Council's financial statements.

Whilst Council is not liable to pay taxes such as land tax and payroll tax, for the purpose of these "business unit" reports, Council must "self-assess" the impact of these taxes and deduct the amount in the financial statements. Council must also calculate a notional subsidy received by the "business" based on a notional return on Property Plant and Equipment, including any taxes but excluding any interest payments. Such calculations are contrived, and lead members of the public to think that Council is "propping up" a business, which may in effect, be making a profit.

For example, the business unit known as Holiday Parks contains a mixture of both the Crown Land Holiday Parks, and Council's Holiday Parks operated on land that is either owned or held as trustee. This means that the accumulated surpluses or losses reported against this business activity does not correlate to the externally restricted reserve held on behalf of the Crown holiday parks within the main body of the financial statements.

Secondly, the information contained in the special purpose financial statements for the Newcastle Airport is a direct duplication of the information held within the General Purpose Financial Statements for the Joint Venture.

By eliminating the Special Purpose Financial Statements for business units this will have a reduction in the time taken to complete the financial statements, a

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reduction in the time taken to audit the financial statements, and remove an area of great complexity from the interpretation of the result of the business units.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Cost savings would need to be analysed over a cycle of preparing and auditing statements.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The principles of the competitive neutrality guidelines are two fold. Firstly, Council needs to assess and determine which functions meet the criterion of a business, once this decision is made Council then needs to categorise the activity as either a level 1 or level 2 business.

Secondly, Council must have in place a mechanism for answering queries and complaints about potential breaches of competitive neutrality. The decision to remove business units from the annual financial statements does not remove this obligation to have a complaints handling mechanism.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's new auditors may disagree with the proposed treatment.	Medium	Liaise with new external auditors as to the rationale behind the proposal.	Yes
There is a risk that members of the public may comment unfavourably regarding the removal of business units.	Medium	Prepare a communication plan detailing the key points. Highlight that nearly all information contained in the Special Purpose statements is contained in other areas of the financial statements.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) The Division of Local Government;
- 2) The Productivity Commission of Australia.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 11**FILE NO: A2004-0266****DEPUTY MAYORAL FEES****REPORT OF: TONY WICKHAM –EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Provide a fee to the Deputy Mayor when acting in the capacity of the Mayor during absences of the Mayor;
- 2) The fee be deducted from the Mayor's annual fee and be payable on a pro-rata basis.

**ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

MOTION

086	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none">1) Provide a fee to the Deputy Mayor when acting in the capacity of the Mayor during absences of the Mayor;2) The fee be deducted from the Mayor's annual fee and be payable on a pro-rata basis.

BACKGROUND

The purpose of this report is to allow Council to determine a fee payable to the Deputy Mayor during absences of the Mayor.

As Council is aware the fees payable to the Mayor and Councillors are determined each year from the Determination of the Remuneration Tribunal. Council may also determine a fee payable to the Deputy Mayor when acting as the Mayor. Any fee payable to the Deputy Mayor must be deducted from the Mayor's annual fee.

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It is proposed that a fee be payable to the Deputy Mayor when acting as Mayor for periods greater than one week (seven days) and that the amount be calculated on a pro-rata basis.

The fee will not be payable to the Deputy Mayor when requested to represent the Mayor on "one off" occasions.

FINANCIAL/RESOURCE IMPLICATIONS

The 2013/14 budget makes allowance for this fee.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The annual fee is \$38,160 – ie. approx. \$734 per week)
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with Section 249 of the *Local Government Act 1993*, Council must determine a fee payable to the Deputy Mayor for periods when acting in the Mayoral role.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the Act if a fee is not determined.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This fee allows the Deputy Mayor to effectively carry out their responsibilities as Mayor.

CONSULTATION

- 1) General Manager.

OPTIONS

- 1) Adopt the recommendation.

