

## MINUTES 25 NOVEMBER 2014



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 25 November 2014, commencing at 5.55pm.

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

304	<b>Councillor Steve Tucker</b> <b>Councillor Chris Doohan</b>
	It was resolved that the apology from Cr Ken Jordan be received and noted.

305	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 11 November 2014 be confirmed.

	There were no Declaration of Interest received.

# INDEX

SUBJECT	PAGE NO
<b>COUNCIL REPORTS .....</b>	<b>3</b>
1. POLICY – ECONOMIC DEVELOPMENT.....	4
2. 398 CABBAGE TREE ROAD, WILLIAMTOWN .....	13
3. ACQUISITION OF EASEMENT OVER LOT 26 DP 1071458 BEING 3933 NELSON BAY ROAD BOB'S FARM .....	19
4. FEES AND CHARGES 2014-2015 – NEW FEES FOR PORT STEPHENS TREESCAPE CAMPING & ACCOMMODATION AND THOU WALLA SUNSET RETREAT .....	36
5. ANNUAL FINANCIAL REPORTS 2013-2014 .....	42
6. QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2014 .....	45
7. POLICY REVIEW – GATHERING INFORMATION FOR INCIDENT MANAGEMENT .....	48
8. POLICY REVIEW – DEBT RECOVERY AND HARDSHIP .....	55
9. REVOKE POLICY – SUSTAINABLE PROCUREMENT .....	75
10. POLICY REVIEW – PROCUREMENT.....	82
11. POLICY REVIEW – ADVERTISING SIGNS IN ROAD RESERVES .....	90
12. POLICY REVIEW – BUS SHELTER .....	105
13. POLICY REVIEW – FORESHORE DINGHY STORAGE.....	114
14. POLICY REVIEW – OUTDOOR TRADING .....	124
15. BOOMERANG PARK, RAYMOND TERRACE – DRAFT MASTERPLAN .....	137
16. PORT STEPHENS COUNCIL ANNUAL REPORT 2013-2014.....	152
17. INFORMATION PAPERS.....	155
<b>INFORMATION PAPERS.....</b>	<b>156</b>
1. CASH AND INVESTMENTS HELD AT 31 OCTOBER 2014 .....	157
2. REPORT ON THE LOCAL GOVERNMENT NSW CONFERENCE 2014.....	161
3. REPORT ON THE EXCELLENCE PLANNING AWARDS.....	163

# COUNCIL REPORTS

ITEM NO. 1

FILE NO: A2004-0654/043

## POLICY – ECONOMIC DEVELOPMENT

REPORT OF: TIM CROSDALE – STRATEGY AND ENVIRONMENT SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

### RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Economic Development Policy (**ATTACHMENT 1**);
- 2) Place the draft Economic Development Policy on public exhibition for a period of 28 days and invite submissions;
- 3) Should no submissions be received, adopt the draft Economic Development Policy.

### ORDINARY COUNCIL MEETING – 24 NOVEMBER 2014

#### MOTION

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

	Councillor John Nell Councillor Steve Tucker
	That Item 15 be brought forward and dealt with prior to Item 1.

### COMMITTEE OF THE WHOLE RECOMMENDATION

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

#### MOTION

308	Councillor Steve Tucker Councillor Sally Dover
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Endorse the draft Economic Development Policy (<b>ATTACHMENT 1</b>);</li> <li>2) Place the draft Economic Development Policy on public exhibition for a period of 28 days and invite submissions;</li> <li>3) Should no submissions be received, adopt the draft Economic Development Policy.</li> </ol>



## BACKGROUND

The purpose of this report is to present to Council the draft Economic Development Policy. The purpose of the policy is to provide Council with a whole of Council approach to facilitating local economic development across the Local Government Area (LGA). This formal position recognises all of the services across Council that have a direct impact on local economic development.

Typically Local Government in Australia has focussed externally on local business support from an economic development team as their main activity in the economic development area. This Policy has Council moving to an internally-biased approach to economic development that identifies eight key services areas across Council that have a direct impact on economic development, being:

- 1) Civic Leadership and Governance;
- 2) Organisational Financial Sustainability;
- 3) Economic Development Program;
- 4) Land Use Planning;
- 5) Capital Works Delivery;
- 6) Development Planning;
- 7) Tourism and Events;
- 8) Property Development.

The draft Economic Development Policy recognises that the private sector is the most significant contributor to local economic development via the development of business. In order for Council's services to maintain relevance and effectiveness in facilitating the private sector the policy requires the monitoring and measuring of these services in achieving tangible local economic development outcomes.

Council has an Economic Development Strategy (adopted in 2007) and an Economic Development Unit was created to deliver the strategy, with an Economic Development Advisory Panel (EDAP) in place to ensure local business/community input is provided on local economic development issues.

The endorsement of the draft Economic Development Policy will move economic development at Port Stephens Council from being just the Economic Development unit's role to the establishment a whole of council approach to the delivery of services that maximises economic development in the LGA.

## FINANCIAL/RESOURCE IMPLICATIONS

This Policy will have no additional financial and/or resource implications outside of established programs and budgets aligned to Council services that operate in the economic development area.

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

## LEGAL, POLICY AND RISK IMPLICATIONS

There are no real legal, policy and risk implications in establishing this Policy. The Policy will assist in facilitating the alignment of Council services to encourage and facilitate local economic development across the LGA.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without an Economic Development Policy in place Council may not enable informed decisions on the provision of services to facilitate local economic development.	Low	Adopt the draft Economic Development Policy.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The whole of Council approach to the delivery of services which advance local economic development will ensure an overarching role that provides the appropriate environment to enable sustainable economic development.

## **CONSULTATION**

Internal and external consultation took place in the development of the draft policy, primarily through an internal working group which consisted of; the Economic Development Manager, the Group Manager Development Services, the Financial Services Section Manager, the Tourism and Events Coordinator, the Natural Resource Coordinator, the Community Services Section Manager, the Strategic Planning Coordinator and the Civil Assets Section Manager. In addition, further consultation took place with the Port Stephens Economic Development Advisory Panel.

Should the draft Economic Development Policy be endorsed it will be placed on Public exhibition for a period of 28 days and submissions invited from the public in accordance with the provisions of the Local Government Act 1993.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Draft Economic Development Policy.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**  
Draft Economic Development Policy



**POLICY**

Adopted: "[CLICK HERE, INSERT DATE]"

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

Amended:

Minute No:

**FILE NO:** A2004-0654/042

**TITLE:** ECONOMIC DEVELOPMENT POLICY

**RESPONSIBLE OFFICER:** ECONOMIC DEVELOPMENT MANAGER

**BACKGROUND**

Local Economic Development involves the implementation of a range of activities with the goal of building up the economic capacity of a local area to improve its economic future and the quality of life for all. Central to this concept is communities continually improving their investment climate and business enabling environment to enhance their competitiveness, create and retain jobs and improve incomes in the local area.

Local economic development is heavily influenced and shaped by the economic path that has led to an area's current economic position and characteristics. For Port Stephens this has resulted in a local economy that is clearly defined from a sectorial (manufacturing, government, defence and tourism), and locational perspective, with a strong sense of local initiative and development that takes advantage of the natural and locational assets of the LGA.

Council recognises that it is the private sector that remains the most significant contributor to local economic development via the development of business. Council's overarching role is to provide the appropriate environment to enable sustainable economic development by influencing the private sector's motivation to grow and generate profits – which can then create local economic development and employment opportunities.

The first Port Stephens Economic Development Strategy was launched in 2007 as the guiding document to shape the economic future of the area. The strategy set out a clear vision for the future of Port Stephens.

An Economic Development Unit (EDU) was created to deliver the strategy, with an Economic Development Advisory Panel (EDAP) also being assembled to ensure local business/community input was provided on local economic development issues.

Council recognises the valuable role local businesses plays in contributing to a sustainable region and has placed a high priority on proactive policies and actions to improve investment, employment and business performance across Port Stephens.

Typically local Government in Australia has focussed externally on local business support from an economic development team as their primary activity in the delivery of economic development services. This approach only partially captures a local government's responsibilities and potential to positively impact local economic development. This policy has Port Stephens Council moving to an internally-biased approach to economic development that identifies all services across Council that have a direct impact on local economic development.

#### **OBJECTIVE**

This Policy establishes a whole of council approach to the delivery of services that enhance Council's contribution to local economic development in the local government area (LGA) in an effort to create local employment opportunities and improve incomes in the local area.

There are 8 key service areas that have a direct economic development impact:

- 1) Civic Leadership and Governance;
- 2) Organisational Financial Sustainability;
- 3) Economic Development Program;
- 4) Land Use Planning;
- 5) Capital Works Delivery;
- 6) Development Planning;
- 7) Tourism and Events;
- 8) Property Development.

#### **PRINCIPLES**

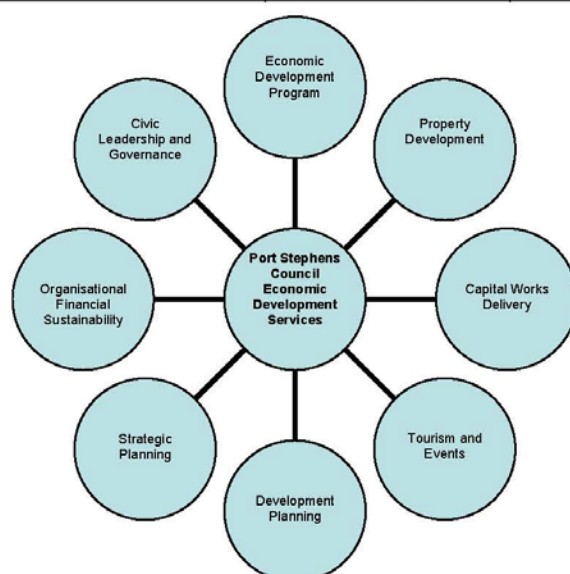
Port Stephens Council is committed to the following service-delivery principles regarding local economic development:

- 1) Civic Leadership and Governance – Council will have an Economic Development Policy that acknowledges a whole-of-council approach to local economic development and will use the business levy to foster economic development initiatives throughout the community.
- 2) Organisational Financial Sustainability – We will deliver an ongoing business improvement program to ensure a sustainable financial position that will provide us with the best ability to impact on local economic development through reinvestment in our community.
- 3) Economic Development Program – The EDU will manage local economic information, data, analysis and advice, local networking and learning opportunities, small business development and major industry support. The EDU will also take the lead in facilitating collaboration with other levels of government, regional organisations and local and regional business associations to facilitate and attract investment in the LGA.
- 4) Land Use Planning – Council's strategic land use planning will be informed by the latest data and trends and deliver plans to maintain staged growth and

development in the LGA. Where appropriate, specific controls will be incorporated into the strategic land use planning framework to encourage and facilitate local economic development. This will include a defined implementation schedule and process for measuring success.

- 5) Development Planning – Council will take a lead position by providing a positive business development environment, and we will manage our development assessment process via a focus on responsive customer service and efficient decision making.
- 6) Capital Works Delivery – Council acknowledges the role of infrastructure (roads, open space, sport and recreation/ leisure, community facilities, flood and drainage) in underpinning local economic development. Our financial sustainability principle will allow funds to be released for planned infrastructure works.
- 7) Tourism and Events – We will run the Port Stephens Visitor Centre and licence and sponsor events to capture visitor spend and further investment in our local community. We will strategically and financially support Destination Port Stephens to deliver the LGAs Destination Management Plan.
- 8) Property Development – As a significant property manager in the LGA, Council will undertake property development activities as a way to activate and contribute to local economic development in localities within Port Stephens.

Figure 1: Local Economic Development Services, Port Stephens Council



## **POLICY STATEMENT**

Council has an all-of-organisation approach to economic development and will monitor and measure performance against the 8 identified service delivery areas and principles. The monitoring and measuring will be in relation to specific metrics designed to measure the effectiveness of Council's service delivery to provide a tangible measure of Council's impact on local economic development.

## **RELATED POLICIES**

### **National, State and Regional Policy Context**

NSW 2021  
NSW 2021 Hunter Regional Action Plan  
Regional Development Australia  
Indigenous Economic Development Strategy 2011-2018  
NSW Economic Development Framework  
State Infrastructure Strategy  
New Planning System  
Visitor Economy Action Plan  
Regional Industries Investment Fund  
Lower Hunter Regional Strategy  
Lower Hunter Regional Conservation Plan

### **Local Policy Context**

Futures Strategy  
Integrated Strategic Plans  
Asset Management Plan  
Port Stephens Planning Strategy 2011  
DAREZ Business Park  
Commercial and Industrial Land Strategy 2008  
Town Centre Strategic Plans

- Nelson Bay
- Anna Bay
- Medowie
- Karuah

## **SUSTAINABILITY IMPLICATIONS**

Economists often define sustainability as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. The whole of Council approach to the delivery of services which advance local economic development will ensure an overarching role that provides the appropriate environment to enable sustainable economic development.

## **SOCIAL IMPLICATIONS**

Economic development can have positive social implications through promoting inclusive growth as investment occurs in the community. Economic development

can generate strong social outcomes on the standard-of-living of local residents. Primarily, positive economic development can lead to increased job growth and opportunities for the local resident workforce encouraging a strong sense of purpose and local participation in the community.

#### **ECONOMIC IMPLICATIONS**

The Port Stephens Economic Development Policy aligns with the long term Port Stephens Community Strategic Plan 2014-2024, within the Community Plan are five community goals, including Community Goal 4 'Our Economy' that states "Port Stephens has a sustainable and diversified economy". This Policy focuses on a whole of Council economic development approach to achieve this community goal.

#### **ENVIRONMENTAL IMPLICATIONS**

Council has a role to play in providing quality local infrastructure and stewardship of natural assets as part of Council's vision of a treasured environment. Access to reliable and high quality infrastructure along with a well-managed environment drives business growth and influences decisions about business locations.

#### **RELEVANT LEGISLATIVE PROVISIONS**

Broadly, NSW local councils have responsibilities under a wide range of state and commonwealth legislation and, while, there is no specific legislative provision that mandates the delivery of economic development services, Port Stephens Council has a business-rate-levy in place that is reported on annually.

Specific relevant legislation includes:

- Local Government Act 1993;
- Environmental Planning & Assessment Act 1979.

#### **IMPLEMENTATION RESPONSIBILITY**

Economic Development Manager.

#### **PROCESS OWNER**

Economic Development Manager.

#### **REVIEW DATE**

December 2016



**ITEM NO. 2****FILE NO: PSC2008-3848****398 CABBAGE TREE ROAD, WILLIAMTOWN****REPORT OF: BRETT FIELD – ACTING PROPERTY SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Consent to the Assignment of the Agreement for Lease and Lease from Castle Quarry Products Pty Ltd to Benelli Holdings Pty Ltd;
- 2) Authorise the Mayor and the General Manager to sign all relevant legal documentation.

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**ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014  
COMMITTEE OF THE WHOLE RECOMMENDATION**

Cr Paul Le Mottee left the meeting at 6.33pm, during Item 2.

	<b>Mayor Bruce MacKenzie Councillor Steve Tucker</b>
	That the recommendation be adopted.

**MOTION**

<b>309</b>	<b>Councillor Steve Tucker Councillor Sally Dover</b>
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Consent to the Assignment of the Agreement for Lease and Lease from Castle Quarry Products Pty Ltd to Benelli Holdings Pty Ltd;</li><li>2) Authorise the Mayor and the General Manager to sign all relevant legal documentation.</li></ol>

**BACKGROUND**

At the Ordinary Meeting of Council on 9 April 2013, Council resolved to enter into an Agreement for Lease and Lease, for Lot 1012 DP814078, Lot 11 DP629503, Lot 121 DP556403 and Lot 1 DP224587, being 282, 282A, 282B and 398 Cabbage Tree Road, Williamtown (the Land), with Castle Quarry Products Pty Ltd (CQP).

The purpose of this report is to inform Council that CQP made an approach to the Property Services Section on 19 August 2014, for the assignment of the Agreement for

Lease (AFL) and Lease from CQP to Benelli Holdings Pty Ltd (Benelli), as a result of an organisational restructure.

Council entered into an Agreement for Lease with CQP on 15 July 2013, following a competitive tender process, for the extraction of sand from the land.

Under instructions from Council, Harris Wheeler wrote to CQP on 19 September 2014 informing them that Council agrees in principle to consent to assignment subject to Council approval of the AFL subject to the following conditions:

- 1) CQP and Benelli sign Council's standard Deed of Assignment. This will require either CQP or Benelli to pay Council's legal costs of the assignment;
- 2) CQP and Benelli warrant that all the CQP quarry projects are owned by Benelli and provide evidence to this effect. We understand that these projects include Fullerton Cove, Eagleton and Williamtown; (ownership is defined as whatever secures tenure) and
- 3) Benelli provides evidence of its financial capacity by way of balance sheets for the last financial year. If these are not available or are not satisfactory Council requires the underlying shareholder companies to provide guarantees;
- 4) A resolution of the Council to agree with the proposed assignment.

CQP advises that the organisational restructure brings all of their Quarry interests under the control of one Company which further simplifies matters. They further advised on 10 October 2014 that, on a positive note, the Quarry Group finance had been approved and confirmed.

Harris Wheeler concurs that it is evident the proposed new structure is far less complicated and brings with it a much more streamlined framework. While the assignment of the lease is not a matter that is required to come before Council, given the profile of the transaction and to demonstrate transparency, Property Services has brought this matter before Council.

Under the terms of the Agreement for Lease CQP have a number of Conditions Precedent that they must comply with. In July this year the Property Services section imposed obligations on CQP to provide bi-monthly status reports with respect to the Conditions Precedent. To date, the status reports have been provided on the due dates, with all works proceeding in line with the required timelines.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The Deed of Assignment provides that Benelli must pay all of Council's legal costs and expenses in connection with the preparation, negotiation and execution of the Deed and any consent to assign the Agreement for Lease (on a full indemnity basis). Benelli must pay all Stamp Duty associated with this Deed of Assignment (if any).

## MINUTES FOR ORDINARY MEETING – 25 NOVEMBER 2014

There are no funding requirements and Council will continue to hold the \$250,000 bond.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		All legal funds associated with Assignment of the Lease are to be borne by the Assignee.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with section 133B clause (1) (a) of the Conveyancing Act 1919, consent to an assignment cannot be unreasonably withheld. However, as this is an Agreement for Lease it is considered that this section does not yet apply.

Council's solicitors have provided advice that under the terms and conditions of the Agreement for Lease and Lease, assignment of the agreement can be affected and the Deed of Assignment provides conditions to protect the interests of Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Benelli cannot provide financial records for the past 12 months.	Medium	Accept financial guarantees from the shareholder companies of Benelli.	Yes
There is a risk that if Council does not agree to the assignment of lease there may be a chance of litigation by CQP due to the expenses incurred to date by the company. Whilst the legal risk is low, the commercial risk is high due to the delays that will occur. This will delay the commencement of the project.	High	Adopt the recommendation.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Sustainability implications are not affected by the assignment; all obligations are to be met by the new entity.