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 12**FILE NO: 1190-001****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
- a) Rapid Response – Mayor Bruce MacKenzie – Mayoral Funds – New South Wales Game Fishing Association Inc. – Reimbursement of Council Fees for use of Council land and 3 berths at 2014 NSWGFA Interclub State Championships Tournament - \$1,702.50;
 - b) Mayoral Funds – Mayor Bruce MacKenzie – Port Stephens Family Support Service Inc. (auspicing organisation for Community Drug Action Team) – Reimbursement of Bettles Park Hire Fees for Family Festival - \$260;
 - c) Mayoral Funds – Mayor Bruce MacKenzie – Mayoral Bushfire Appeal - \$478.70.

**ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

MOTION

087	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:- <ul style="list-style-type: none">a) Rapid Response – Mayor Bruce MacKenzie – Mayoral Funds – New South Wales Game Fishing Association Inc. – Reimbursement of Council Fees for use of Council land and 3 berths at 2014 NSWGFA Interclub State Championships Tournament - \$1,702.50;b) Mayoral Funds – Mayor Bruce MacKenzie – Port Stephens Family Support Service Inc. (auspicing organisation for Community Drug Action Team) – Reimbursement of Bettles Park Hire Fees for Family Festival - \$260;c) Mayoral Funds – Mayor Bruce MacKenzie – Mayoral Bushfire

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	Appeal - \$478.70.
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BACKGROUND

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:

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:-

MAYORAL FUNDS – Mayor MacKenzie

New South Wales Game Fishing Association Inc.	Reimbursement of fees for use of Council land and 3 berths	\$1,702.50
Port Stephens Family Support Service Inc.	Reimbursement of Bettles Park Hire Fees	\$260
Mayoral Bushfire Appeal	Allocation from Mayoral Funds	\$478.70

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	2,441.20	\$2,441.20 Mayoral funds
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation that funds will always be available.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 13**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 8 April, 2014.

No:	Report Title	Page:
1	Public Notification of Planning Agreement in Relation to DA for Supermarket (Woolworths) at No. 39, 41, 43, 45, and 47 Ferodale Rd, Medowie	
2	Leaders Forum: LG NSW Workshop on Proposed Reforms	

ORDINARY COUNCIL MEETING – 8 APRIL 2014
COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Paul Le Mottee and Cr Ken Jordan left the meeting at 6.02pm, prior to Item 13.

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

076	Councillor Steve Tucker Councillor John Morello
	It was resolved that Council move out of Committee of the Whole.

MOTION

088	Councillor Bruce MacKenzie Councillor John Morello
	It was resolved that Council receive and note the Information Papers listed below being presented to Council on 8 April, 2014.

INFORMATION PAPERS



INFORMATION ITEM NO. 1

**PUBLIC NOTIFICATION OF PLANNING AGREEMENT IN RELATION TO
DEVELOPMENT APPLICATION FOR SUPERMARKET (WOOLWORTHS) AT
NO. 39, 41, 43, 45, AND 47 FERODALE ROAD, MEDOWIE**

**REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT & COMPLIANCE
SECTION MANAGER**

GROUP: DEVELOPMENT SERVICES

FILE: 16-2010-291-5

BACKGROUND

The purpose of this report is to inform Council about submissions received during the public notification of the 47 Ferodale Road Planning Agreement with respect to the approved s96 modification for the Woolworths supermarket at No. 39, 41, 43, 45, and 47 Ferodale Road, Medowie.

Under the Environmental Planning and Assessment Act 1979, when Council enters into a Planning Agreement a notification period should follow as recommended and resolved by Council at its 10 December 2014 meeting (Min 367 point 2).

Consequently a report back to Council formally considering any public submissions is not required in this instance. The submissions to the Planning Agreement are therefore provided for information to Council.

A total of five submissions were received during public notification from 9 January 2014 until 6 February 2014. A summary of matters discussed in submissions and planning responses are included as **(ATTACHMENT 1)**.

In accordance with Subdivision 2 of the Environmental Planning and Assessment Act 1979 the Planning Agreement will be finalised and a copy of the agreement will now be forwarded to the Minister.