## **CONSULTATION**

- 1) Harris Wheeler Lawyers;
- 2) General Manager;
- 3) Acting Group Manager Corporate Services;
- 4) Legal Services Manager;
- 5) Acting Property Services Section Manager;
- 6) Land Acquisitions and Development Manager;
- 7) Property Development Coordinator.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Company's Structure.

## **COUNCILLORS ROOM**

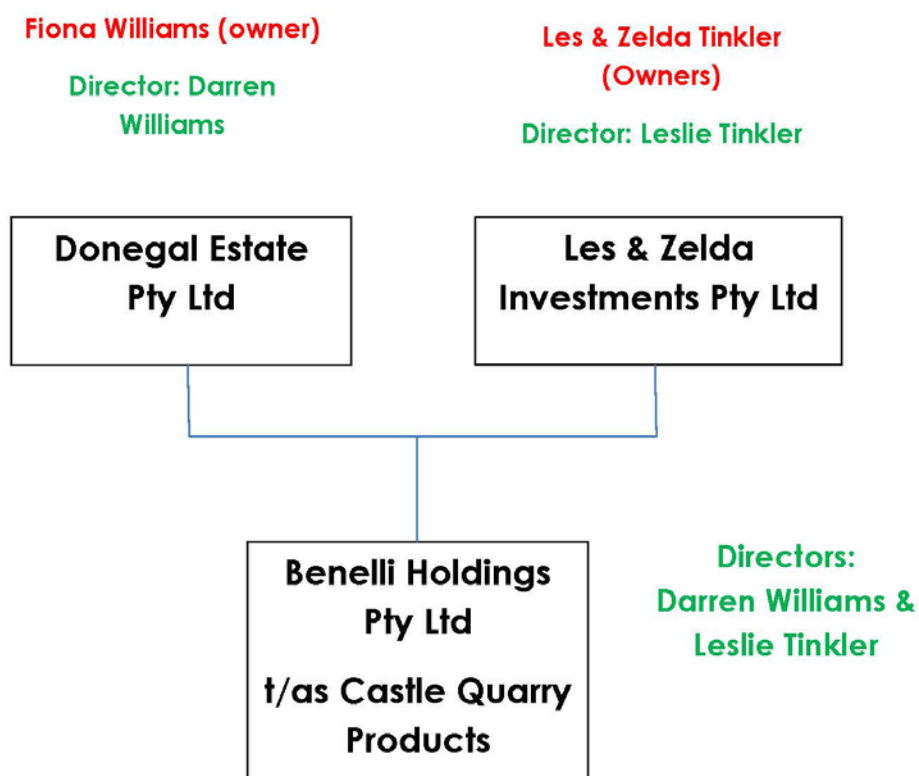
Nil.

## **TABLED DOCUMENTS**

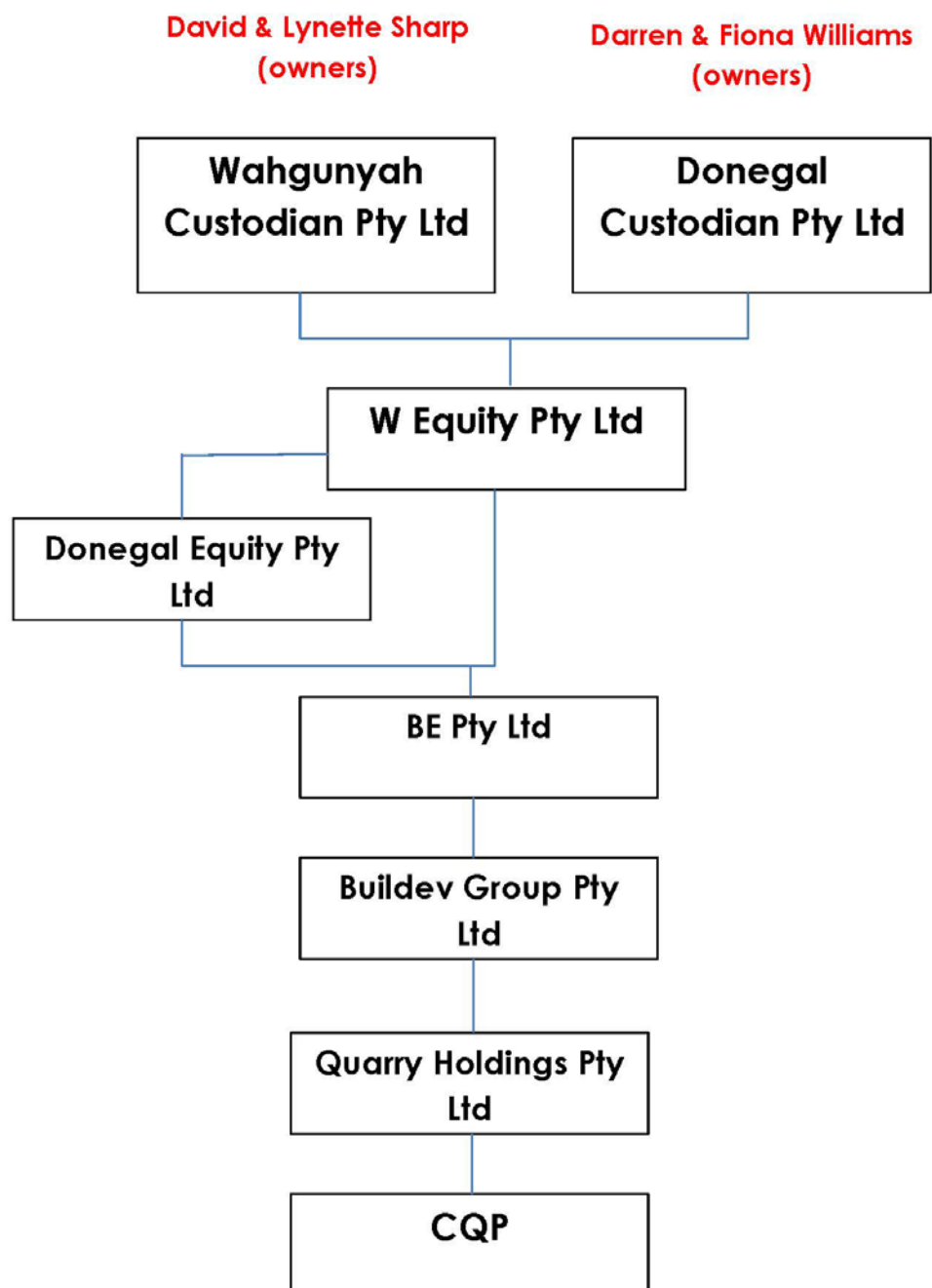
Nil.

ATTACHMENT 1

## PROPOSED OWNERSHIP STRUCTURE



## CURRENT OWNERSHIP STRUCTURE



**ITEM NO. 3****FILE NO: A2004-0945****ACQUISITION OF EASEMENT OVER LOT 26 DP 1071458 BEING 3933 NELSON BAY ROAD BOB'S FARM****REPORT OF: BRETT FIELD – ACTING PROPERTY SERVICES SECTION MANAGER****GROUP: PROPERTY SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Grants authority to affix Council Seal and Signatures to the Deposited Plan Administration Sheet and the 88B Instrument prior to lodging at the office of Land and Property Information (LPI);
- 2) Authorises the General Manager to endorse the Deed of Agreement for Easement Works on behalf of Council for the acquisition of an easement over Lot 26 DP 1071458 at Bob's Farm.

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**ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014  
COMMITTEE OF THE WHOLE RECOMMENDATION**

Cr Paul Le Mottee returned to the meeting at 6.48pm, during Item 3.

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

**MOTION**

<b>310</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council:  <ol style="list-style-type: none"><li>1) Grants authority to affix Council Seal and Signatures to the Deposited Plan Administration Sheet and the 88B Instrument prior to lodging at the office of Land and Property Information (LPI);</li><li>2) Authorises the General Manager to endorse the Deed of Agreement for Easement Works on behalf of Council for the acquisition of an easement over Lot 26 DP 1071458 at Bob's Farm.</li></ol>

**BACKGROUND**

The purpose of this report is to authorise the General Manager to endorse the Deed of Agreement for Easement Works (TABLED DOCUMENT 1) over Lot 26 DP 1071458 at Bob's Farm and affix Council Seal and signatures to the legal documents for registration at the Land Titles Office. The legal documents comprise the 88B Instrument and Deposited Plan Administration (ATTACHMENT 1).

A report was previously submitted to Council and adopted on 8 March 2011 (Minute No. 063), (ATTACHMENT 2) for the Compulsorily Acquisition of an Easement over this same property (known as Lot 3 DP 340555 at that time but became Lot 26 DP1071458 following RMS road widening acquisition). The Compulsory Acquisition was proposed at that time due to difficulties & delays dealing with the landowner.

Since 2011, progress has been made with Council and the landowner documenting a Deed of Agreement for Easement Works. This Deed, the Deposited Plan Administration Sheet and the 88B Instrument are now executed by the landowner and her Mortgagee has executed the Deposited Plan Administration Sheet and the 88B Instrument.

Endorsement of the Deposited Plan Administration Sheet and the 88B Instrument by Council prior to lodgement at LPI is required to allow registration of the Easement for notation on the Certificate of Title. Upon registration, Council/RMS can commence drainage works. The Deed requires payment of compensation (based on independent valuation) by Council within 14 days of registration of these documents at LPI. RMS will reimburse Council for the compensation paid.

**FINANCIAL/RESOURCE IMPLICATIONS**

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	Dependent on Valuer's Report.	Roads & Maritime Services are providing funding for this acquisition.

**LEGAL, POLICY AND RISK IMPLICATIONS**

Actions fall under the Local Government Act 1993, Roads Act 1993, Land Acquisition (Just Terms Compensation) Act 1991, Conveyancing Act 1919 and Real Property Act 1990. There are no Council policies involved.



Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not pay the compensation within 14 days.	Low	Ensure Account Numbers and funds are in place before documents are sent for registration.	Yes
There is a risk that RMS will not reimburse the compensation.	Low	Council holds documentation from RMS stating that it will reimburse Council for the compensation.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

## CONSULTATION

- 1) Harris Wheeler Lawyers;
- 2) Civil Assets Engineer;
- 3) Senior Survey and Land Information Manager;
- 4) Land Acquisition and Development Manager;
- 5) Property Officer;
- 6) Roads & Maritime Services;
- 7) Legal Services Manager;
- 8) Council Drainage Engineer;
- 9) Principal Property Advisor.

## OPTIONS

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

## ATTACHMENTS

- 1) 88B Instrument and Deposited Plan Administration Sheet;
- 2) Prior Report to Council.

## COUNCILLORS ROOM

Nil.

## TABLED DOCUMENTS

- 1) Deed of Agreement for Easement Works.

ATTACHMENT 1

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B CONVEYANCING ACT 1919.**

(Sheet 1 of 3 Sheets)

Plan: Plan of Easement for Drainage of Water and  
Right of Access over Lot 26 DP1071458

Full name and address of the  
owner of the land: Elizabeth Jane Jones  
3933 Nelson Bay Road  
BOBS FARM NSW 2316

Full name and address of the  
mortgagee of the land: Commonwealth Bank of Australia  
Ground Floor, Tower 1  
201 Sussex Street  
SYDNEY NSW 2000

**Part 1 (Creation)**

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s)	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Easement for Drainage of Water variable width	26/1071458	Port Stephens Council
2	Right of Access variable width	26/1071458	Port Stephens Council

**Part 2 (Terms)**

**1. Terms of Easement for Drainage of Water variable width numbered 1 in the plan.**

An easement for Drainage of Water within the meaning of Part 7 Schedule 4A of the Conveyancing Act 1919.

**2. Terms of Right of Access variable width numbered 2 in the plan.**

A Right of Access within the meaning of Part 11 Schedule 4A of the Conveyancing Act 1919.

PP DP1186063 27-05-2013

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE  
INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE  
OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO  
SECTION 88A CONVEYANCING ACT 1919.

(Sheet 2 of 3 Sheets)

Plan:

Plan of Easement for Drainage of Water and  
Right of Access over Lot 26 DP1071458

THE COMMON SEAL of PORT )  
STEPHENS COUNCIL (ABN 16 744 )  
377 876) was hereunto affixed pursuant to )  
a resolution of Council dated       day )  
of       20 in the presence of: )

\_\_\_\_\_  
Signature of Witness

WAYNE WALLIS

\_\_\_\_\_  
Full-name of Witness

GENERAL MANAGER

\_\_\_\_\_  
Title of Witness

\_\_\_\_\_  
Signature of Delegate

BRUCE MACKENZIE

\_\_\_\_\_  
Name of Delegate

MAYOR

\_\_\_\_\_  
Title of Delegate

Signed by ELIZABETH JANE JONES )  
in the presence of: )

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Full-name of Witness

\_\_\_\_\_  
Address of Witness

\_\_\_\_\_  
Signature of Elizabeth Jane Jones

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE  
INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE  
OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO  
SECTION 88A CONVEYANCING ACT 1919.**

(Sheet 3 of 3 Sheets)

**Plan:**

Plan of Easement for Drainage of Water and  
Right of Access over Lot 26 DP1071458

SIGNED FOR AND ON BEHALF OF )  
COMMONWEALTH BANK OF )  
AUSTRALIA by )  
..... )  
 )  
its attorney under Power of Attorney )  
Registered No - \_\_\_\_\_ Book - \_\_\_\_\_ and )  
the Attorney declares that the Attorney has )  
not received notice of the revocation of such )  
Power of Attorney in the presences of :