ATTACHMENTS

- 1) Summary of submissions and planning response.

ATTACHMENT 1

Summary of submissions and planning response

SUMMARY OF SUBMISSIONS AND PLANNING RESPONSES - PUBLIC NOTIFICATION OF PLANNING AGREEMENT IN RELATION TO DEVELOPMENT APPLICATION FOR SUPERMARKET (WOOLWORTHS) AT NO. 39, 41, 43, 45 AND 47 FERODALE ROAD, MEDOWIE		
Ref No	Summary of submission	Planning response
1	<ol style="list-style-type: none"> Sum of \$400,000 appears somewhat light for the construction of a road for \$690,000. Is concerned about the financial burden this will place on ratepayers. It would appear that the Bus Bay would now be at the expense of Council. Access to Medowie Rd will need to be addressed, as well as potential access from Medowie Rd to the proposed road. The traffic survey carried out needs to consider vehicle numbers during school hours. Note that if Medowie Rd access is restricted to left turn only then those travelling South would have to first head north. Will the road impact on the future subdivision of Council owned land as detailed in the Council Report. 	<ol style="list-style-type: none"> \$400,000 is the amount offered under the terms of the Planning Agreement and agreed by Council of its 10 Dec 2013 meeting. The Council Report discussed how this Agreement would now allow the upgrade to be completed sooner than otherwise anticipated. The 10 Dec 13 Council Report stated that the Bus Bay would need to be determined at a later date and be included in Council's Works Program. Detailed design and construction of 'The Link Rd' is outside of the scope of the Planning Agreement and is a matter that will provided due consideration at the time of detailed design and construction. The 10 Dec 13 Council Report lists the traffic assessments that have been undertaken in relation to the Development Application. Detailed design and construction of 'The Link Rd' is outside of the scope of the Planning Agreement and is a matter that will provided due consideration at the time of detailed design and construction. The public notification related to the Planning Agreement not the future subdivision of Council Owned Land.
2	<ol style="list-style-type: none"> Request that an engineered assessment of costs be undertaken by Council to build a more suitable access to the Woolworths site. Break-down of the additional costs to ratepayers as a result of this resolution. Will the \$400,000 cover the out-of-pocket costs to Council? 	<ol style="list-style-type: none"> \$400,000 is the amount offered under the terms of the Planning Agreement and agreed by Council at its 10 Dec 2013 meeting. The Council Report discussed how this Agreement would now allow the upgrade to be completed sooner than otherwise anticipated. The Planning Agreement was determined at the 10 Dec 2013 Council Meeting to provide a greater long-term benefit than would have otherwise been provided by a single-lane round-about not considered conducive to future road widening. Council has an additional \$400,000 that would not have been provided without the Planning Agreement.