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Print Name of Witness

\_\_\_\_\_  
Name of Attorney

\_\_\_\_\_  
Address of Witness

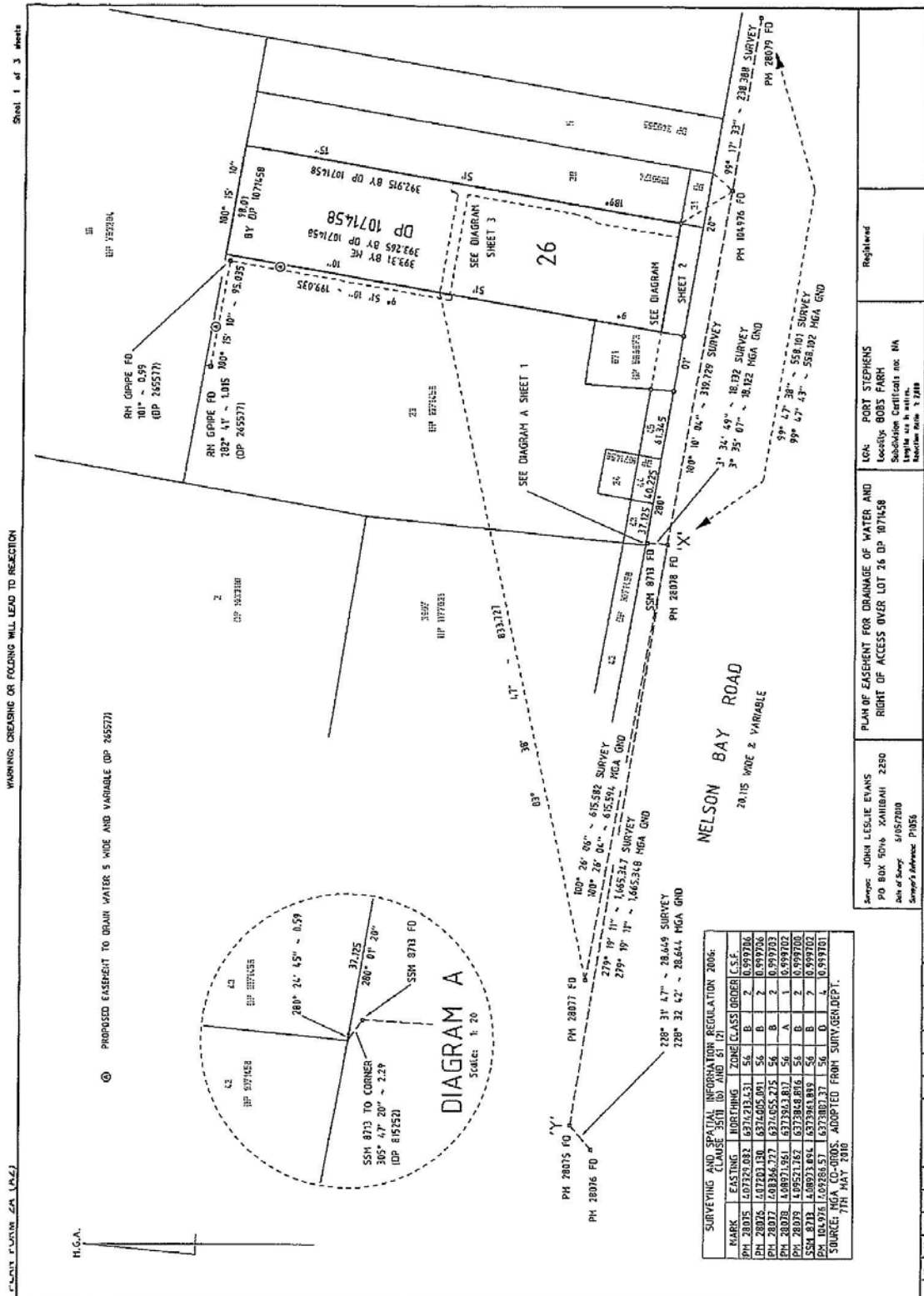
PLAN FORM 6

WARNING: Creasing or folding will lead to rejection

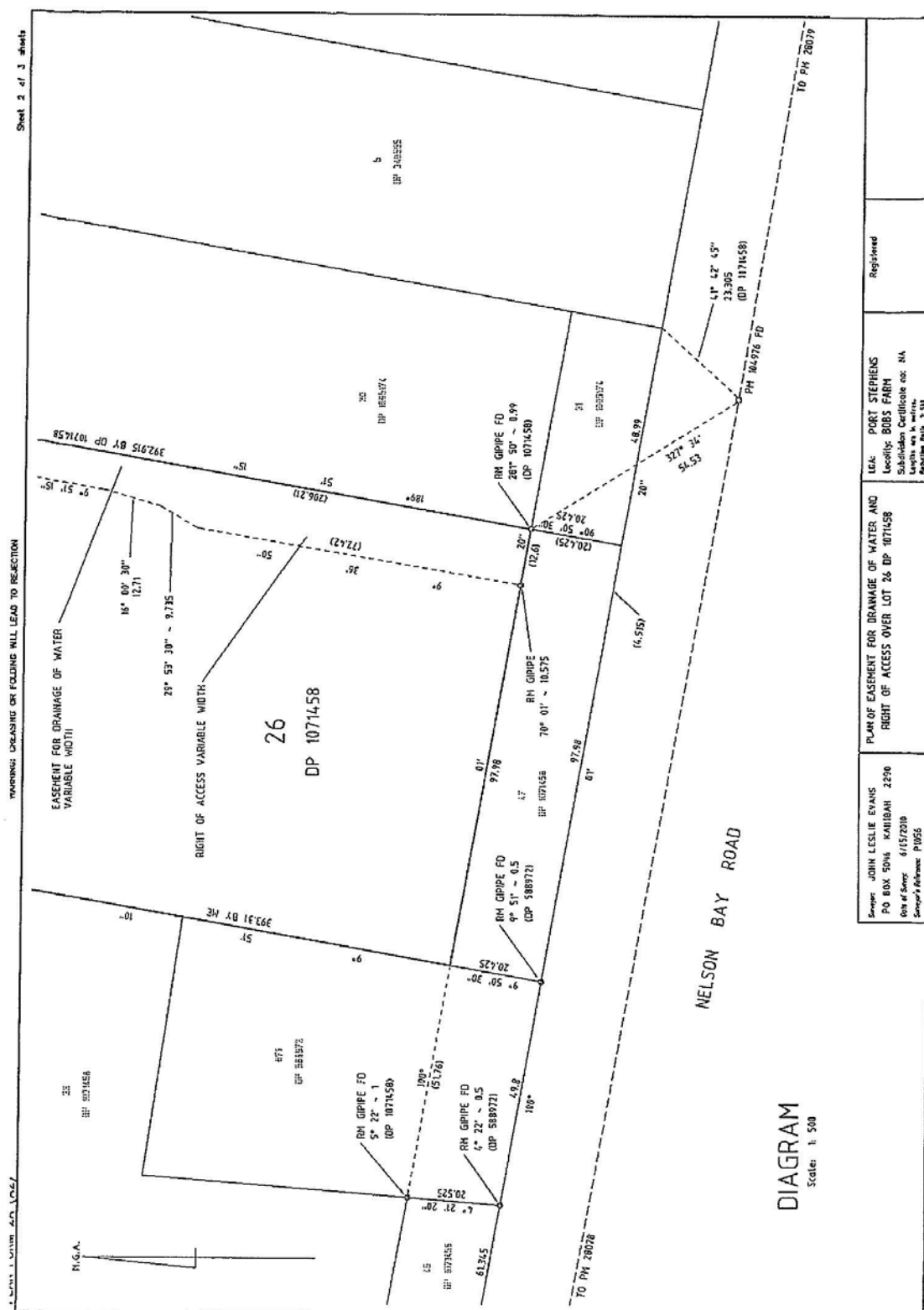
DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 1 of 1 sheet(s)	
<p>SIGNATURES, SEALS AND STATEMENTS of intention to dedicate public roads, public reserves and drainage reserves or create easements, restrictions on the use of land and positive covenants</p> <p>PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919 IT IS INTENDED TO CREATE :-</p> <p>1. EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH</p> <p>2. RIGHT OF ACCESS VARIABLE WIDTH</p> <p>ELIZABETH JANE JONES</p> <p>If space is insufficient use PLAN FORM 6A annexure sheet</p> <p>Crown Lands NSW/Western Lands Office Approval</p> <p>.....in approving this plan certify</p> <p>(Authorised Officer)</p> <p>that all necessary approvals in regard to the allocation of the land shown herein have been given</p> <p>Signature: .....</p> <p>Date: .....</p> <p>File Number: .....</p> <p>Office: .....</p> <p>Subdivision Certificate</p> <p>I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:</p> <p>the proposed ..... set out herein</p> <p>(insert 'subdivision' or 'new road')</p> <p>* Authorised Person/*General Manager/*Accredited Certifier</p> <p>Consent Authority: .....</p> <p>Date of Endorsement: .....</p> <p>Accreditation no: .....</p> <p>Subdivision Certificate no: .....</p> <p>File no: .....</p> <p>* Strike through inapplicable parts.</p>	<p>Office Use Only</p>		
	<p>Office Use Only</p> <p>Registered:</p> <p>Title System: TORRENS</p> <p>Purpose: EASEMENT</p>		
	<p>PLAN OF EASEMENT FOR DRAINAGE OF WATER AND RIGHT OF ACCESS OVER LOT 26 DP 1071458</p>		
	<p>LGA: PORT STEPHENS</p> <p>Locality: BOBS FARM</p> <p>Parish: TOMAREE</p> <p>County: GLOUCESTER</p>		
	<p>Survey Certificate</p> <p>I, John Leslie Evans</p> <p>of PO Box 5046 KAHIBAH NSW 2290</p> <p>a surveyor registered under the Surveying and Spatial Information Act 2002, certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying and Spatial Information Regulation 2006 and was completed on: 06/05/2010</p> <p>The survey relates to THE EASEMENT</p> <p>(specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)</p> <p>Signature .....Dated: 06/05/2010</p> <p>Surveyor registered under the Surveying and Spatial Information Act 2002</p> <p>Datum Line: 'X' – 'Y'</p> <p>Type: Urban/Rural</p> <p>Plans used in the preparation of survey/compilation</p> <p>DP 340555, DP 588972, DP 606720, DP 815252, DP 265577, DP 1117610, DP 1071458 &amp; DP 1095174</p> <p>If space is insufficient use PLAN FORM 6A annexure sheet</p> <p>Surveyor's Reference: P1056</p>		

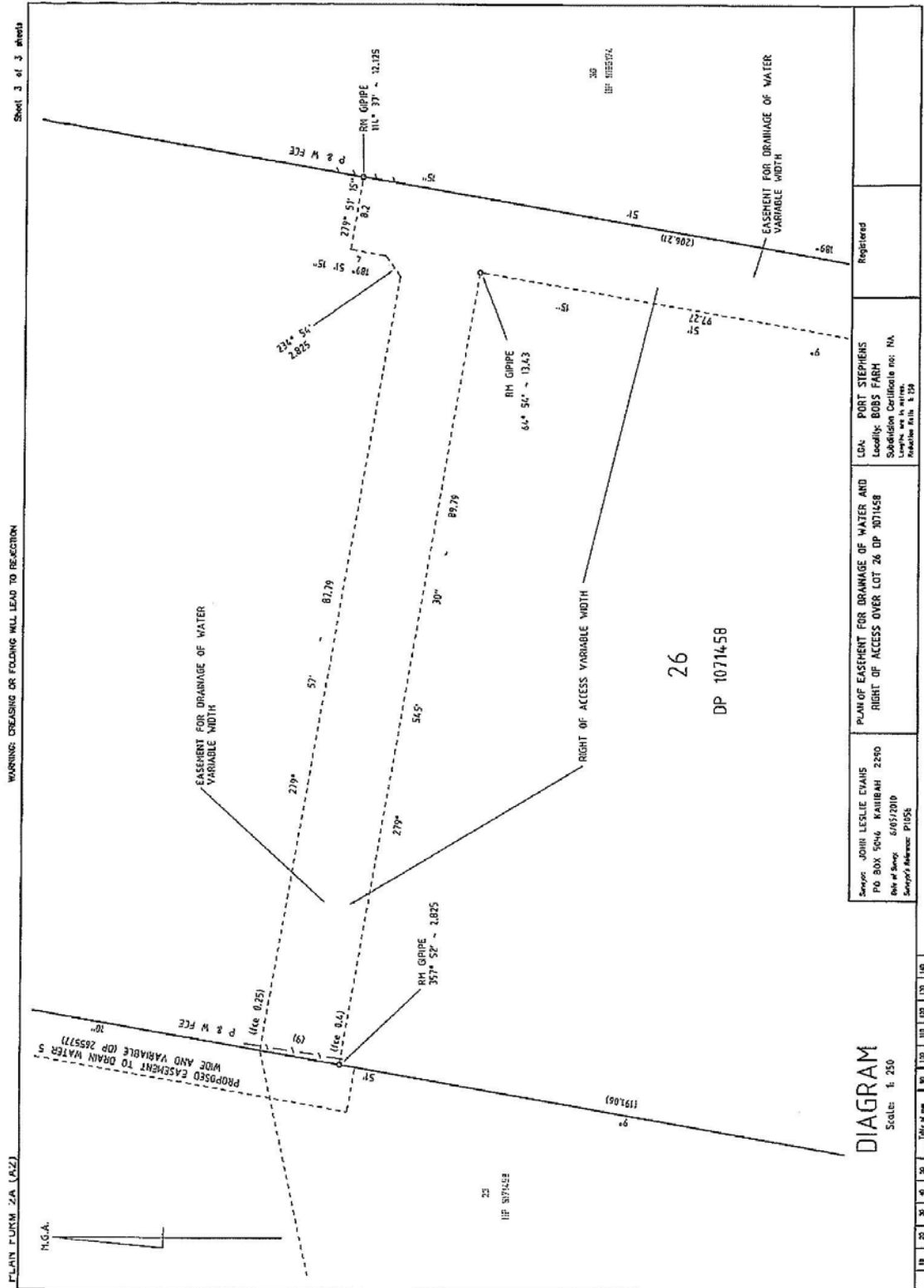
PLAN FORM 6A		WARNING: Creasing or folding will lead to rejection	
<b>DEPOSITED PLAN ADMINISTRATION SHEET</b>		Sheet 2 of 2 sheet(s)	
<b>PLAN OF EASEMENT FOR DRAINAGE OF WATER AND RIGHT OF ACCESS OVER LOT 26 DP 1071458</b>		Office Use Only	
		Registered:	
Subdivision Certificate No.: NA		Date of Endorsement: NA	
<p>THE COMMON SEAL of PORT )  STEPHENS COUNCIL (ABN 16 744 )  377 876) was hereunto affixed pursuant to )  a resolution of Council dated       day  of       20   in the presence of:</p>			
_____ Signature of Witness		_____ Signature of Delegate	
_____ WAYNE WALLIS		_____ BRUCE MACKENZIE	
_____ Full-name of Witness		_____ Name of Delegate	
_____ GENERAL MANAGER		_____ MAYOR	
_____ Title of Witness		_____ Title of Delegate	
<p>Signed by ELIZABETH JANE JONES )  in the presence of: )</p>			
_____ Signature of Witness		_____ Signature of Elizabeth Jane Jones	
_____ Full-name of Witness			
_____ Address of Witness			
Surveyor's Reference: P1056			

PLAN FORM 6A		WARNING: Creasing or folding will lead to rejection	
<b>DEPOSITED PLAN ADMINISTRATION SHEET</b>		Sheet 3 of 3 sheet(s)	
<b>PLAN OF EASEMENT FOR DRAINAGE OF WATER AND RIGHT OF ACCESS OVER LOT 26 DP 1071458</b>	Office Use Only		
	Registered: <span style="float: right;">Office Use Only</span>		
Subdivision Certificate No.: NA		Date of Endorsement: NA	
SIGNED FOR AND ON BEHALF OF COMMONWEALTH BANK OF AUSTRALIA			
Surveyor's Reference: P1056			









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

ITEM NO. 7

FILE NO: A2004-0945

**COMPULSORY ACQUISITION OF EASEMENT OVER LOT 3 DP 340555**

REPORT OF: PETER AVIS – PROJECT SERVICES, MANAGER

GROUP: FACILITIES AND SERVICES

**RECOMMENDATION IS THAT COUNCIL:**

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

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

	<b>Councillor Bruce MacKenzie</b> <b>Councillor John Nell</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING – 8 MARCH 2011**

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

ITEM NO. 7

FILE NO: A2004-0945

**COMPULSORY ACQUISITION OF EASEMENT OVER LOT 3 DP 340555**

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

**RECOMMENDATION IS THAT COUNCIL:**

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

**BACKGROUND**

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

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

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

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

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

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

**COUNCIL COMMITTEE – 1 MARCH 2011**

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

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

**FINANCIAL/RESOURCE IMPLICATIONS**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

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

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

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

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

**CONSULTATION**

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

**COUNCIL COMMITTEE – 1 MARCH 2011**

**OPTIONS**

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

**ATTACHMENTS**

- 1) Plan of proposed easement.

**COUNCILLORS ROOM**

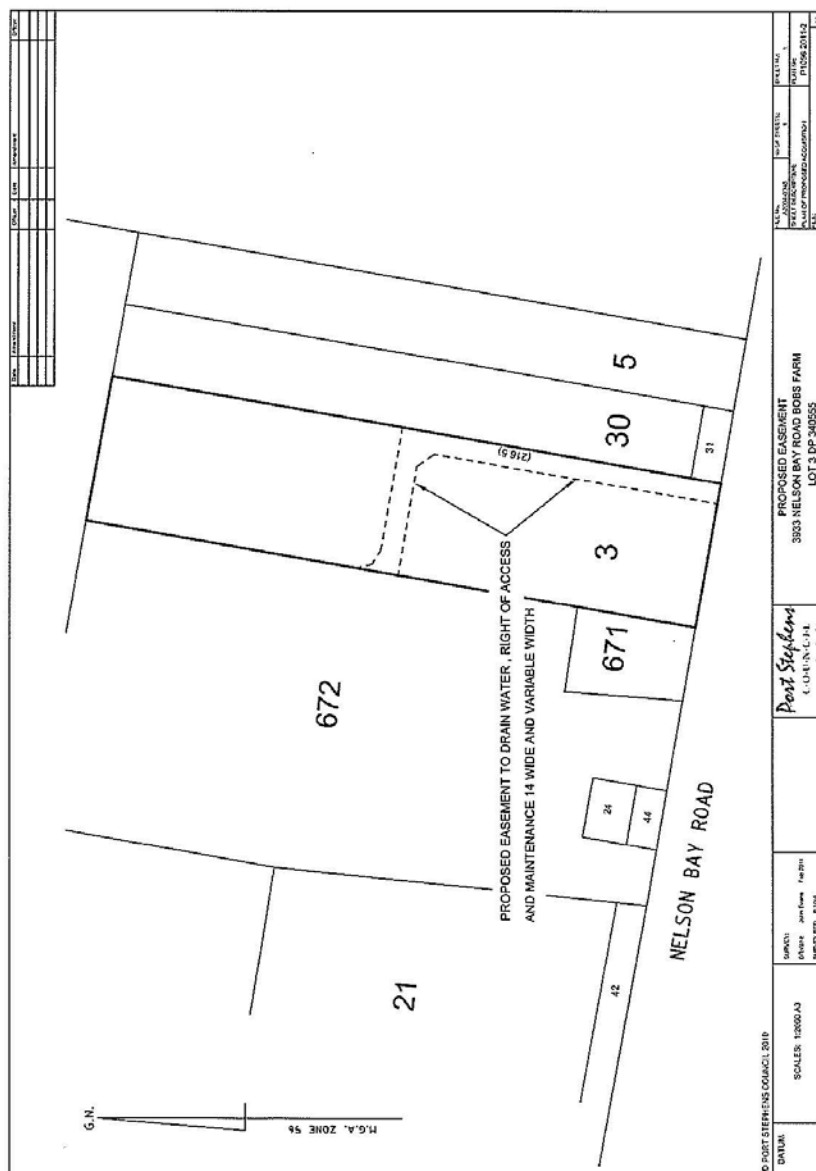
Nil.

**TABLED DOCUMENTS**

Nil.

**COUNCIL COMMITTEE – 1 MARCH 2011**

## ATTACHMENT 1



ITEM NO. 4

FILE NO: PSC2013-03793

# **FEES AND CHARGES 2014-2015 – NEW FEES FOR PORT STEPHENS TREESCAPE CAMPING & ACCOMMODATION AND THOU WALLA SUNSET RETREAT**

REPORT OF: CARMEL FOSTER – ACTING GROUP MANAGER CORPORATE SERVICES  
GROUP: CORPORATE SERVICES

## **RECOMMENDATION IS THAT COUNCIL:**

- 1) Agrees to place the fees proposed in **(ATTACHMENT 1)** for Port Stephens TreEscape Camping & Accommodation and Thou Walla Sunset Retreat on public exhibition for a period of 28 days; if no submissions are received to deem the proposed fees adopted from the day after the close of submissions.

## **ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Paul Le Mottee</b> <b>Councillor Steve Tucker</b>
	That the recommendation be adopted.

## **MOTION**

311	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council place the fees proposed in <b>(ATTACHMENT 1)</b> for Port Stephens TreEscape Camping & Accommodation and Thou Walla Sunset Retreat on public exhibition for a period of 28 days; if no submissions are received to deem the proposed fees adopted from the day after the close of submissions.

## **BACKGROUND**

The purpose of this report is to seek Council's approval to place on public exhibition the proposed fees and charges for Port Stephens TreEscape Camping & Accommodation and Thou Walla Sunset Retreat as required by Section 610F of the *Local Government Act 1993*.



**FINANCIAL/RESOURCE IMPLICATIONS**

At its meeting on 28 October 2014 Council agreed to open the business to be known as Port Stephens TreEscape as an affordable camping and accommodation enterprise; at the same meeting Council noted the implementation of its resolution of 15 April 2014 (Minute No. 91) regarding the purchase of new product for the now renamed Thou Walla Sunset Retreat (formerly Soldiers Point Holiday Park).

To ensure that Council maximises its return on investment in these two facilities for the coming holiday season, it is proposed that the fees shown in **(ATTACHMENT 1)** be available to be charged at the earliest opportunity.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Under Section 610F of the *Local Government Act 1993* Council is required to place any proposed fees or charges on public exhibition for a period of 28 days. These proposed fees and charges have been developed under the provisions of Council's pricing policy as market-based.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the fees and charges proposed in <b>(ATTACHMENT 1)</b> are not placed on public exhibition Council would be in breach of legislation resulting in reputation loss.	Low	Council agrees to place the fees and charges in <b>(ATTACHMENT 1)</b> on public exhibition.	Existing
There is a risk that if there are submissions received and a further report to Council is required the proposed fees could not be legally charged until Council adopts them, resulting in loss of revenue.	Low	Council adopts the fees at the earliest opportunity after the exhibition period.	Existing

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

New services at Port Stephens TreEscape Camping & Accommodation and new facilities at Thou Walla Sunset Retreat provide social benefit to visitors and tourists as well as economic benefit to the Port Stephens local government area. Both provide financial benefit to Council in an environmentally sensitive manner.

## **CONSULTATION**

Council staff undertook extensive research with other Councils and private providers to ascertain the most appropriate level of fees and charges that were attractive in the marketplace and also provided a good return to Council.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) New proposed Fees and Charges Port Stephens TreEscape Camping & Accommodation and Thou Walla Sunset Retreat.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

## ATTACHMENT 1

## New proposed Fees and Charges Port Stephens TreEscape Camping & Accommodation and Thou Walla Sunset Retreat

### Port Stephens TreEscape Camping & Accommodation

Per night rates (minimum - maximum)

Room only rates based on 2 adults unless otherwise specified;

Minimum is low season mid-week; maximum is high season.

All fees include GST.

Accommodation Type	Low Season – Mid Week	High Season
Studios	From \$90	\$210
2 bedroom villas	From \$100	\$260
1 bedroom suites & deluxe studio	From \$100	\$315
Unpowered camp sites	\$30	\$50
Powered camp sites	\$34	\$72
Powered van sites with slabs	\$34	\$72
Dormitory tents (inclusive of 10 occupants)	From \$150 per night	\$350 per night
Extra adult charges (in cabins/villas)	\$15	\$25
Extra adult charges (on sites)	\$15	\$15
Extra child charges (on sites)	\$5	\$10
Additional person with rollaway bed	\$30 per night	\$30 per night
Late checkout- 12 noon subject to availability	\$30	\$50
Extra late checkout - 3pm subject to availability	\$50	\$70
Children free in accommodation using existing bedding		

### Thou Walla Sunset Retreat

Per night rates (minimum - maximum)

Based on 2 adults unless otherwise specified;

- Best Available Rates (BAR) will be determined on market demand and selected from the low to high season bandwidth.
- Published Full Rates will be High Season Rates.
- No rate seasons will be required for approval.
- All rates include GST.

*Room Only*

Accommodation Type	Low	High	Base Number of Persons	Extra persons Over 3 years old
	Best Available Rate (BAR) Range			
Waterview Deluxe	\$185	\$460	2	\$20
Waterview Sunset	\$185	\$460	2	\$20
Waterview Bath Cottage	\$150	\$320	2	n/a
Waterview Standard	\$150	\$320	2	\$20
Standard Cabin	\$121	\$250	2	\$15
Thou Walla Tent	\$121	\$300	2	n/a
Site	\$35	\$115	2	\$10

*Packages and Discounts*

Accommodation Type	\$10 Tuesday Range	3 Day Weekend Range	Escape Range	Discount Approvals Best Available Rate
Waterview Deluxe	\$380 - \$930	BAR less 12%	BAR Plus \$45	10% - 30%
Waterview Sunset	\$380 - \$930	BAR less 12%	BAR Plus \$45	10% - 30%
Waterview Bath Cottage	\$310 - \$650	BAR less 12%	BAR Plus \$45	10% - 30%
Waterview Standard	\$310 - \$650	BAR less 12%	BAR Plus \$45	10% - 30%
Standard Cabin	\$252 - \$510	BAR less 12%	BAR Plus \$45	10% - 30%
Thou Walla Tent	\$252 - \$610	BAR less 12%	BAR Plus \$45	10% - 30%
Site	\$80 - \$240	BAR less 12%	n/a	10% - 30%

**Package Summary**

\$10 Tuesday	Stay 3 nights including a Tuesday and pay for 2 nights with \$10 for Tuesday
3 Day Weekend	Stay 3 nights' weekend and 3-night rate is discounted by 12%
Escape	Full self-cooked breakfast for 2 daily; 2 bottles of wine, oysters and prawns

**Add-Ons & Sundries**

	<b>Activities Range per person At Cost</b>	<b>Concierge Range per person \$35 - \$280</b>	<b>Self- Cooked Breakfast Range per person \$15 - \$30</b>	<b>Extra Parking Range per Vehicle \$15 - \$30</b>
	<b>Activities Include:</b> Sailing School Cheese Making Wine Tasting & Tour Tours Massage Room Service Waterside Dining Dive/Snorkel	<b>Include:</b> <ul style="list-style-type: none"> <li>• Cooked Breakfast</li> <li>• Butler Service</li> <li>• Room Service</li> </ul>		

ITEM NO. 5

FILE NO: PSC2005-4217

## ANNUAL FINANCIAL REPORTS 2013-2014

REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

### RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the 2013-2014 Financial Reports (General Purpose Financial Reports) presented as **(TABLED DOCUMENT 1)** and accept the Auditor's Report, as submitted by Pitcher Partners;
- 2) Make available to the public the audited Financial Reports for the year ending 30 June 2014, together with the Auditor's Reports.

### ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014

#### COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor John Nell</b> <b>Councillor Chris Doohan</b>
	That the recommendation be adopted.

### MOTION

312	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council: <ol style="list-style-type: none"> <li>1) Adopt the 2013-2014 Financial Reports (General Purpose Financial Reports) presented as <b>(TABLED DOCUMENT 1)</b> and accept the Auditor's Report, as submitted by Pitcher Partners;</li> <li>2) Make available to the public the audited Financial Reports for the year ending 30 June 2014, together with the Auditor's Reports.</li> </ol>

### BACKGROUND

The purpose of this report is to advise Council that Council Officers have prepared the 2013-2014 Financial Reports in accordance with Australian Accounting Standards, the *Local Government Act 1993* (as amended) and associated regulations, and the *Local Government Code of Accounting Practice*.

The Financial Reports have been reviewed by Council's auditors (Pitcher Partners) and the Audit Committee, and this report is to formally present Council's Financial Reports

## MINUTES FOR ORDINARY MEETING – 25 NOVEMBER 2014

for the year ending 30 June 2014, together with the Auditor's report to the public in accordance with section 419 of *Local Government Act 1993* (as amended).

Public notice of the presentation of the audited Financial Reports has been advertised in The Examiner on 20 November 2014 and copies of the Financial Reports have been made available at the customer service desk, Raymond Terrace Library, Tomaree Library and on Council's website.

The financial reports, including the audit reports, have been circulated separately to Councillors for their information and a two way conversation will be held on 25 November 2014, with a representative from Pitcher Partners in attendance to discuss the reports.

### FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	99,000	External audit fees.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the Financial Reports contain errors of fact and/or misleading information.	Low	The annual financial reports have been subject to external auditing by Pitcher Partners and they have signed off on the statements.	Yes
There is a risk that the financial reports are not submitted to the Division of Local Government within the statutory timeframe.	Low	Council's project plan for the preparation and lodgement of the financial reports had the audit being signed off by 31 October 2014, and statements lodged with the Division of Local Government by 07 November 2014. These milestones have been met.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

## **CONSULTATION**

- 1) Pitcher Partners (external auditors);
- 2) Audit Committee;
- 3) Office of Local Government.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

- 1) 2013-2014 Annual Financial Reports.



ITEM NO. 6

FILE NO: A2004-0242

## QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2014

REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget as detailed under the separate cover **(TABLED DOCUMENT 1)** presented as the 2014-2015 Quarterly Budget Review Statement – September 2014;
  - 2) Approve the budget for the ICT program of \$1.8 million with funding from existing restricted assets;
  - 3) Approve the allocation of existing external loans to infrastructure works identified in the LIRS 3 application.
- 

### ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor John Nell</b> <b>Councillor Chris Doohan</b>
	That the recommendation be adopted.

### MOTION

313	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council: <ol style="list-style-type: none"> <li>1) Approve the discretionary changes to the adopted budget as detailed under the separate cover <b>(TABLED DOCUMENT 1)</b> presented as the 2014-2015 Quarterly Budget Review Statement – September 2014;</li> <li>2) Approve the budget for the ICT program of \$1.8 million with funding from existing restricted assets;</li> <li>3) Approve the allocation of existing external loans to infrastructure works identified in the LIRS 3 application.</li> </ol>

**BACKGROUND**

The purpose of this report is to amend the budget by bringing to Council's attention the proposals and issues that have an impact on the 2014-2015 budget that are detailed in the Quarterly Budget Review Statement – September 2014. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the September Quarterly Budget Review.

Council adopted its Integrated Strategic plans on 27 May 2014 (Minute No. 122) and these plans include the budget estimates for the 2014-2015 financial year.

**FINANCIAL/RESOURCE IMPLICATIONS**

Council's underlying result is expected to be \$1.496 million (surplus) being a decline of \$0.463 million with the adoption of the recommended changes. The net decline of \$0.463 million is primarily due to the projects that have been carried forward from previous years, as separately reported to Council. These projects totalled \$0.731million to be funded from revenue. The original projected underlying surplus adopted by Council in May 2014 was \$1.959 million.

In addition to the operating budget for 2014-2015 two specific issues will also need to be formally resolved. The first relates to the significant work required in the ICT area where a number of projects have been identified as requiring rectification and renewal. The Executive Leadership Team has reviewed the work program extensively and has accepted the recommendation to complete the works. The total cost amounts to \$1.8 million and is funded from existing restricted assets set aside for this purpose.

The second issue relates to the failure of Council to secure approval for the third round of the Local Infrastructure Renewal Program. The application under this program was for \$2.5 million of external loans to fund necessary infrastructure works with the State Government offering an interest subsidy. Given that Council has some unspent loan funds set aside for the redevelopment of Salamander Way, these funds could be utilised in the short term to fund the infrastructure works. It is anticipated that when the final decision is made on the Salamander Way, development funding will be secured by way of external loans.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	463,000	
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

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

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that underlying operating result may return to a deficit.	Low	Long Term Financial Plan established to reach break-even point.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

**CONSULTATION**

- 1) Executive Leadership Team;
- 2) Senior Leadership Team.

**OPTIONS**

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

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) 2014-2015 September Quarterly Budget Review Statement – September 2014.

**ITEM NO. 7****FILE NO: A2004-0111****POLICY REVIEW – GATHERING INFORMATION FOR INCIDENT MANAGEMENT****REPORT OF: MICHELLE GILLIVER-SMITH, ACTING ORGANISATION DEVELOPMENT SECTION MANAGER****GROUP: CORPORATE SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the Gathering Information for Incident Management Policy dated 22 November 2011 (Min No. 403).

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**ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Paul Le Mottee</b> <b>Councillor John Nell</b>
	That the recommendation be adopted.

**MOTION**

<b>314</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council revoke the Gathering Information for Incident Management Policy dated 22 November 2011 (Min No. 403).

**BACKGROUND**

The purpose of this report is to revoke the existing Gathering Information for Incident Management Policy. The Policy will be replaced with a Management Directive which will support a number of adopted Policies relating to management of assets such as roads, footpaths & cycleways, and trees with a view to preventing and defending public liability and professional indemnity claims against Council.

A Management Directive is a more appropriate format for this direction as it relates to the day to day administration rather than a general statement of the governing body.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are almost no financial or resource implications arising from changing the Policy to a Management Directive. More regular review will require staff resources, however, this would be included in existing budget. Changing to a Management Directive will negate the need for the Policy to be put to Council and to be advertised for public exhibition.

A Management Directive will continue to provide a structured approach to managing the information associated with defending claims and will lead to a reduction in the cost of claims and optimisation of the economic benefit to Council.

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**

In many litigated cases, it is the objective of the Council to substantiate that it acted in a manner which was not in breach of its duty of care to the plaintiff. The only source of proof for this position is often the internal records, which Council itself maintains for its own activities.

Changing the Policy to a Management Directive, supported by Procedures and Processes, will assist Council in its ability to produce records, in any data medium, that are complete, concise, accurate and acceptable to a court of law.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that failure to revoke the Policy and replace it with a Management Directive will lead to less regular review and lower compliance with its requirements.	Medium	Revoke Gathering Information for Incident Management Policy and replace with corresponding Management Directive.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

## **CONSULTATION**

Consultation is not required at this stage as the Policy will be replaced with a Management Directive. Proposed changes as a result of the move to a Management Directive will be discussed with stakeholders prior to submission to the Executive Leadership Team for adoption.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Gathering Information for Incident Management Policy.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



Adopted: 26 March 2002

Minute No: 102

Amended: 9 March 2004

Minute No: 099

Amended: 23 August 2005

Minute No: 246

Reviewed: August 2010 (no changes)

Amended: 22 November 2011

Minute No: 403

**FILE NO: A2004-0111**

**TITLE: GATHERING INFORMATION FOR INCIDENT MANAGEMENT**

**BACKGROUND**

Council requires a formal policy supporting the consistent and systematic treatment and collection of information for the defence of public liability and professional indemnity claims.

In many litigated cases, it is often the objective of the Council to substantiate that it acted in a manner, which was not in breach of its duty of care to the plaintiff. The only source of proof for this position is often the internal records, which Council itself maintains of its own activities.

This policy, supported by procedures and processes, will assist Council in its ability to produce records, in any data medium, that are complete, concise, accurate and acceptable to a court of law.

**OBJECTIVE**

To document the required minimum standard of Council generated information and data needed to assist in defending a public liability or professional indemnity claim and to ensure that such information and data constitute admissible evidence.

To support procedures for the gathering of information for incident management and the defence of public liability and professional indemnity claims.

## **PRINCIPLES**

- 1) To meet operational business needs, accountability requirements and community expectations.
- 2) The protection of Council's financial position through risk management.
- 3) To facilitate the minimum data requirements for information required to be used defending possible public and professional liability claims.

## **POLICY STATEMENT**

Port Stephens Council aims to provide sustainability to the community, by providing services and making decisions that enhance our quality of life, our economic and our natural environment. The Corporate Risk Management Team is committed to documenting and assisting groups within Council by distributing the adopted procedures for gathering information and information systems.

This policy, together with the procedures, provides the minimum data standards for the gathering of information for incident management. It is aimed at reducing the information supplied by Council to its lawyers that is currently inadmissible, together with either information or data that is not sufficiently detailed or contains unwanted additions that may render the information of little value in the defence of a potential claim. The checklist should be used to ensure that all the appropriate data is gathered and contains the appropriate information. Listed Information Source documentation from the checklist must be appropriately recorded and archived in accordance with Council's Records Management - Management Directive (adopted 6 October 2010) (currently being reviewed) and in accordance with the State Records Act 1998 and associated standards.

Council will, within its budgetary constraints and using existing information systems available to it, endeavour to ensure accurate and systematic information is maintained and stored appropriately.

By adopting the policy, Council is working towards enhancing Port Stephens' image in keeping with Council's Vision and Mission.

## **RELATED POLICIES**

Assessment and Maintenance of Footpaths and Cycleways.

Related Documents:

- Incident Procedure Flowchart
- Gathering Information Document Checklist
- Records Management - Management Directive dated 6 October 2010



**REVIEW DATE**

The policy will be reviewed within two (2) years of it being adopted by Council.

**RELEVANT LEGISLATIVE PROVISIONS**

State Records Act 1998

Evidence Act 1995

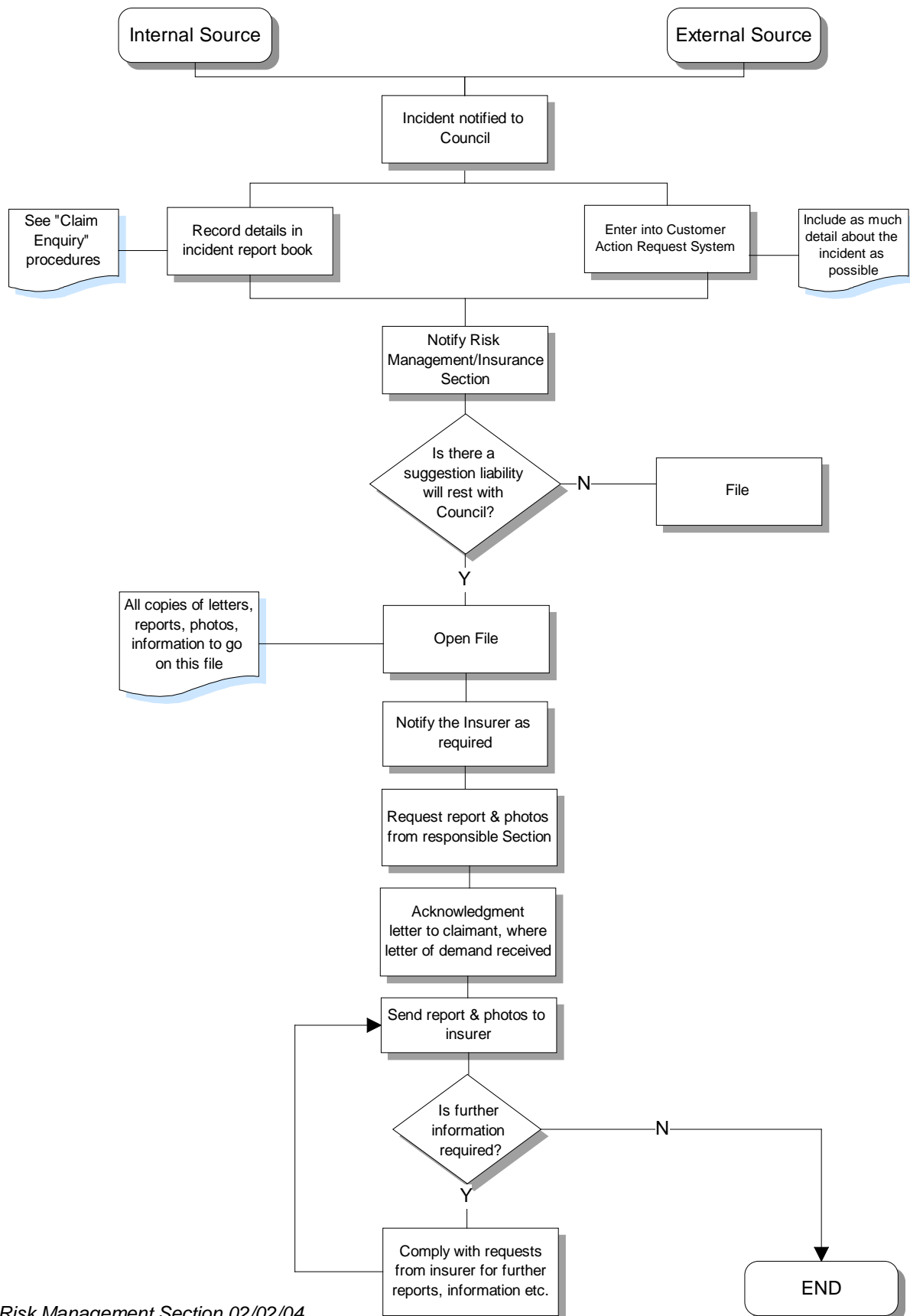
Interpretation Act 1987

Civil Liability Act 2002

**IMPLEMENTATION RESPONSIBILITY**

Corporate Services Group, Organisation Development Section.

## Incident Procedure



Risk Management Section 02/02/04

ITEM NO. 8

FILE NO: PSC2005-0828

## POLICY REVIEW – DEBT RECOVERY AND HARDSHIP

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

### RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Debt Recovery and Hardship Policy shown at **(ATTACHMENT 1)**;
- 2) Place the draft Debt Recovery and Hardship Policy, as amended, on public exhibition for a period of 28 days and should no submissions be received, the Policy be adopted as amended, without a further report to Council;
- 3) Revoke the Debt Recovery and Hardship Policy dated 11 December 2012 (Min No. 338, should no submissions be received).

### ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor Paul Le Mottee</b> <b>Councillor John Morello</b>
	That the recommendation be adopted.