ORDINARY COUNCIL – 8 APRIL 2014

Ref No	Summary of submission	Planning response
3	<ol style="list-style-type: none"> 1. Engage an independent engineering estimator to establish the cost of building the proposed round-a-bout at the intersection of Ferodale and Peppertree Roads. 2. The cost of constructing the Link Rd should be provided with a Traffic Study jointly funded by the Developer and Council. 3. Place the \$400,000 into a trust account. 4. Develop a draft plan in consultation with the Medowie Consultative Panel that shows the road network designed to service land locked between Medowie, Ferodale, Wilga and Wellard Close. 5. The Roads & Maritime Services to be formally approached with planning traffic options to assess their position on supporting new links to Medowie Rd. 6. Compensation funding must be based on engineering estimates. 	<ol style="list-style-type: none"> 1. \$400,000 is the amount offered under the terms of the Planning Agreement and agreed by Council of its 10 Dec 2013 meeting. The Council Report discussed how this Agreement would now allow the upgrade to be completed sooner than otherwise anticipated. 2. The 10 Dec 13 Council Report stated that the estimated cost of constructing this Link Rd is \$690,000. 3. The conditions under which the \$400,000 can be spent are detailed in the Planning Agreement and agreed by Council at its 10 Dec 2013 Meeting. 4. The Medowie Consultative Panel has the opportunity to provide input into the review of the Medowie Strategy, which is outside the scope of the Planning Agreement. 5. This is outside the scope of the Planning Agreement and will be addressed in a separate detailed design and construction process. 6. \$400,000 is the amount offered under the terms of the Planning Agreement and agreed by Council of its 10 Dec 2013 meeting. The Council Report discussed how this Agreement would now allow the upgrade to be completed sooner than otherwise anticipated.
4	<ol style="list-style-type: none"> 1. Provide a detailed plan that supports the development of the Medowie Town Centre. 2. Is the Planning Agreement equitable? 	<ol style="list-style-type: none"> 1. Noted. This is outside of the scope of the Planning Agreement. The Medowie Community has the opportunity to provide input into the review of the Medowie Strategy. 2. The Planning Agreement was considered by Council on 10 Dec 2013 and resolved to support the s96 modification.
5	<ol style="list-style-type: none"> 1. Objects to the development. 2. How was the sum of \$400,000 calculated? 3. Single lane round-a-bout was identified as an essential part of the development. 4. Has RMS consent to connect to Medowie Rd been obtained? 5. Has consideration been provided to traffic 	<ol style="list-style-type: none"> 1. The s96 modification was approved by Council at the 10 Dec 13 meeting. 2. \$400,000 is the amount offered under the terms of the Planning Agreement and agreed by Council of its 10 Dec 2013 meeting. The reasoning behind this specified amount is detailed in the 10 Dec 13 Report. 3. The s96 modification was approved by Council at the 10 Dec 2013 Council meeting following the consideration of the single lane

ORDINARY COUNCIL – 8 APRIL 2014

Ref No	Summary of submission	Planning response
	<p>flows?</p> <p>6. What is the timeframe for the link road?</p> <p>7. If the cost of the road is more than \$400,000 it is understood that ratepayers are subsidising a very large multi-national.</p>	<p>round-a-bout.</p> <p>4. Detailed design and construction of 'The Link Rd' is outside of the scope of the Planning Agreement.</p> <p>5. A number of traffic assessments have been undertaken that relate to the subject site as detailed in the 10 Dec 13 Council Report.</p> <p>6. The 10 Dec 2013 Report states that Council plan to construct the second road as soon as practicable.</p> <p>7. Council has an additional \$400,000 that would not have otherwise been provided without the Planning Agreement.</p>

INFORMATION ITEM NO. 2

LEADERS FORUM: LG NSW WORKSHOP ON PROPOSED REFORMS

REPORT OF: PETER GESLING - GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2011-02317

BACKGROUND

The purpose of this report is to advise Council on the workshop held by LG NSW at Newcastle City Council on 20 March 2014. The purpose of the workshop was to discuss the Independent Review Panel's Final Report on local government reform. In attendance from Port Stephens Council were Group Manager Corporate Services, Group Manager Facilities & Services and Corporate Strategy & Planning Coordinator with myself. All Hunter Councils were represented either by elected officials, senior management or both. In addition, representatives of Liverpool Plains, Gosford and Wyong Councils' attended.

The LG NSW President, Cr Keith Rhoades chaired the workshop which was facilitated by staff from LG NSW. The discussion centred on the Panel's recommendations as they affected all councils in NSW and those that related only to Sydney metropolitan councils were acknowledged.

In summary, those present and the LG NSW itself held closely to the views that Council had articulated in its submission on the Final Report. There was nothing that emerged to occasion a supplementary submission from Council. I attach for your interest a copy of the paper that was circulated to inform the workshop.

ATTACHMENTS

- 1) Panel Recommendations Supported or Substantially Supported – LG NSW.

ATTACHMENT 1

LGNSW Leaders Forum on Revitalising Local Government

Panel recommendations supported or substantially supported

On the basis of feedback received to date and its own discussions, the LGNSW Board believes the ILGR Panel recommendations set out below should be supported.