### MOTION

315	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council: <ol style="list-style-type: none"> <li>1) Endorse the amendments to the Debt Recovery and Hardship Policy shown at <b>(ATTACHMENT 1)</b>;</li> <li>2) Place the draft Debt Recovery and Hardship Policy, as amended, on public exhibition for a period of 28 days and should no submissions be received, the Policy be adopted as amended, without a further report to Council;</li> <li>3) Revoke the Debt Recovery and Hardship Policy dated 11 December 2012 (Min No. 338, should no submissions be received).</li> </ol>

**BACKGROUND**

The purpose of this report is to present recommended amendments to the current Debt Recovery and Hardship Policy, last reviewed by Council on 11 December 2012, Minute No. 338.

The Policy prescribes Council's processes for recovering overdue rates, charges, fees and other debts, as well as controlling credit and its processes for assessing ratepayer and debtor hardship and the mechanisms for providing assistance.

**FINANCIAL/RESOURCE IMPLICATIONS**

Costs associated with Policy review are covered in the 2014-2015 Corporate Services Group budget.

All legal costs incurred in debt collection are recovered from the debtor as part of the collection process.

For approximately 14 years Council has provided a deferral option for aged pensioners who meet hardship eligibility criteria. Presently, there are seven (7) rate assessments with a deferral in place out of a total of 5,817 pensioner rate assessments.

55% of the cost of pensioner rate concessions, including backdated concessions, is reimbursed to Council by government subsidy. The net costs of backdated pensioner rate concessions were \$5,500 last year.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Costs associated with the review of this policy are covered in the budget of the Group Manager Corporate Services. Ongoing costs associated with the implementation of the policy are managed through Council's budget process.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

## LEGAL, POLICY AND RISK IMPLICATIONS

Clause 207 of the *Local Government (General) Regulation 2005* requires Council to collect or recover all money payable to it promptly.

-

Sections 567, 577 and 601 of the *Local Government Act 1993* empower Council to provide hardship assistance.

The adoption of a Policy prescribing the debt recovery and hardship processes promotes efficiency, consistency and transparency.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that unstructured credit control and debt recovery processes may result in higher outstanding debts.	High	Adopt revised policy.	Yes
There is a risk that billing and debt recovery action that does not follow statutory and consistent processes may be rejected by the courts.	High	Adopt revised policy.	Yes
There is a risk that absence of hardship provisions may be considered harsh by the community and OLG.	Medium	Adopt revised policy.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Debt Recovery and Hardship Policy is a public statement of Council's commitment to a fair, consistent approach to debt collection and hardship assistance.

The hardship provisions provide practical financial assistance to financially vulnerable ratepayers and debtors, which is consistent with Council's charter of social justice and equity.

**CONSULTATION**

- 1) Financial Services Manager;
- 2) Accounting and Revenue Coordinator;
- 3) Revenue Staff.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Revised Debt Recovery and Hardship Policy.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



POLICY

Adopted: 28/08/2007

Minute No: 235

Amended: 14/12/2010

Minute No: 404

Amended: 11/12/2012

Minute No: 338

FILE NO: PSC2005-0828

TITLE: DEBT RECOVERY AND HARDSHIP POLICY

REPORT OF FINANCIAL SERVICES MANAGER

BACKGROUND

This document prescribes Council procedures to recover monies that become overdue for rates, charges, fees and other debts and assistance to ratepayers and debtors experiencing financial hardship.

OBJECTIVE

- 1) The objectives of this policy are to ensure:
  - Efficient and effective processes for collection of outstanding debts;
  - Provision of a decision making framework for assessment of financial hardship applications;
  - Statutory requirements are met for recovery of rates, charges, fees and other debts; and
  - Debts are recorded in Council's accounting system.

PRINCIPLES

- 1) This policy has been written considering the following principles:
  - Council has a responsibility to recover monies

Changes

owing to it in a timely, efficient and effective manner to fund its operations;

- All people will be treated fairly and consistently;
- All matters will be considered confidentially; and
- Genuine financial hardship will be recognised and people treated with respect and compassion in considering their circumstances.

## POLICY STATEMENT

### 1) Part 1 – Recovery of Rates and Charges

#### 1. Rates and Charges Notice

A rates and charges notice will be sent in July each year payable in four instalments due on 31 August, 30 November, 28 February and 31 May. An instalment notice will be sent 30 days before instalments 2, 3 and 4 are due.

#### 2. Overdue Instalment Notices

An overdue instalment notice will be sent 21 days after the due date for all unpaid assessments over \$25.

Overdue instalment notices will include:

- Debt details;
- A request to pay within 14 days;
- Option of repayment arrangement;
- Notice of referral to Council's debt collection agency if the overdue amount exceeds \$500 and remains unpaid; and
- Instruction to disregard notice if complying with a repayment arrangement.

#### 3. Recovery Action – Referral to Debt Collection Agency

14 days after issue of the overdue instalment notice unpaid assessments over \$500 with no repayment arrangement in place will be referred to Council's debt collection agency.

#### 4. Recovery Action – Debt Collection Agency Procedures



Council's debt collection agency will issue a letter of demand in relation to each debt advising:

- Council has referred the debt for collection;
- Payment is required within 7 days of the date of the letter;
- If unpaid, legal action will be commenced; and
- The minimum amount in legal costs that will be added to the ratepayer's assessment if legal action is commenced.

The debt will escalate to the following stages only if it remains unpaid:

- 9 days after the date of the letter a statement of liquidated claim will be prepared, filed with the court and issued for service;
- After the statutory period following service, judgment will be obtained;
- Further action will be commenced to recover the debt including writ of execution and garnishee orders.

5. Arrangements to Repay Overdue Rates and Charges

A ratepayer may enter into a weekly, fortnightly or monthly arrangement to repay overdue rates and charges with Council or Council's debt collection agency subject to the following conditions:

- The overdue amount must be paid in full within 12 months;
- Normal interest charges apply, unless written off under hardship provisions of this policy at part 4;
- Council's Collections Officer may enter into a longer term repayment arrangement if in that Officer's opinion a ratepayer's financial circumstances warrant this;
- A ratepayer dissatisfied with a decision of the Collections Officer may have that decision reviewed by the ~~Senior Revenue Officer~~ **Revenue Team Leader**;
- Ratepayers will be advised at the time of making a repayment arrangement that if the arrangement is dishonoured recovery action will recommence without further notice;
- Where an arrangement has been dishonoured, a

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Senior Revenue Officer  
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Revenue Team Leader

- new arrangement cannot be accepted until a payment is received to show good faith;
- Where legal action has commenced, arrangements must be in the form of a court instalment order;
- Extensions of time beyond 3 months without any payment will not be acceptable; and
- Where a supplementary rates and charges notice is issued in the latter part of the year and where an arrangement is made for payment of the rates within 6 months of the due date, interest will be written off provided payment of one half of the amount due is made within 3 months and the balance is paid within 6 months.

## 2) Part 2 –Recovery of Sundry Debtor Accounts

### 1. Sundry Debtor Invoices and Statements

Sundry debtor accounts and Invoices will be created when information becomes available and printed and posted weekly. The payment due date will be 30 days after the invoice issue. A statement will be issued within 7 days of month's end.

### 2. Overdue Sundry Debtors

The following process applies to recovery of overdue sundry debtor accounts:

- If unpaid by the due date a second and then a third monthly statement will be forwarded as a reminder;
- If full payment is not received after issue of the second statement then ~~a recovery notice~~ **an overdue sundry debtor account letter** requesting payment or the making of a satisfactory arrangement to pay will be ~~forwarded~~ **sent** to the debtor ~~as an attachment to the third monthly statement~~;
- The ~~recovery notice~~ **overdue sundry debtor account letter** will advise that the recovery of the overdue account will be referred to Council's debt collection agency if the account is not paid within 14 days. Section 355(b) committees, sporting clubs and government agencies will not be referred to the debt collection agency.

### 3. Overdue Sundry Debtors – Aged Pensioners

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as an attachment to the third monthly statement  
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overdue sundry debtor account letter

If a sundry debtor account is a charge on the land i.e. kerb and gutter, cycleways or foot paving, and it is payable by an aged pensioner, the aged pensioner may apply to Council to have the account deferred against their estate subject to the hardship provisions of this policy and provided they have already deferred their rates against their estate.

4. Recovery Action – Suspension of Credit Facilities

If the account is a recurring account, e.g. waste tipping fees ~~or 149 certificates~~, and any part remains unpaid for more than 60 days, further credit to that debtor account may be withdrawn until the overdue amount is paid. The process of suspending credit facilities will be:

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or 149 certificates

- A letter of demand will be posted to the debtor advising of the overdue amount, required payment date, 30 day payment terms and advising that non payment will result in the account being suspended with fees required up front to continue to use Council services;
- After the required payment date a second letter will be posted to the debtor advising that the account has been suspended and debt referred to Council's debt collection agency;
- After payment of the overdue amount or commencement of a satisfactory repayment arrangement, credit facilities may be resumed; and
- If payment terms are breached again Council may cancel credit facilities.

5. Recovery Action – Referral to Debt Collection Agency

14 days after issue of the recovery notice as described in 2 above, Council will refer overdue accounts to its debt collection agency.

6. Recovery Action – Debt Collection Agency Procedures

Council's debt collection agency will issue a letter of demand in relation to each debt advising:

- Council has referred the debt for collection;
- Payment is required within 7 days of the date of

- the letter;
- If unpaid, legal action will be commenced; and
- The minimum amount in legal costs that will be added to the ratepayer's account if legal action is commenced.

The debt will escalate to the following stages only if it remains unpaid:

- 9 days after the date of the letter a statement of liquidated claim will be prepared, filed with the court and issued for service;
- After the statutory period following service, judgment will be obtained; and
- Further action will be commenced to recover the debt including writ of execution and garnishee orders.

#### 7. Arrangements to Repay Sundry Debtor Accounts

A debtor may enter into a weekly, fortnightly or monthly arrangement to repay overdue accounts with Council or Council's debt collection agency subject to the following conditions:

- The overdue amount must be paid in full within 12 months;
- Council's Collections Officer may enter into a longer term repayment arrangement if in that Officer's opinion a debtor's financial circumstances warrant this;
- A debtor dissatisfied with a decision of the Collections Officer may have that decision reviewed by the ~~Senior Revenue Officer~~ **Revenue Team Leader**;
- Debtors will be advised at the time of making a repayment arrangement that if the arrangement is dishonoured recovery action will recommence without further notice;
- Where an arrangement has been dishonoured, a new arrangement cannot be accepted until a payment is received to show good faith;
- Where legal action has commenced, arrangements must to be in the form of a court instalment order; and
- Extensions of time beyond 3 months without any payment will not be acceptable.

#### 3) **Part 3 – Credit Control**

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Revenue Team Leader

1. Terms of Payment – 30 Day Accounts

All accounts with Council will be strictly 30 days trading terms, without exceptions. Council will open credit accounts in accordance with this policy.

2. Terms of Payment – Credit Accounts

No credit account will be opened unless a 30-day trading application form has been completed and returned. Council will conduct a reference check on the applicant, verifying references provided by the applicant, before a credit account is offered.

3. Terms of Payment – One Off Usage

No company or individual will be extended credit for one-off use of:

- Room hire;
- Hall hire;
- Community centre bookings;
- Holiday park bookings;
- Council stores;
- Sporting field use;
- Enrolment fees;
- Tipping fees;
- Vehicle repairs; and
- Sundry sales including documents, copying and plant.

Council will invoice government departments that provide a purchase order.

All other one off usage must be paid for in advance or at the time of usage to avoid difficulties in locating debtors and recovering fees. Council's receipts satisfy the requirements of a tax invoice for business debtors.

Council will extend credit and allow payment plans for animal impounding fees and sustenance fees at the discretion of the Co-ordinator Environmental Health and Compliance to avoid hardship.

4. Terms of Payment – Deposits and Progress Payments

For private works Council will provide a written quote for the proposed work to cover estimated costs for the

work. For work to proceed, Council requires written authorisation from the client and proof of identity. For work valued at more than \$1,000 a 10% deposit will be required before work commences. For work valued at more than \$10,000 Council will require agreed progress payments at various stages.

5. Judgment Debts and Credit History

Credit reporting agencies access some court records relating to debt recovery. Specifically they access details of all default judgments and record these on the individual's credit history, in some cases for 5 years. If a statement of liquidated claim is served and the debtor:

- Makes no payment in the next 28 days, and
- Doesn't pay the amount claimed, including legal costs, and
- Doesn't apply for a court instalment order to pay off the amount claimed, including legal costs, and
- Doesn't lodge a notice of defence with the court disputing the claim,

Then the debtor will be liable to incur a default judgment. It is these default judgments, where a debtor has not responded to a statement of claim, that may be included in an individual's credit history.

If the debt has been paid in full, Council will upon request, write a letter to the debtor confirming that the debt has been repaid in full which may then be presented as proof of payment. Credit reporting agencies will not remove from an individual's credit history the existence of a default judgment because it assists users of their reports with credit risk assessment.

Debtors may sometimes ask for Council to consent to the filing of a notice of discontinuance or to have judgment set aside to have the default judgment removed from their credit history. The process requires a notice of motion to have judgment set aside and then a notice of discontinuance. Council will not have judgment set aside or issue a notice of discontinuance in these circumstances. A notice of discontinuance is a remedy for correcting a claim that was issued in error, before judgment is entered by the court. A debtor has no right to have a default judgment erased upon payment of the debt. The debtor had the opportunity to avoid default judgment when they were issued with

the statement of claim and judgment warning letter. A default judgment is a valid court judgment.

Council does not report debts to any credit reporting agencies, and is under no obligation to assist debtors to delete factually correct court judgment history.

#### 4) Part 4 – Hardship Provisions

##### 1. Defer Payment of Rates and Charges – Aged Pensioners

Aged pensioners who satisfy the eligibility criteria may make application to defer the payment of rates and charges and property related sundry debtor accounts against their estate. If granted, payment of the rates, charges, interest and property related sundry debts will be deferred until any of the following occurs:

- Death of the ratepayer; or
- Sale of the property; or
- The ratepayer ceases to occupy the property as their principal place of living and rents the property out.

The criteria used to determine eligibility for deferral will be:

- The ratepayer must be an aged pensioner as defined by Centrelink in receipt of a pensioner rate concession in relation to the property; and
- The property must be the ratepayer's principal place of living, and
- The property must be used for residential or farming purposes only, and
- The property can have no more than a single dwelling house or residential unit erected upon it, and
- The total amount of rates and charges (nett of pensioner concession) payable must be more than 8% of the age pension of an individual (if the ratepayer is an individual) or 8% of the age pension of a couple (if the ratepayer is a couple) at the date of the initial application.

An initial application form must be completed and lodged with Council and determined by the **Accounting and** Revenue Co-ordinator. A ratepayer dissatisfied with a decision of the **Accounting and**

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Accounting and

Revenue Co-ordinator may have that decision reviewed by the Hardship Panel established under this policy. The Hardship Panel may approve an application for deferral if it believes the circumstances of the ratepayer warrant this even if the eligibility criteria have not been met. A letter of determination will be issued to the ratepayer. If an application is refused, the ratepayer will be provided with reasons for the refusal.

After approval, a letter will be posted out annually to the ratepayer with a copy to sign and return to continue the deferral. The purpose of the annual letter will be to confirm that the ratepayer continues to own and occupy the property, is still alive and is aware of and agrees to the deferral. Deferral will continue once granted without the need to satisfy the 8% criteria again, provided that the ratepayer continues to own and occupy the property. Where the ratepayer ceases to occupy the rateable property and the property becomes rented a repayment timeframe for the deferred rates and charges will be negotiated by the Collections Officer. A person dissatisfied with a decision of the Collections Officer may have that decision reviewed by the ~~Senior Revenue Officer~~ **Revenue Team leader**.

Interest charges accrue in respect of deferred rates and charges at the rate determined under the Local Government Act. No deferred rates, charges or interest will be written off under this policy.

## 2. Writing Off of Accrued Interest

The Collections Officer, ~~Senior Revenue Officer~~ **Revenue Team Leader** and Revenue Officers have delegated authority to write off small amounts of interest that have accrued on rates and charges where the person was unable to pay the rates and charges when they became due and payable for reasons beyond their control. The **Accounting and** Revenue Co-ordinator has delegated authority to write off an unspecified amount of interest.

Ratepayers seeking to have interest written off under hardship provisions must submit the prescribed application form to be considered by the **Accounting and** Revenue Coordinator. Accrued interest on rates and charges may be written off where payment of the accrued interest would cause the person hardship. A

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person dissatisfied with a decision of the Accounting and Revenue Coordinator may have that decision reviewed by the Hardship Panel. The Hardship Panel may request the ratepayer to come to an interview if it is necessary to understand the issues causing hardship.

3. Hardship Resulting from a General Revaluation of the Port Stephens Local Government Area

In accordance with section 601 of the Local Government Act a ratepayer who suffers substantial hardship as the consequence of the making and levying of a rate on the most recent valuation, may apply to Council for relief. Assistance will only be available in the first year new valuations are used to calculate rates.

The criteria used to determine eligibility:

- Rates payable must be more than 3% of the gross household income; and
- The applicant must be an owner and occupier of the property to which the rates relate and the dwelling must be the applicant's sole or principal place of living; and
- The ordinary rate increase must be more in percentage terms than the amount determined by Council at each revaluation. The ordinary rate increase is calculated as the ordinary rates payable for the new rating year (being the first year in which new valuations are used) minus the ordinary rates payable in the previous rating year increased by the allowed ratepegging increase for the year.
- (eg. rates ~~2011/2012~~ **2014-2015** \$900 minus rates ~~2010/2011~~ **2013/2014** \$700 plus 2.8% ratepegging increase (\$719.60) = \$180.40)

Applications must be submitted on the prescribed application form. Assistance will be calculated as follows:

- One half of the ordinary rate increase up to a maximum of \$200
  - (eg. \$180.40 increase x 0.5 = \$90.20. \$500 increase x 0.5 = \$200 max)
- No assistance will be given for domestic waste management charges, ~~HCRCMA levy~~ **Hunter Catchment Contribution**, or special rates.

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HCRCMA levy

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Hunter Catchment Contribution

- The maximum amount of assistance in aggregate for all ratepayers will be \$20,000.

Applications will be considered in the order in which they are received by Council. No further applications will be considered once the aggregate amount of assistance has been granted. Applications will be considered by the Revenue ~~Co-ordinator~~ **Team Leader**. A ratepayer dissatisfied with a decision of the Revenue ~~Co-ordinator~~ **Team Leader** may have that decision reviewed by the Hardship Panel established under this policy. If an application is refused, the applicant will be provided with reasons for the refusal.

#### 4. Fees and Charges

The Coordinator Environmental Health and Compliance may consider hardship matters relating to animal impounding and sustenance fees. Assistance may be provided in the form of allowing additional time to pay or waiving the fees in cases of hardship. A customer dissatisfied with a decision of the Coordinator Environmental Health and Compliance may have that decision reviewed by the Hardship Panel established under this policy. Applicants under this section will be made aware that fees and charges in relation to animal impounding increase on a daily basis and will accrue during the review period. Council will not consider hardship applications in relation to animal registration fees, or the costs of microchipping or veterinarian fees and charges.

#### 5. Hardship Panel

A Panel comprising the **Accounting and** Revenue Co-ordinator, ~~Social Planner~~ **Senior Social Planning Officer** and a representative from Corporate Services will determine applications for assistance referred to it and review decisions as necessary.

#### 6. Referral of Matters to Hardship Panel

The General Manager or Mayor may refer any Council matter involving financial hardship of a ratepayer or resident to the Hardship Panel for consideration and advice.

#### 7. Privacy

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Coordinator

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Team Leader

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Social Planner

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Senior Social Planning Officer

In accordance with the Privacy Code of Practice and Council's Privacy Management Plan, personal information collected as a consequence of this policy will only be used for the purpose of assessing eligibility under the Policy and will not be used for any other purpose or disclosed to any other person unless Council is required by law to do so or authorised to do so by the person to whom that personal information relates.

#### 5) Part 5 – Sale of Land for Unpaid Rates or Charges

Where rates or charges for a property are overdue for more than 5 years the land is liable to be sold under Section 713 of the Local Government Act 1993.

The process in compliance with the requirements of ss713-726 of the Local Government will generally be as follows:

- Each September outstanding rate assessments will be reviewed to identify all land liable to be sold;
- Land titles will be searched and all persons with an interest in the land will be notified of Council's intention;
- A report will be prepared for Council to consider offering the land for sale by public auction;
- A date will be set for the public auction;
- A real estate agent will be appointed to conduct the sale;
- Notice of the auction will be published in accordance with s715 of the Act and given to all persons with an interest in the land;
- Contracts for sale will be prepared;
- The real estate agent will market the land;
- Reserve prices will be established;
- All land will be offered for sale by public auction unless all overdue amounts are paid in full prior to auction;
- On auction day a deposit of 10% in cash or bank cheque will be payable by the successful bidder;
- If the land is not sold at auction the land may be sold by private treaty, subject to the restrictions contained in s716 of the Act;
- All costs associated with the sale must be met from sale proceeds;
- Sale proceeds will be applied as required by the Act;
- The land will be conveyed free of debts to the

- extent provided by the Act;
- Council will hold any surplus proceeds for persons having estates or interests in the land immediately before the sale according to their respective estates and interests; and
- Council will pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it.

## 6) Part 6 – Pensioner Rate Concessions

The following prescribes how Council will grant concessions to pensioners:

### 1. Eligibility for Pensioner Concessions

In all situations where an eligible pensioner has assumed full and sole responsibility for the paying of rates, notwithstanding the nature of the ownership of the property, Council agrees to grant the full pensioner concession under Section 577 of the Act. The presentation of a Pensioner Concession Card will be accepted by Council as a sufficient test to meet the hardship requirements of the Act under these circumstances.

### 2. Backdating of Pensioner Concessions

Where an eligible pensioner applies for a concession Council will backdate that concession for up to 2 years prior to the current year (i.e. a maximum total of 3 years including the current year) provided that:

- The pensioner was at all times eligible for the concession; and
- The pensioner provides a statutory declaration that the rateable property was their sole or principal place of living for all of the period that the concession is claimed for.

## RELATED POLICIES

- 1) The following policies were incorporated into this policy

The following policies were incorporated into earlier versions of this policy:

- Debt Recovery Policy;

- Pensioner Rate Rebates;
- Pensioner Interest Charges;
- Waiving of Interest Charges;
- Interest on Overdue Rates; and
- Interest Charges on Supplementary Rate Levies.

## SUSTAINABILITY IMPLICATIONS

## SOCIAL IMPLICATIONS

- 1) Council has a charter under the Local Government Act to raise funds for local purposes by imposing rates, charges and fees fairly. A policy that prescribes Council's process of collecting debts facilitates consistency and promotes fairness;
- 2) The hardship provisions of this policy empower Council to provide practical financial assistance to financially vulnerable ratepayers and debtors, which is consistent with Council's charter of social justice and equity;
- 3) The provisions of this revised policy are largely unaltered from the previous policy which had been in place for 7 9 years and provided assistance for many ratepayers in terms of interest reductions, pension rebate extensions, deferral of rates for financially disadvantaged aged pensioners, rate reductions for low income ratepayers following general revaluations, provision of interest free loans to ratepayers experiencing financial hardship with on-site sewage management system upgrades and rate reductions for oyster farmers affected by water contamination.

Delete:

7

Insert:

9

## ECONOMIC IMPLICATIONS

Nil.

## ENVIRONMENTAL IMPLICATIONS

Nil.

## RELEVANT LEGISLATIVE PROVISIONS

- 1) *Local Government Act 1993*, and specifically sections 564, 567, 577, 601, 712 and 713-726.

**IMPLEMENTATION RESPONSIBILITY**

- 1) Corporate Services Group – Financial Services Section.

**PROCESS OWNER**

- 1) Tim Hazell – Financial Services Manager.

**REVIEW DATE**

- 1) ~~November 2014~~ 30 November 2016

**Delete:**

November 2014

**Insert:**

30 November 2016

ITEM NO. 9

FILE NO: PSC2012-00281

**REVOKE POLICY – SUSTAINABLE PROCUREMENT****REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the current Sustainable Procurement policy adopted by Council 14 June 2011 (Minute No. 202) and amended 9 October 2012 (Minute No. 260) noted as **(ATTACHMENT 1)**.

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**ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell</b> <b>Councillor Steve Tucker</b>
	That the recommendation be adopted.

**MOTION**

<b>316</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council revoke the current Sustainable Procurement policy adopted by Council 14 June 2011 (Minute No. 202) and amended 9 October 2012 (Minute No. 260) noted as <b>(ATTACHMENT 1)</b> .

**BACKGROUND**

The purpose of this report is to recommend to Council to revoke the current Sustainable Procurement Policy.

Within the Financial Services Section the aim, as per Council's program of systematically reviewing and updating policies, is to review all existing policies with the view to revoke, amend or substantially update where required. This is a staged approach and the subject of this report includes a recommendation that one (1) policy be revoked.

The Sustainable Procurement Policy in this regard is no longer warranted, nor appropriate in the context of our policy framework as the principles are to be included in Council's Procurement Policy, which is currently being reviewed.

## FINANCIAL/RESOURCE IMPLICATIONS

Nil.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within existing resources.
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 them.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's administrative processes remain out-dated.	Low	Revoke the Sustainable Procurement Policy as recommended; update Council's policy register to reflect the change; and communicate to all staff.	Yes
There is a risk that appropriate sustainable procurement practices are not in place.	Low	Practices are included in other procurement policies and procedures throughout the organisation.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no perceived implications associated with the revocation of this policy.

## CONSULTATION

- 1) Financial Services Team;
- 2) Waste Services Team;
- 3) Natural Resources Team.



**OPTIONS**

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

**ATTACHMENTS**

- 1) Sustainable Procurement Policy.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



POLICY

Adopted: 14/06/2011  
Minute No: 202  
Amended: 09/10/2012  
Minute No: 260

**FILE NO: PSC2012-00281**

**TITLE: SUSTAINABLE PROCUREMENT POLICY**

**REPORT OF FINANCIAL SERVICES MANAGER**

**BACKGROUND**

This policy complements Council's Sustainability policy, the Community Strategic plan and Procurement guidelines. It sets out Council's commitment to sustainability through its procurement principles. Council recognises its responsibility to encourage our suppliers and contractors to minimise any negative effect, environmental, economic or social associated with the products and services they provide.

Currently within New South Wales, many Councils have begun to embrace sustainable purchasing practices and Port Stephens Council sees this as an excellent opportunity to work with other councils to further our regional approach to procurement.

**DEFINING SUSTAINABILITY**

Council shall define Sustainable Procurement as 'a process whereby Council will meet its needs for goods, works and utilities in a way that achieves value for money on a whole life basis. It shall generate benefits not only for the Council but also to the community and the economy, whilst minimising damage to the environment.'

Sustainability is a state in which activities provide good quality of life for all through a just and healthy community, without jeopardising the environmental system that enables our survival. The transition towards this state includes social, economic and environmental components.

Procurement therefore has a broader meaning than purchasing, buying or commissioning. It is about securing purchases and products that best meet the needs of users and the local community in its widest sense. The Council takes sustainability as well as cost and quality into account when choosing suppliers.

Local government expenditure on goods, works and services can have significant economic, social and environmental impacts. Minimising any negative impact in these areas and, where possible having a positive influence helps to improve local quality of life and promote sustainable development. The cornerstone of sustainability is achieving development and progress that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Finally, Council recognises that improving our procurement performance is an ongoing process and that our suppliers, both large and small, are important partners in our journey to become more sustainable.

## **OBJECTIVE**

Council will endeavour to:

- Develop clear guidelines and tools, with all our stakeholders, to minimise the environmental, social and economic effects associated with the products and services we purchase.
- Identify the mechanisms that we intend to use to incorporate environmental, social and economic factors into our procurement process.
- Develop a process to measure our progress.
- Clearly specify the role that procurement will play in the identification and selection of sustainable products and services.
- Identify and implement necessary changes to the procurement process and specifications to ensure non-discrimination against smaller and/or local suppliers.

## **PRINCIPLES**

- 1) Encourage all internal purchasers to review their consumption of goods and services in order to reduce usage where possible and develop business cases based on sustainable principles.
- 2) Give preference to products and services that can be manufactured, used, and disposed of in an environmentally and socially responsible way.
- 3) Ensure that sustainability criteria are included in specifications to suppliers and encourage alternative offers from suppliers, which take into account principles of sustainability.
- 4) Ensure that sustainability criteria are used in the award of contracts.
- 5) Adopt a life cycle (total cost of ownership or whole of life) costing approach when assessing quotations/tenders and in the award of contracts.
- 6) Enhance employee awareness of relevant environmental and social effects of purchases through appropriate training exercises.
- 7) Provide guidance and relevant product information to staff members to allow them to select sustainable products and services.
- 8) Encourage and persuade existing and potential suppliers to investigate and introduce environmentally friendly processes and products.
- 9) Ensure that suppliers' environmental credentials are considered in the Supplier Appraisal process.
- 10) Work with other bodies to share experiences and adopt best practice.

## **POLICY STATEMENT**

The Sustainable Procurement policy is a public statement of the Council's commitment to environmental, economic and socially sustainable procurement. This policy has been produced to meet the Council's commitment to sustainable procurement.

Sustainable procurement should be seen as part of the process of managing business risk. In introducing environmental, social and economic assessment criteria to the process of acquiring goods and services, Council needs to integrate these issues as closely as possible into routine business practice.

Success will only be achieved when all of Council is working towards meeting the objectives of this policy.

## **RELATED POLICIES**

- 1) Sustainability policy;
- 2) Procurement guidelines;
- 3) Community Strategic plan.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

With positive communication of this policy and its objectives, Council will meet the future requirements of managing and measuring sustainable procurement. This will have a direct effect on community confidence in the ability of Council and its management to meet Council plan objectives in regards to sustainability.

### **ECONOMIC IMPLICATIONS**

Council will endeavour to work with suppliers at a local level, with the intention of improving their ability to bid for Council contracts. In particular providing direction and understanding of Council's focus towards 'whole of life' cost analysis.

### **ENVIRONMENTAL IMPLICATIONS**

Environmental criteria will be a key component of any specification. It can be classified as having a high or low 'environmental risk' in terms of:

- Sustainability of the raw materials used;
- Energy consumed in the conversion process;
- Environmental impact 'in use';
- Ability to be reduce, reused or recycled; and
- Biodegradability at the end of its useful life.

**RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government (General) Regulation 2005.

**IMPLEMENTATION RESPONSIBILITY**

- 1) Procurement & Contracts Co-ordinator;
- 2) Section managers.

**REVIEW DATE**

- 1) 31 October 2014.

ITEM NO. 10

FILE NO: PSC2005-0828

**POLICY REVIEW – PROCUREMENT**

REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the amendments to the Procurement policy shown at **(ATTACHMENT 1)**;
- 2) Place the Procurement Policy, as amended, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 3) Revoke the Procurement Policy dated 25 March 2014 (Min No. 64, should no submissions be received).

---

**ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Paul Le Mottee</b> <b>Councillor Sally Dover</b>
	That the recommendation be adopted.

**MOTION**

<b>317</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council:  <ol style="list-style-type: none"><li>1) Endorse the amendments to the Procurement policy shown at <b>(ATTACHMENT 1)</b>;</li><li>2) Place the Procurement Policy, as amended, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;</li><li>3) Revoke the Procurement Policy dated 25 March 2014 (Min No. 64, should no submissions be received).</li></ol>

## BACKGROUND

The purpose of this report is to present amendments to the current Procurement policy, last reviewed by Council 25 March 2014, Minute No. 64.

The Procurement Policy is required to ensure Council's procurement is ethical, transparent and accountable and is supported by the Procurement Management Directive. Due to the proposed revocation of the Sustainable Procurement policy, this policy has been updated to include sustainable procurement principles and standards of behaviour to ensure products and services purchased by Council best meet the needs of users and the local community.

## FINANCIAL/RESOURCE IMPLICATIONS

The Procurement policy prescribes economical, efficient and effective procurement.

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

## LEGAL, POLICY AND RISK IMPLICATIONS

The Procurement Policy is written in accordance with the *Local Government Act 1993*, and the *Local Government (General) Regulation 2005*.

Council's Procurement principles are to achieve the best value for money whilst being ethical, transparent and accountable. They promote fairness and competition.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will fail to secure goods and services at the most competitive price.	Low	Adopt the revised policy.	Yes
There is a risk that fraud and corruption will occur leading to financial and reputational loss.	Low	Adopt the revised policy.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The policy prescribes a preference for local suppliers thereby supporting the local economy.

**CONSULTATION**

- 1) Financial Services Manager;
- 2) Sustainability Officer.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Revised Procurement Policy.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



ATTACHMENT 1



POLICY

Adopted: 25 March 2014

Minute No: 64

Amended:

Minute No:

FILE NO: PSC2009-02488

TITLE: PROCUREMENT POLICY

REPORT OF FINANCIAL SERVICES MANAGER

BACKGROUND

Council procurement is required to achieve best value for money in the expenditure of public funds while being ethical, **ecologically sustainable**, transparent, accountable and promoting fairness and competition. This Policy prescribes Council's approach to procurement.

OBJECTIVE

The objectives of this Policy are to:

- 1) State Council's policy on procurement matters;
- 2) Provide clear direction to Council officials (Councillors, staff and delegates of Council) making procurement decisions.

PRINCIPLES

This policy has been written considering the following principles:

- 1) All parties engaged in procurement activities will display high standards of behaviour and ethics;
- 2) Procurement activities aim to be efficient, effective and balance risk and total cost;
- 3) Due economy shall be exercised in all purchasing decisions;

Changes

**Insert:**  
ecologically sustainable,

- 4) Purchasing decisions shall consider relevant evaluation criteria including environmental sustainability, support of local suppliers, registered disability employers and Australian made goods.

## POLICY STATEMENT

### 1) Standards of Behaviour

Council has adopted a Statement of Business Ethics that sets out the high ethical standards expected of Council officials, contractors and business associates. In addition to this, the following statements are made in relation to procurement:

- Council processes shall be fully documented and defensible;
- Council will treat all potential tenderers consistently;
- All parties shall comply with the rule of law and avoid practices that are anti-competitive or collusive;
- Council will not engage in practices that give one party improper advantage over another outside its local and Australian Made preference and Registered Disability Employer preference policies;
- Council will not invite or submit tenders without a firm intention and capacity to proceed;
- Parties shall maintain open, effective communication, respect and trust and adopt a non-adversarial approach to dispute resolution.

### 2) Environmental Sustainability

Council is committed to ~~environmental sustainability and has a separate Sustainable Procurement Policy which defines that commitment.~~ "properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development" as per the *Local Government Act 1993 (The Act)*. The principles of ecologically sustainable development (ESD) are defined in *The Act* as the "effective integration of economic and environmental considerations in decision-making processes".

#### Delete:

environmental sustainability and has a separate [Sustainable Procurement Policy](#) which defines that commitment.

#### Insert:

"properly manage...Pricing and incentive mechanisms.

Council is committed to effective implementation for the following principles of ESD in procurement decision making; the precautionary principle; intergenerational equity; conservation of biological diversity and ecological integrity; and improved valuation, pricing and incentive mechanisms.

3) Local Preference

Best value for money does not always mean lowest price. Council functions contribute to the economic success of the Local Government Area and Council expends considerable amounts annually on local economic development. Council prefers to buy from local suppliers and contractors where possible as this supports Council's local economic development initiatives.

4) Preference for Australian Made Products

Council prefers to buy goods made in Australia and encourages a culture of buy Australian in Council officials when evaluating the merits of purchases. Where it is cost effective to do so staff must purchase Australian made/origin supplies.

5) Preference for Registered Disability Employers

Council prefers to buy products made by registered disability enterprises and encourages such consideration in the evaluation of purchases. Where it is cost effective to do so, staff are encouraged to buy from registered disability employers.

6) Purchase Orders

Council will always issue a purchase order number for approved purchases. Suppliers are expected to cooperate by quoting the purchase order number on invoices. Council will not pay invoices where an approved purchase order number is absent.

7) Asset Disposal

Council will dispose of surplus plant, vehicles, stores, materials, equipment, furniture, scrap metal, technology and other items in a competitive, transparent, cost effective and environmentally

sustainable manner.

## RELATED POLICIES

- 1) Code of Conduct;
- 2) Fraud and Corruption Control policy;
- 3) Statement of Business Ethics;
- 4) ~~Sustainability policy;~~
- 5) ~~Sustainable Procurement policy;~~
- 4) Asset Disposal (other than property) policy.

## SUSTAINABILITY IMPLICATIONS

### SOCIAL IMPLICATIONS

Council has a leadership role to play in areas of ethical and environmentally sustainable procurement.

### ECONOMIC IMPLICATIONS

Local supplier preference supports the local economy.

### ENVIRONMENTAL IMPLICATIONS

Environmentally sustainable procurement results in minimisation of unnecessary purchasing, waste minimisation, water and energy saving, pollution minimisation, avoidance of toxic chemicals, reduction in greenhouse gases and decision making that incorporates biodiversity and conservation objectives.

## RELEVANT LEGISLATIVE PROVISIONS

- 1) Local Government Act 1993:
  - o S.23A Director General's Guidelines – Tendering Guidelines for NSW Local Government October 2009
  - o S.55 tendering requirements
  - o **S.8 Council's charter**
- 2) Local Government (General) Regulation 2005:
  - o Part 7 Tendering
- 3) Competition and Consumer Act 2010 (Cth);
  - o Part IV Restrictive Trade Practices
- 4) NSW Government Procurement Code of Practice;
- 5) NSW Government Sustainability policy.