The Board believes that these do not require comment in the course of the dialogue at the Leaders Forums.

If council has a different view this should be raised at the outset of a Forum and the recommendation in question will be discussed in the final session.

Recommendation 1

Establish an integrated Fiscal Responsibility program, coordinated by DLG and also involving TCorp, IPART and LGNSW to address the key findings and recommendations of TCorp's financial sustainability review and DLG's infrastructure audit (5.1 and 5.3)

Recommendation 2

As part of the program:

- *Adopt an agreed set of sustainability benchmarks;*
 - *Introduce more rigorous guidelines for Delivery Programs;*
 - *Commission TCorp to undertake regular follow-up sustainability assessments;*
 - *Provide additional training programs for councillors and staff;*
 - *Require all councils to employ an appropriately qualified Chief Financial Officer.*
- Comment: Supported with the following qualifications: TCorp methodology needs refinement, definition of "appropriately qualified" CFO needs to be determined (including whether CFO should be full time, part time or shared) and councils should incur no additional costs

Recommendation 3

Place Local Government audits under the aegis of the Auditor General.

Comment: Supported with the following qualification: the Auditor General should to set the sector wide standards in consultation with the Local Government sector for the audits and the Auditor General should audit the auditors, but not undertake the actual audits.

Recommendation 4

Ensure that the provisions of the State-Local Government Agreement are used effectively to address cost shifting.

Comment: Supported in principle if implemented in good faith.

Recommendation 5

Require councils to prepare and publish more rigorous Revenue Policies.

Comment: Supported with the following qualifications: delete word "more" and ensure more work is done in relation to councils' commercial operations (i.e. councils need more flexibility and discretion in pricing commercial activities).

Recommendation 6

Commission IPART to undertake a further review of the rating system focused on:

- *Options to reduce or remove excessive exemptions and concessions that are contrary to sound fiscal policy and jeopardise councils' long term sustainability;*
- *More equitable rating of apartments and other multi-unit dwellings, including giving councils the option of rating residential properties on Capital Improved Values, with a view to raising additional revenues where affordable.*

Comment: Supported with the qualification that IPART be required to consult thoroughly with the Local Government sector throughout the review.

Recommendation 7

Either replace rate-pegging with a new system of 'rate benchmarking' or streamline current arrangements to remove unwarranted complexity, costs, and constraints to sound financial management.

Comment: Supported with the following qualification: The Association's position that Rate Pegging must be abolished still stand, however the proposal is an improvement.

Recommendation 9

Establish a State borrowing facility to encourage Local Government to make increased use of debt where appropriate by:

- a. Reducing the level of interest rates paid by councils;*
- b. Providing low-cost financial and treasury management advisory services.*

Comment: Supported with the following qualification: it must be based on the South Australian model (i.e. managed by the Local Government sector through LGNSW).

Recommendation 10

Encourage councils to make increased use of fees and charges and remove restrictions on fees for statutory approvals and inspections, subject to monitoring and benchmarking by IPART.

Comment: Supported with the following qualification: include flexibility for councils (e.g. need to allow for subsidised pricing for certain services)

Recommendation 11

Factor the need to address infrastructure backlogs into any future rate-pegging or Local Government cost index.

Recommendation 12

Maintain the Local Infrastructure Renewal Scheme (LIRS) for at least 5 years, with a focus on councils facing the most severe infrastructure problems.

Comment: Supported with the following qualification: should be extended longer to incorporate the life of the asset being financed.

Recommendation 15

Carefully examine any changes to development (infrastructure) contributions to ensure there are no unwarranted impacts on council finances and ratepayers.

Recommendation 18

Adopt a uniform core set of performance indicators for councils, linked to IPR requirements, and ensure ongoing performance monitoring is adequately resourced.

Recommendation 19

Commission IPART to undertake a whole-of-government review of the regulatory, compliance and reporting burden on councils.