## IMPLEMENTATION RESPONSIBILITY

- 1) All those involved in purchasing goods and

### Delete:

- 4) Sustainability policy
- 5) Sustainable Procurement Policy

### Insert:

**S.8 Council's charter**

services or engaging contractors or consultants.

**PROCESS OWNER**

- 1) Contracts Coordinator.

**REVIEW DATE**

- 1) ~~11 March 2016.~~ 30 November 2016.

**Delete:**

11 March 2016

**Insert:**

30 November 2016

ITEM NO. 11

FILE NO: PSC2005-2646

## POLICY REVIEW – ADVERTISING SIGNS IN ROAD RESERVES

REPORT OF: JOHN MARETICH - CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

### RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Advertising Signs in Road Reserves Policy shown in **(ATTACHMENT 1)**;
- 2) Place the Advertising Signs in Road Reserves Policy, as amended, on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 3) Revoke the Advertising Signs Policy dated 4/11/1995 (Min No. 147) **(ATTACHMENT 2)** should no submissions be received.

### ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor Peter Kafer</b> <b>Councillor Chris Doohan</b>
	That the recommendation be adopted.

### MOTION

318	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council: <ol style="list-style-type: none"> <li>1) Endorse the amendments to the Advertising Signs in Road Reserves Policy shown in <b>(ATTACHMENT 1)</b>;</li> <li>2) Place the Advertising Signs in Road Reserves Policy, as amended, on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;</li> <li>3) Revoke the Advertising Signs Policy dated 4/11/1995 (Min No. 147) <b>(ATTACHMENT 2)</b> should no submissions be received.</li> </ol>

**BACKGROUND**

The purpose of this report is to review the existing Advertising Signs in Road Reserves Policy and place the Policy on public exhibition. The intent of the Advertising Signs in Road Reserves Policy is to manage the type and number of advertising signs that may be displayed within Council's road reserves.

This Policy refers to advertising within the road reserve only and does not relate to advertising on private property or in Council recreation reserves, which are dealt with by separate policies. The types of signs covered by this policy are advertising sandwich boards, advertising on bus shelters and direction advertisements.

The regulation of advertising signs is an important function of Council and contributes to the orderly display of advertising signs across the Local Government Area. Control of signs within the road reserve is necessary to reduce visual clutter that could otherwise detract from the natural environment of Port Stephens and potentially reduce the effectiveness of essential traffic and road safety signs.

This review updates the existing policy into the current policy format to ensure conformity across Council's range of policy documents. The existing Advertising Signs Policy works well hence there are no changes to this Policy.

**FINANCIAL/RESOURCE IMPLICATIONS**

This Policy review will not require any additional budget or resources for the management of the advertising signage. The income gained from advertising is placed in the local road recurrent road maintenance budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	11,000	Income gained through advertising.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

Council requires that all policies are reviewed at least once within the term of each Council. The advertising signs policy is overdue for review and this report will address this. There are no legal implications in reviewing this policy.

**MINUTES FOR ORDINARY MEETING – 25 NOVEMBER 2014**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council will fail to meet legislative requirements for policy review resulting in community dissatisfaction.	Low	Adopt the recommendation.	Yes
There is a risk that advertising signage will not meet requirements in terms of type and placement resulting in visual clutter and reduced effectiveness of signs.	Low	Ensure that all advertising signage meet Council's Advertising Signs Code.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The continued regulation of the placement of advertising within Council's road reserves will assist in reducing visual clutter while allowing business operators to display essential information for potential customers. Reasonable limitation on the size and number of advertising signs that can be displayed will ensure that the visual amenity of the Port Stephens environment is maintained.

Council seeks to assist in the creation of a vibrant business community by implementation of a fair and equitable advertising signs policy. Driver safety, awareness and focus will all be improved through proper management of sign clutter.

Council will continue to charge an annual fee for management and compliance of the display of sandwich board advertising material. This fee is contained in Council's Fees & Charges. Council will also continue to gain income from advertising on Council owned bus shelters. Income gained from advertising on bus shelters that are owned and managed by Community Groups will be in accordance with the agreement noted in the Bus Shelter Policy.

**CONSULTATION**

- 1) Development Assessment and Compliance Section Manager;
- 2) Strategy and Environment Section Manager.



**OPTIONS**

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

**ATTACHMENTS**

- 1) Advertising Signs in Road Reserves Policy (reviewed);
- 2) Advertising signs Policy (current).

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



POLICY

Adopted: 4/11/1995  
Minute No: 147  
Amended: 16/9/1997  
Minute No:1263

**FILE NO:** PSC2006-0806

**TITLE:** ADVERTISING SIGNS IN ROAD RESERVES POLICY

**RESPONSIBLE OFFICER:** CIVIL ASSETS MANAGER

**BACKGROUND**

The regulation of advertising signs is an important function of Council. This policy contributes to the orderly display of advertising signs in Council's road reserves. Control of advertising signs is necessary to reduce visual clutter that could otherwise detract from the natural environment of Port Stephens and potentially reduce the effectiveness of essential traffic and road safety signs.

The Advertising Signs in Road Reserves Policy refers to advertising within the road reserve only and does not relate to advertising on private property or in Council Recreation Reserves, which are dealt with by separate policies. The types of advertising signs covered by this policy are sandwich boards, advertising on bus shelters and directional signs.

**OBJECTIVE**

- 1) To control the type, size and position of advertising that may be displayed within Council's road reserves
- 2) To meet Council's statutory requirements under the Local Government Act, the Roads Act and other relevant legislation in relation to the use of Council's road reserves

## **PRINCIPLES**

- 1) Council is responsible for controlling or monitoring activities being undertaken in its road reserves.
- 2) Council will adopt clear and consistent procedures when dealing with applications for advertising within the road reserve.
- 3) The only forms of advertising permissible within the road reserve are: sandwich boards, bus shelter advertising and information directional signage.
- 4) Advertising situated on private property is controlled by the Port Stephens Council Development Control Plan
- 5) Council will assess all applications for advertising within the road reserve in a fair and equitable manner.

## **POLICY STATEMENT**

- 1) All sandwich board advertising must be approved through Council's annual permit system and conform to the requirements of the Port Stephens Development Control Plan
- 2) Bus shelter advertising must conform to the requirements of 'Advertising on bus shelters in Port Stephens - terms of agreement' and be approved by the Civil Assets Engineer
- 3) Information and directional signage must conform to the requirements of the Signage Guideline and be approved by the Civil Assets Engineer with installation and maintenance costs to be met by the applicant
- 4) Advertising signs on buildings or awnings is controlled by the Port Stephens Council Development Control Plan

## **RELATED POLICIES**

- 1) Bus Shelter Policy
- 2) Outdoor Trading Policy
- 3) Port Stephens Council Information & Direction Signage Code
- 4) Port Stephens Council Development Control Plan

## **SUSTAINABILITY IMPLICATIONS**

The continued regulation of the placement of advertising within Council's road reserves will assist in reducing visual clutter while allowing business operators to display essential information for potential customers.

## **SOCIAL IMPLICATIONS**

Council seeks to assist in the creation of a vibrant business community by implementation of a fair and equitable advertising signs policy. Driver safety, awareness and focus will all be improved through proper management of sign clutter.

## **ECONOMIC IMPLICATIONS**

Council will continue to charge an annual fee for management and compliance of the display of sandwich board advertising material. This fee is contained in Council's Fees & Charges. Council will also continue to gain income from advertising on Council owned bus shelters. Income gained from advertising on bus shelters that are owned and managed by Community Groups will be in accordance with the agreement noted in the Bus Shelter Policy.

#### **ENVIRONMENTAL IMPLICATIONS**

Reasonable limitation on the size and number of advertising signs displayed within Council's road reserve will ensure that the visual amenity of the Port Stephens environment is maintained.

#### **RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government Act 1993
- 2) Roads Act 1993

#### **IMPLEMENTATION RESPONSIBILITY**

- 1) Civil Assets Section

#### **PROCESS OWNER**

- 1) Civil Assets Engineer

#### **REVIEW DATE**

- 1) November 2018

## ATTACHMENT 2

EXTRACT OF MINUTES 16/9/97

ITEM NO 1

FILE NO: E5525-00, M3150-14

### ADVERTISING SIGNS CODE

AUTHOR: Mick Loomes

**DEPARTMENT MANAGER'S RECOMMENDATION:** The current Advertising Signs Code is functioning well and Council re-affirm its commitment to the Code and approve the proposed alterations to it as detailed in Attachment 1.2.

**Manex Comments:** The appropriate co-ordination and corporate consultation has taken place.

#### **Engineering Committee's Recommendation:**

1. That the Department Manager's recommendations be adopted.
2. That a further report be provided on "Tourist & Service Signposting Within Road Reserves" and on "Articles Placed for Sale on Footpath Areas".

1263 Councillor Nell  
Councillor Brown

**Resolved that the Engineering Committee's Recommendation be adopted.**

### BACKGROUND

An information paper was presented to Council on 26 November 1996 detailing the administration of the Advertising Signs Code, which was introduced on 11 April 1995. A copy of the Code will be tabled at the meeting.

As a matter arising from that paper, Council resolved to seek another report, after a further 6 months, on the overall effectiveness of management and implementation of the code as administered over the three Departments.

The Code is administered by three Department's based on the "*land ownership*" principle, whereby Engineering Services Department deals with all signs within the road reserves; the Community and Recreation Department deals with recreation reserves; and the Sustainable Development Department assesses all proposals on private property.

#### **1. Recreation Reserves**

Advertising signs on recreation reserves are currently managed by the Sport and Recreation section. Current procedures to address requests for sign installation on reserves is to send the applicant a copy of the Advertising Signs Code and ask that a proposal be put to staff for consideration. Approval procedures as laid out in the Code are then followed.

Signs located without approval are removed by Council staff. This removal process is generally reactive following a complaint from a third party. To date,

Document in Microsoft Internet Explorer

this has created minimal disruption to scheduled work programs and there are no alterations to the Code proposed as it applies to recreation reserves at this stage.

## **2. Private Property**

The Sustainable Development Department deals with requests for advertising signs on private property under the Development Application system. If a public complaint is received about a sign, the Development Approval would be checked and if none have been approved, the owner would be required to remove the sign or submit a Development Application for consideration. Enforcement of the Code is in response to public complaints, not through any co-ordinated program of inspections.

## **3. Road Reserves**

Administration of the Advertising Signs Code, as it applies to the road reserves, was taken over by the Engineering Services Department in July 1996. Since that date, quality assured procedures have been developed and implemented to deal with the issues consistently and objectively. An advertisement was placed in the Port Stephens Examiner on 21 August 1996 alerting business people to the requirements of the Code, and a memo was issued to all Councillors on 30 July 1996, which briefly explained the procedures to be undertaken to remove unauthorised signs. See Attachment 1.1.

Implementation of the Code has resulted in:

- a) Some prominent signs being regularly moved from site to site such as a sign mounted on a utility and a sign on the side of a large van. Although the Code prohibits this type of advertising, which is clearly “*a standing vehicle used for the primary purpose of advertising*”, there appears to be no legal avenue available to Council to prohibit the activity, provided the vehicle does not infringe the Motor Traffic Act. When vehicles are improperly parked, such as alongside the land near Council's Depot at Nelson Bay, or near the Salamander Way/Nelson Bay Road roundabout, parking infringement notices for “*not standing close and parallel*” can be issued, and have been. Parking of vehicles in unrestricted parking spaces on Victoria Parade near the waterfront has been an issue generating some public comment and disquiet, however, the vehicles have not infringed the Motor Traffic Act and accordingly, no action has been taken to remove them.
- b) Over 60 signs have been identified from Public Complaints and adhoc Council employee observations, and of these, most have been removed with a small number still to be removed or impounded.

Document in Microsoft Internet Explorer

- c) Annual permits for sandwich boards are being renewed and currently there are only 12 which are approved. Some which were previously approved have now lapsed because the annual fee of \$90 had not been paid. Some of these, and others, are presently erected and it is proposed to address this issue in the near future with a co-ordinated inspection plan.
- d) Resources to proactively inspect areas for unapproved signs are not currently being allocated due to work pressures in other areas. However, earlier this year there were inspections carried out in most of the business areas and there was some improvement in complying with the Code observed in those areas. It is considered preferable to thoroughly treat each business area in turn to ensure there are no allegations of victimisation or favouritism possible, rather than reacting to individual complaints or observations.
- e) In administering the Code, several inconsistencies or further explanations or definitions have been identified and are now required for clarification. It is not proposed to reprint the booklet at this stage as changes are not significant. However, it is proposed to make some alterations to the Code as part of this report (see Attachment 1.2).
- f) Some problems have recently emerged with applicants seeking Tourist Facility signs and it appears that the separate Policy document on *"Tourist and Services Signposting with Road Reserves"* needs to be reviewed. This Policy document will be the subject of a further report in the near future.
- g) A number of businesses place articles for sale on the footpath area eg; Best and Less in Raymond Terrace, Nelson Bay Sports Store etc. This activity causes some difficulty in administering the sandwich board section of the Code as there is no provision for it in the Code, nor is there a Council Policy on the practice. It is proposed to put a further Policy report to Council on this practice in the near future.

The strategy adopted for implementation of the Code in the road reserves is as follows:

1. Adhoc observations and public complaints will continue to be dealt with as they arise and in accordance with the procedures.
2. Inspections of commercial areas will be planned and carried out in a co-ordinated manner with all areas being inspected over the next six months.
3. Advertisements will be placed in the Examiner at approximately 6 monthly intervals to draw people's attention to the Code.
4. Advice to prospective sandwich board applicants will continue.

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5. Letters to all Real Estate Agents will be drafted and issued in September drawing their attention to the requirements of the Code.
6. Traffic parking infringement notices will continue to be issued, on a daily basis if necessary, to vehicles illegally parked which clearly and repeatedly contravene the spirit of the Code.
7. In the order of 16 person hours per month will be devoted to proactively manage the Code as it applies to the road reserve.

The installation of unauthorised signs in the road reserves is expected to be a continuing problem, however some headway has now been gained following Council's approval of the Code and since objective procedures have been adopted. There are a number of people who seem to consider they have a right to ignore or manoeuvre around the Code. No impounding fees have been charged to date, however Council's advertised Fees and Charges for 1997/98 do allow a fee of between \$10 and \$50/day to be applied. It is not proposed to apply this fee this year, provided there are no instances of repeatedly ignoring Council's requests to remove signs. Whilst it is likely to be a continuing problem for Council to administer, it is considered that the current Advertising Signs Code can be implemented successfully to achieve its objectives.

#### **FINANCIAL/RESOURCE IMPLICATIONS**

It is proposed to allocate approximately 16 person hours per month to administer the Code, and to do so within current resources.

#### **LEGAL AND POLICY IMPLICATIONS**

It is proposed to vary the Code in accordance with the alterations as per Attachment 1.2.

The separate Policy on the provision of *"Tourist and Services Signposting within Road Reserves"* is presently being reviewed and will be the subject of a further report to Council in the near future.

#### **PUBLIC IMPACT**

If the objectives of the Code are to be achieved, there will be a continuing need to apply resources to *"policing"* the implementation of the Code and to ensure that all are treated equitably and in accordance with the procedures already developed.

#### **CONSULTATION**

By advertising the existence of the Code and within Council.

Document in Microsoft Internet Explorer



**OPTIONS**

- a) Council re-affirm its commitment to the Advertising Signs Code and approve the proposed alterations to it as detailed in Attachment 1.2.
- b) Council reject the Code and/or the proposed amendments.

Document in Microsoft Internet Explorer

ATTACHMENT 1.1

**MEMO**



*Engineering Services*

**Assets  
Branch**

**TO: Councillors**  
**FROM: Mick Loomes**  
**DATE: 30th July, 1996**  
**SUBJECT: Unapproved Advertising Signs in the Road Reserve.**

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Council's Advertising Sign Code has been administered by the Sustainable Development Department since adoption by Council on 11th April, 1995. With some recent changes to Departmental responsibilities, the Engineering Services Department is now administering the code for signs located in road reserves.

There have been a number of requests from the public/precinct groups lately for Council to remove unauthorised advertising material and a procedure has been developed to deal with the issues consistently and objectively.

In essence, people who erect unauthorised advertising signs within the road reserve will be requested to remove the signs within 7 days, otherwise the signs will be impounded. To recover an impounded sign, the owner will need to collect it from the depot within 7 days, otherwise it will be destroyed. Persons who re-erect signs will have them impounded without a letter being sent. Inexpensive or "temporary" signs will also be removed without the owners being notified.

Sandwich boards erected in front of a business can be installed subject to pedestrian safety issues, insurance etc, and the payment of an annual fee, as set out in Council's fees and charges document for 96/97.

An advertisement will be placed in next weeks Examiner to advise people of Council's Code of Practice. A copy of the Code will be available for anyone requesting it.

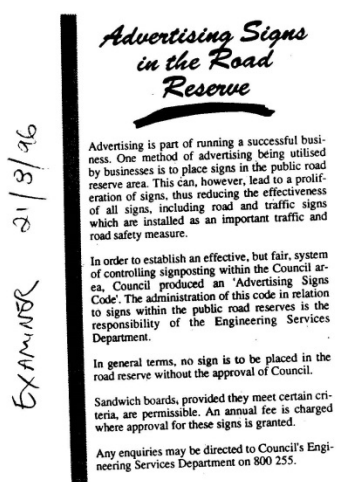


**MICK LOOMES**  
**ASSET MANAGER**

JML30071.MEM

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ATTACHMENT 1.1



Document in Microsoft Internet Explorer

**ATTACHMENT 1.2**  
**Amendments to Port Stephens Council's Advertising Signs Code**

**Section 10.5: New Shelters:**

**Delete:** "Traffic Committee"  
**Insert in Place:** "Manager of Engineering Services"

**Section 15: Sandwich Boards:**

1. **Insert** after "...size and design". *Only one sandwich board will be permitted for any one business premises. Multiple boards, such as on the footpath area outside an arcade, are not permitted.*
3. **Insert** at end of paragraph: *"or alternatively, sandwich boards may be installed on side boundaries (where the property is a corner block) or on a rear boundary (where the property also backs on to a road reserve).*
5. **Insert** after "...when displayed". *Boards are to be manufactured in materials which are unlikely to injure or damage pedestrians or motor vehicles if accidental collisions occur.*

**Insert New Paragraph:10:**

*Sandwich boards should not be erected on a roadway or in the following clear zones adjoining any roadway:*

*For 60km/hr speed zones - within 1 m of the edge of the road  
For 70 & 80 km/hr speed zones - within 2.5 m of the edge of the road  
For 90 or over km/hr speed zones - within 3.0 m of the edge of the road*

**Appendix 2: Advertising on Bus Shelters**

**B,1 delete** "Traffic Committee"  
**Insert in place** "The Manager of Engineering Services"

**6 & 7 Delete** all details

**Replace** with "advertising matter on the shelter is limited to a maximum of:

- \*  $1.2m^2$  on the approach side, outside wall of the shelter
- \*  $1.46m^2$  on the departure end, inside wall of the shelter
- \*  $1.46m^2$  on the departure end, outside wall of the shelter (unless previously approved).