Comment: Supported with the following qualification: any report must have positive outcomes. More refinement required.

Recommendation 20

Establish a new sector-wide program to promote, capture and disseminate innovation and best practice.

Comment: Supported with the following qualification: More refinement required. Some work is already being done by LGNSW and LGMA.

Recommendation 21

Amend IPR Guidelines to require councils to incorporate regular service reviews in their Delivery Programs.

Comment: Supported with the following qualification: More refinement required. Already happens in many cases.

Recommendation 22

Strengthen requirements for internal and performance auditing as proposed in Box 17 (mandatory internal auditing extended from risk, fraud, corruption issues to adding value and continuous improvement and performance auditing: issues based performance audits by Auditor-General).

Comment: Supported with the following qualification: need to ensure that increased costs to councils are minimised.

Recommendation 24

Develop a NSW Local Government Workforce Strategy.

Comment: Supported with the following qualification: More refinement required as LG NSW and DLG have already commenced reviewing what workforce strategy related activities are underway in NSW.

Recommendation 25

Explore opportunities for the Local Government Award to continue to evolve to address future challenges facing the sector and changing operational needs.

Comment: Supported with the following qualification: More refinement required as the parties' negotiations must have regard to councils' needs and capacity to pay as well as satisfying wage fixation principles and related legislation.

Recommendation 28

Amend the legislated role and standard contract provisions of General Managers as proposed in Boxes 23 and 24 (9.5)

The Role and Responsibilities of General Managers are set out as follows:

- *To conduct the day-to-day management of the council in accordance with the governing body's strategic plans and policies*
- *To advise the mayor and the governing body on the development and implementation of policies and programs, including the appropriate form and scope of community consultation*
- *To prepare, in consultation with the mayor and governing body, the Community Strategic Plan and the council's Resourcing Strategy, Delivery Program and Operational Plan, Annual Report and State of the Environment Report*
- *To certify, together with the Mayor, that IPR requirements have been met in full, and that council's annual financial statements have been prepared correctly*
- *To ensure that the mayor and councillors receive timely information, advice and administrative and professional support necessary for the effective discharge of their responsibilities*
- *To implement lawful decisions of the governing body in a timely manner*
- *To exercise such of the functions of the governing body as are delegated by the governing body to the General Manager*
- *To appoint staff in accordance with an organisation structure and resources approved by the governing body*
- *To direct and dismiss staff*
- *To implement the council's equal employment opportunity management plan.*
- *To undertake such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.*

The Appointment and Tenure of General Managers is set out as follows:

- *The mayor should lead the appointment and performance reviews of the General Manager, and take responsibility for ensuring due process*
- *There should be a 'cooling off' period of 6 months after the election of a new council or mayor during which the summary dismissal provisions of the standard General Manager contract should not apply (this would provide an opportunity to build a positive working relationship whilst not preventing dismissals based on documented poor performance)*
- *Use of the summary dismissal provisions at any time should require a two-thirds majority of councillors*
- *Contracts of General Managers should not be renewed within 6 months prior to an election except by means of a full merit selection process; otherwise they should not be extended for more than 12 months and only on existing terms and conditions*
- *As a condition of appointment, General Managers should be required to complete a tailored induction program before or within 3 months of their first appointment to such a position, and approved professional development programs thereafter.*

Comment: The standard contract for General Managers should be updated with particular attention to its termination provisions to ensure that decisions to terminate a General Manager's services without giving a reason are applied fairly.

Recommendation 29

Amend the provisions for organisation reviews as proposed in section 9.6

Comment: Supported with the following qualification: Council should be responsible, not the Mayor alone (as a general principle, council is the governing body, not the mayor).

Recommendation 30

Develop a Good Governance Guide as a basis for 'performance improvement orders' and to provide additional guidance on building effective working relationships between the governing body, councillors, mayors and General Managers (9.7)

Recommendation 33

Encourage voluntary mergers of councils through measures to lower barriers and provide professional and financial support (10.4)

In support of recommendation 33 it is proposed that the following incentives for Council Mergers be further considered:

- *Make it clear that 'no change' is not an option, and that Government is committed to the early establishment of statutory Joint Organisations*
- *Introduce the new process for considering boundary changes set out in section 10.3*
- *Task the Boundaries Commission with providing unbiased information for local communities about the pros and cons of mergers*
- *Provide professional change management support for assessing business cases and then negotiating, planning and implementing mergers*
- *Provide expert consultants to assist councils with the integration of rating and IT systems*
- *Allow up to two terms of merged councils for complete implementation of all the changes involved, especially rationalising rating systems*
- *Similarly, allow an increased number of councillors in the first two terms to ensure adequate local representation during the transition phase*
- *Introduce provisions for Community Boards as a new option to ensure democratic, community-level governance in large council areas (see section 12.2)*
- *Ensure that the accumulated reserves of a former council are retained or expended primarily for the benefit of its area*

- Provide transitional funding through a mix of grants and low- or no-interest loans (eg for IT systems, office improvements, signage etc), consistent with an agreed implementation plan
- Focus financial support on councils with limited revenue potential and/or those merging with adjoining areas that have serious infrastructure backlogs or other liabilities.

Recommendation 34

Provide and promote a range of options to maintain local identity and representation in Local Government areas with large populations and/or diverse localities (10.5)

In support of recommendation 34 it is proposed that the range of methods to keep local in larger Local Government areas include:

- Establishing elected Community Boards,
- 'Place management' approaches, with community committees, preparation and implementation with communities of suburb or townships plans and development projects, and local service centres
- Dividing Local Government areas into wards, with ward councillors convening local committees or forums
- Using new communications technologies and social media to establish closer contact between councils and their communities, to inform and engage local people, and to conduct 'citizens panels' or online forums to explore community views and ideas
- Modern customer service systems that ensure swift replies to requests for information and rapid responses to problems or concerns.

Comment: Supported with the exception of elected Community Boards.

Recommendation 40

Strengthen arrangements within State government for coordinated metropolitan planning and governance, and to ensure more effective collaboration with Local Government (13.1)

Recommendation 42

Prioritise assessments of potential changes to the boundaries of the Cities of Sydney and Parramatta, and

- Retain a separate City of Sydney Act to recognise its Capital City role
- Establish State-local City Partnership Committees for Sydney and Parramatta along the lines of Adelaide's Capital City Committee (13.4)

Comment: Supported with the following qualification: that the boundary changes be negotiated by the councils involved and the idea of City Partnership Committees be left to Sydney and Parramatta

Recommendation 57

Introduce new arrangements for collaborative, whole-of-government strategic planning at a regional level (17.3)

Comment: Supported with the following qualifications: Needs to be representatives from the Local Government sector and needs better definition of what is "local" and what is "regional"

Recommendation 58

Amend the State Constitution to strengthen recognition of elected Local Government (17.4).

The Panel proposed that further consideration be given to amended provisions along the following lines:

1. There shall continue to be a system of Local Government for the State under which democratically elected Local Government bodies are constituted with responsibilities that the Parliament considers are necessary to ensure the good governance of the areas allocated to those bodies.

2. Parliament may make laws for or with respect to-
 - a) the areas to be allocated to Local Government bodies; and
 - b) suspension or dismissal of an elected Local Government body; and
 - c) the administration of a Local Government body during a period in which it is suspended or after it has been dismissed; and
 - d) the re-instatement or re-election of a Local Government body.
3. A Bill for an Act ending the system of Local Government may be presented for assent only if a proposal that the system of Local Government should end has been approved by referendum.
4. Notwithstanding any other provision to the contrary, the Lord Howe Island Board, and an administrator with all or any of the functions of a Local Government body, shall be deemed to be Local Government bodies.

Such provisions would emphasise the importance of democratic Local Government without reducing Parliament's current powers to make laws, except that, as in Queensland, a referendum would have to be passed before the whole system of Local Government could be wound up.

Recommendation 59

Seek advice from LGNSW on the measures it proposes to take to meet its obligations under the State-Local Agreement (17.5)

Recommendation 60

Strengthen the focus of DLG on sector development and seek to reduce its workload in regulation and compliance (17.6)

Comment: Supported with the following qualification: DLG need to be involved in sector in both development and compliance and LGNSW doesn't want to be involved in regulation. DLG should be placed in a significantly more senior portfolio.

Recommendation 61

Establish a Ministerial Advisory Group and Project Management Office (18.1 and 18.2).

The Panel makes the following point about the recommendation 61: whatever decisions are made regarding amalgamations, there is scope in the immediate future to commence implementation of a range of initiatives.

To oversee the early stages of implementation, as well as monitor progress, the Panel proposes establishment of a temporary Ministerial Advisory Group (MAG) to work alongside the Division of Local Government (DLG), other key agencies and Local Government NSW (LGNSW) during the next 3 years.

The MAG would comprise a chair appointed by the Minister, the Chief Executives of DLG and LGNSW, and two other members appointed by the Minister in consultation with the President of LGNSW. All administration would be handled through DLG. The Panel believes that establishing such a group, including independent members, would demonstrate a collaborative, even-handed approach. Preferably, none of the members would be serving or former councillors or politicians.

The MAG's focus should be on:

- Initiating effective implementation of the package of reforms adopted by Government, and providing supplementary policy advice as required
- Promoting the establishment of the regional Joint Organisations and advising DLG and the Minister on proposals for proclamations
- Further developing proposals for 'Rural Councils' and Community Boards

- Reviewing the responses of Sydney region, Hunter and Central Coast councils to the Panel's proposals for boundary changes
- Convening periodic forums or roundtables with a broader group of key stakeholders, including professional institutes, local government unions, business and community organisations
- Monitoring progress and reporting to Government on necessary adjustments to the reform package and what further steps might be required.

Comment: Supported with the qualification that the MAG composition also specifically include representatives from LGNSW and LGMA.

Recommendation 64

Further develop the proposals for legislative changes detailed in Boxes 43 and 44, and seek to introduce the amendments listed in Box 43 in early 2014 (18.5).

The matters for legislative change are as follows:

- Provisions for Joint Organisations, 'Rural Councils' and Community Boards
- Reconstitution of the Boundaries Commission and amendments to the process for dealing with amalgamations and boundary changes (but defer application to Sydney metropolitan region – see section 11.4)
- Amendments to rate-pegging provisions (and associated changes to IPR Guidelines)
- Enabling oversight of Local Government audits by the Auditor General (may be handled instead through Public Finance and Audit Act)
- Establishment of Far West Regional Authority (possibly separate Act)
- Establishment of a local government finance facility (preferably by simply amending TCorp legislation)
- Amendment to State Constitution to strengthen recognition of elected local government
- New or revised provisions in the Local Government Act covering:
 - Goal of sustainable councils
 - Concept of a system of local government
 - Appointment of Chief Financial Officers (or equivalent)
 - Roles of the Council (governing body), Mayors, Councillors and General Managers
 - Direct election of Mayors
 - Preparation of Councillor Development Plans and mandatory professional development requirements for Councillors and Mayors
 - Holding of an Annual General Meeting
- Revised IPR Guidelines for:
 - Delivery Programs and service reviews
 - Regional component of Community Strategic Plans
- New mandatory guidelines for internal audit and continuous improvement processes (including committees)

Comment: Supported with the following qualifications: reworking the Provisions for the trial Joint Organisations, deleting Community Boards and deleting direct election of Mayors

There being no further business the meeting closed at 6.21pm.

I certify that pages 1 to 159 of the Open Ordinary Minutes of Council 8 April 2014 were confirmed by Council at its meeting held on 13 May 2014.

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Bruce MacKenzie
MAYOR