ITEM NO. 12

FILE NO: PSC2005-2646

## POLICY REVIEW – BUS SHELTER

REPORT OF: JOHN MARETICH - CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

### RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Bus Shelter policy shown at **(ATTACHMENT 1)**;
- 2) Place the Bus Shelter Policy, as amended on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 3) Revoke the Bus Shelter: Provision policy dated 15/07/1997 (Min No. 1123), should no submissions be received.

### ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor John Nell</b> <b>Councillor Chris Doohan</b>
	That the recommendation be adopted.

### MOTION

<b>319</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council: <ol style="list-style-type: none"> <li>1) Endorse the amendments to the Bus Shelter policy shown at <b>(ATTACHMENT 1)</b>;</li> <li>2) Place the Bus Shelter Policy, as amended on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;</li> <li>3) Revoke the Bus Shelter: Provision policy dated 15/07/1997 (Min No. 1123), should no submissions be received.</li> </ol>

**BACKGROUND**

The purpose of this report is to review the existing Bus Shelter Policy and place on policy on public exhibition. The intent of the Bus Shelter policy is to allow community groups to provide bus shelters for the Port Stephens community and that the revenue gained through advertising on these bus shelters will be used by community groups for their purposes such as providing the Community with services.

The provision of shelters at bus stops plays an important part in increasing public transport patronage in Port Stephens and improving the comfort of existing bus passengers. This Policy seeks to ensure consistency and equity in the provision of bus shelters across the Local Government Area.

This Policy requires that community groups enter into a formal agreement with Council. The agreement shall document who is responsible for the installation and ongoing maintenance of the shelter, who will benefit from the advertising rights and who will own the shelter at the end of the agreement. Each agreement will vary depending on the needs and abilities of the organisation involved.

This review updates the existing policy into the current policy format to ensure conformity across Council's range of policy documents. The existing bus shelter policy works well hence there are no changes to the content of the original policy.

**FINANCIAL/RESOURCE IMPLICATIONS**

This policy review will not require any additional budget or resources for the provision of bus shelters. Requests for bus shelters under this policy are currently less than one per year and costs can be covered by the existing administration budget.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		The frequency of this activity is small and is covered within normal recurrent administration budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

Council requires that all policies are reviewed at least once within the term of each Council. The bus shelter policy is overdue for review. There are no legal implications in reviewing the policy.

**MINUTES FOR ORDINARY MEETING – 25 NOVEMBER 2014**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council will fail to meet legislative requirements for policy review resulting in community dissatisfaction.	Low	Adopt the recommendation.	Yes
There is a risk that bus shelters will not meet the requirements of the community in terms of type, safety, accessibility and placement resulting in reduced public transport patronage.	Low	Ensure that all new bus shelters meet Council's Infrastructure Specifications.	Yes
There is a risk that community group fail to maintain the bus shelters resulting in unsafe shelters for bus users.	Low	Adopt the recommendation and ensure that the responsibilities of Council and community group supplying the shelter are clear in the agreement. Council also monitors the condition of all bus shelters.	Yes
There is a risk that the advertising on the bus shelter is considered inappropriate to the community at large or by Council resulting in reputation damage to Council.	Low	Ensure that the agreement between Council and community group that manages the bus shelter specifies the type of advertising that is not offensive or against the vision or values of the organisation.	Yes
There is a risk that the installation or maintenance of the shelter may not be conducted in a safe manner in accordance with Council's WHS obligations resulting in injury or death of persons conducting the works.	High	Ensure that those that are carrying out the installation and maintenance are aware of the WHS and Council's requirements and that this requirement is documented through the agreement with Council.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The continuing provision of bus shelters by community service groups will allow a much reduced impact on Council finances had Council alone been responsible for the installation and maintenance of the shelters.

Past agreements have resulted in a greater number of bus shelters built on Council road reserves than would otherwise be achievable, benefiting public transport users overall. Most agreements to date have resulted in the bus shelter being handed over to Council after 10 to 15 years of service.

Community groups utilise the advertising income to maintain the shelters as well as providing their existing services to the Community. Not only does the community gain the benefits of having a bus shelter, but also have the positive experience of receiving the services supplied by the community group.

## **CONSULTATION**

- 1) Traffic Engineer
- 2) Civil Assets Engineer

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Bus Shelter Policy (proposed);
- 2) Bus Shelter: Provision Policy (Existing Policy)

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.



ATTACHMENT 1



POLICY

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO:** PSC2005-2646

**TITLE:** BUS SHELTER POLICY

**RESPONSIBLE OFFICER:** CIVIL ASSETS MANAGER

**BACKGROUND**

The provision of shelters at bus stops play an important part in increasing public transport patronage in Port Stephens and improving the comfort of existing bus passengers. This policy seeks to ensure consistency and equity in the provision of bus shelters across the Local Government Area.

The inclusion of advertising on bus shelters is a way for Council and community groups to fund and maintain bus shelters and Council's approach to advertising on these shelters forms part of this policy.

Installation of the privately funded shelters has generally been initiated by the organisations involved and has resulted in more shelters being installed than would otherwise be the case if Council funding alone were relied upon.

**OBJECTIVE**

The Bus Shelter Policy is to allow community groups to provide bus shelters for the Port Stephens community and that the revenue gained through advertising on these bus shelters will be used by community groups for their purposes such as providing the Community with services.

This policy and related documents will also allow for the display of advertising on bus shelters in accordance with Council's document: *Advertising on Bus Shelters in Port Stephens – Terms of Agreement*.

## PRINCIPLES

- 1) Council is responsible for controlling and monitoring activities being undertaken in its road reserves.
- 2) Council provides public transport infrastructure to the community such as bus shelters and seating.
- 3) Community groups can assist Council in the provision of infrastructure within the road reserve as mutually agreeable.
- 4) Council will adopt clear and consistent guidelines regarding the provision of transport related infrastructure by other bodies or organisations.

## POLICY STATEMENT

Council's intent is for community groups to provide bus shelters for the Port Stephens community and to use the revenue gained from advertising on the shelters to pay for the capital cost and ongoing maintenance costs. Advertising on bus shelters shall be in accordance with Council's document: *Advertising on Bus Shelters in Port Stephens – Terms of Agreement*.

- 1) Council's requirements and priorities for the provision of bus shelters are to be assessed annually as part of the Capital Works Program.
- 2) Priority for the provision of transport infrastructure shall be determined based on an assessment of:
  - The level of demand for a facility, both existing and potential
  - The existing standard of transport infrastructure in the vicinity
- 3) Once priorities are confirmed, expressions of interest for the supply and erection of appropriately designed bus shelter structures will be sought through Council's normal procurement process.
- 4) Community groups will retain ownership and associated advertising rights of any bus shelters constructed by them and will be required to enter into a formal agreement with Council.
- 5) Council reserves the right to favour offers from external providers that will promote community involvement and enhance community ownership of public infrastructure.
- 6) Bus shelters proposed in areas which do not attract any interest externally will be considered for funding in priority order through Council's Infrastructure Plan
- 7) Bus shelters shall conform to Council Design requirements and shall be compliant with the Commonwealth Disability Discrimination Act

## RELATED POLICIES

- 1) Code of Conduct;
- 2) Signage Policy

## SUSTAINABILITY IMPLICATIONS

The continued provision of bus shelters by community groups will allow Council to continue to provide shelter for bus patrons with minimal impact on Council finances.

## **SOCIAL IMPLICATIONS**

Community groups utilise the advertising income to maintain the shelters as well as providing their existing services to the Community. Not only does the community gain the benefits of having a bus shelter, but also have the positive experience of receiving the services supplied by the community group.

Past agreements have resulted in a greater number of bus shelters built on Council road reserves than would otherwise be achievable, benefiting public transport users overall.

## **ECONOMIC IMPLICATIONS**

Through these arrangements, Council is able to provide a proportion of public bus shelter facilities at no cost to ratepayers, as cost is borne by the organisations installing the shelters.

Community groups which have installed, maintained and own shelters currently, benefit from the associated advertising revenue. This advertising revenue could be considered as revenue foregone by Council because Council can no longer take back ownership of the shelter and its advertising rights. Alternatively, if the organisations cannot continue to maintain the shelters then they may withdraw from the arrangements altogether, resulting in Council being forced to maintain shelters at ratepayers' expense.

## **ENVIRONMENTAL IMPLICATIONS**

New shelters will only be considered at locations that will not adversely impact the environment.

## **RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government Act 1993
- 2) The Roads Act 1993

## **IMPLEMENTATION RESPONSIBILITY**

- 1) Civil Assets Section

## **PROCESS OWNER**

- 1) Civil Assets Engineer

## **REVIEW DATE**

- 1) November 2018

ATTACHMENT 2



POLICY

Adopted: 15/7/97

Minute No. 1123

Amended: #

Minute No. #

(Amendments Shown in Bold)

**POLICY NO: E5060-01-01**

**FILE NO: E5060-01**

**TITLE: BUS SHELTER PROVISION**

**Key Corporate Objective:**

*To provide relevant transport related infrastructure to the community.*

**Policy Objective:**

1. To formalise concessional arrangements with local community service clubs for the provision of bus shelters with associated advertising lease rights.
2. To increase capital expenditure on the provision of bus shelters.

The objective will be achieved if:

- A. Local community service clubs are permitted to include advertising on certain parts of any bus shelter constructed by them.
- B. Advertising conforms with Council's Advertising Signs Code.
- C. Local community service clubs are able to retain ownership of those shelters they construct for the effective life of the structure.
- D. Shelters provided by commercial organisations revert to Council after 10 years.

**Principles:**

1. Council is responsible for controlling or monitoring activities being undertaken in its road reserves.
2. Council provides infrastructure to the community such as bus shelters and bus lay-byes.
3. Other bodies or organisations can assist Council in the provision of infrastructure within the road reserve as mutually agreeable.
4. Council needs a procedure which is clear and consistent in dealing with the provision of transport related infrastructure by other bodies or organisations.
5. Council needs to decide if local community service organisations such as Lions, Apex, Rotary Clubs etc are given concessional treatment over commercially based companies in the provision of transport related infrastructure with advertising rights such as bus shelters.

**Policy Statement:**

1. Council's needs and priorities for the provision of bus shelters are to be assessed annually and subjected to public comment and scrutiny.
2. Once priorities are confirmed by Council resolution, expressions of interest for the supply and erection of appropriately designed bus shelter structures are sought by public advertisement.
3. Commercial operators will retain ownership of any bus shelters constructed along with advertising rights for a period of 10 years maximum and will enter into a formal agreement with Council.
4. Council reserves the right to accept any variation to other offers that will promote community involvement and enhance community "ownership" of public infrastructure.
5. Bus Shelter locations which do not attract any interest externally, are considered for funding in priority order in the annual Forward Works Program.

ITEM NO. 13

FILE NO: PSC2011-02312

## POLICY REVIEW – FORESHORE DINGHY STORAGE

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Foreshore Dinghy Storage Policy shown at **(ATTACHMENT 1)**;
- 2) Place the Foreshore Dinghy Storage Policy, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.

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### ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014

#### COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor Paul Le Mottee</b> <b>Councillor John Nell</b>
	That the recommendation be adopted.

### MOTION

320	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council:  <ol style="list-style-type: none"> <li>1) Endorse the Foreshore Dinghy Storage Policy shown at <b>(ATTACHMENT 1)</b>;</li> <li>2) Place the Foreshore Dinghy Storage Policy, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.</li> </ol>

### BACKGROUND

The purpose of this report is to seek Councils endorsement to place the Foreshore Dinghy Storage Policy on public exhibition for a period of 28 days. The objective of this policy is to provide a framework for boat owners to be able to store their dinghy's on Council reserves without impacting other users. For the purpose of this report the term "dinghy" refers to a range of water vessels which are detailed in the attached policy.

At the Council Meeting held on 26 June, 2012, it was resolved "that Council call for a report to require all dinghies taking up space on Council foreshore reserves be registered with Council and displayed with a sticker of registration. All dinghies not registered will be removed and owners will have an opportunity to claim them at Salamander recycle centre and pay the registration fee. All dinghies not claimed will be sold by tender within 3 months. This action has been prompted by dinghy owners who believe that our foreshore reserves are there for their convenience. Our foreshore reserves are for the residents of Port Stephens and visitors to enjoy our beautiful beaches and waterways. Roy Wood Reserve and Shoal Bay foreshore are only two of the reserves cluttered with abandoned dinghies, canoes and catamarans. Council needs to take this action to preserve the foreshore reserves for the enjoyment of all and not just the convenience of dinghy owners".

Many foreshore reserves have experienced high number of dinghies and other water vessels being stored. Un-managed placement of dinghies on our reserves limits the ability of residents and visitors to enjoy the waterfront reserves. The current approach to managing the vessels stored on public foreshores is reactive and enforced to reduce the risks to park users. The increased demand for foreshore park space particularly during peak seasons has created the need for further regulation of the dinghy storage on Council reserves.

This Policy has been compiled after benchmarking with a number of other Councils with current Dinghy Storage Policies in place.

#### **FINANCIAL/RESOURCE IMPLICATIONS**

Issuing of permits for the storage of dinghies will be managed under the current Parks and Reserve Booking process. Income derived from this activity will be allocated to the maintenance, improvement, enforcement and initial signage of foreshore dinghy storage facilities.

It is estimated the removal of the initial derelict dinghies will take 2 days and cost in the order of \$2,000. This removal will be managed by Councils existing impounding contractor. Ongoing compliance and removal costs will be funded by the registration and impoundment fees collected. It is unknown how many ongoing removals will be required.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	4,000	Includes sign installation and initial derelict dinghy removal. To be recouped through income raised through registration fees.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	13,000	Estimated income derived from the implementation of this policy.

## LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications with adopting the recommendation. Removal of unregistered dinghies can occur under the Impoundment Act 1993. The risks associated with adopting the recommendations are detailed in the table below.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council does not have the resources to manage the policy leading to dinghies being stored in unapproved locations.	Low	A cross council approach be coordinated with relevant sections to manage the storage of dinghies on our foreshore reserves.	Yes
There is a risk that an unregistered craft will be damaged when moved to the impounding site leading to conflict with dinghy owners regarding damage.	Low	Councils impoundment process is followed. Also ensure all collected dinghies condition is catalogued appropriately as proof of condition.	Yes
There is a risk that an impounded craft could be collected by persons that do not own the craft leading to theft proceedings.	Low	Councils impoundment process is followed to ensure that dinghies and collectors are catalogued appropriately for future reference.	Yes
There is a risk of unregulated management of dinghy storage leading to reduction of useable open space.	Medium	Adopt and implement the foreshore dinghy storage policy.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The use of a dinghy is an important method for residents and visitors to enjoy the waterways within the Port Stephens area. The interaction/balance between the general public recreation use of public land and dinghy storage needs to be managed. This Policy provides for the dinghy management to gain a better interaction/balance.



Foreshore dinghy storage will be managed to ensure there are minimal environmental impacts.

The proposed fee for the first year is \$100 per year, which was bench marked with other Councils. This fee will be documented and reviewed annually through the provision of dinghy storage in the Port Stephens Council Fees and Charges.

## **CONSULTATION**

Consultation and review of the draft plan policy has been undertaken with:

- 1) 2 Way Conversation with Councillors on the 17 June 2014;
- 2) 355C representatives through the Parks and Reserves Forum;
- 3) Council Rangers;
- 4) Communications Section;
- 5) NSW Roads and Maritime Services.

## **OPTIONS**

- 1) Accept the recommendations;
- 2) Amend the recommendations;
- 3) Reject the recommendations and allow dinghy storage on Council Reserves under no management parameters.

## **ATTACHMENTS**

- 1) Attachment A – Draft Foreshore Dinghy Storage Policy;
- 2) Attachment B – Dinghy Storage Area Map (Shoal Bay, Nelson Bay, Corlette);
- 3) Attachment C – Dinghy Storage Area Map (Soldiers Point/Taylors Beach);
- 4) Attachment D – Dinghy Storage Area Map (Tilligerry Peninsula).

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



POLICY

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO:** PSC2011-02312

**TITLE:** FORESHORE DINGHY STORAGE POLICY

**RESPONSIBLE OFFICER:** CIVIL ASSETS SECTION MANAGER

**BACKGROUND**

The current approach to managing dinghies stored on public foreshores involves the provision of storage such as dinghy racks and removal on the basis of safety risks to park users, demand for park space during peak seasons and potential damage to foreshores. There is no adopted Council policy position relating to this issue.

A Notice of Motion was tabled at the 26<sup>th</sup> June, 2012 Ordinary Council Meeting to address the issue of dinghy storage on council foreshore reserves.

The action was prompted due to the number of dinghies and other water vessels being stored on foreshore reserves. The number of dinghies and other water vessels on Council's foreshores reserves are limiting the ability for the residents of Port Stephens and visitors to enjoy our beautiful beaches and waterways. It was noted that a number of reserves throughout the Port Stephens Council area were cluttered with abandoned dinghies, canoes and catamarans. Greater order and management is required to preserve the foreshore reserves for the enjoyment of all.

**OBJECTIVE**

**TO PROVIDE A FRAMEWORK TO ENABLE A BALANCE BETWEEN THE STORAGE OF DINGHIES**

**POLICY STATEMENT**

- 1) For the purpose of this policy:
  - a dinghy is defined as a single hulled vessel up to a maximum length of 4.0 metres
  - an unauthorised vessel is a vessel not included in the 'Dinghy' definition. An unauthorised vessel would include, but not be limited too, any large

- single or multi-hulled vessel, a medium/large trailable vessel, trailer sailer, catamaran, sailboard, jetski, surfboard, work punt, pontoon, sailboat (fitted with mast), rowing skull, inflatable boat, canoe, kayak, and the like.
- a derelict vessel is a dinghy or other vessel left on public land, which appears to be unseaworthy by the evidence of damage to affect vessel flotation and users safety, and
  - an abandoned vessel is a dinghy or other vessel left on public land, which appears to be un-owned or has no or expired registration.
- 2) Port Stephens Council is committed to providing recreational facilities and services in keeping with Council's vision and key corporate objectives.
  - 3) The registration period will be twelve months with renewal occurring annually.
  - 4) An inspection will be carried out every three months or as required to determine the percentage of dinghies registered.
  - 5) Those dinghies not registered will be deemed abandoned and removed from the foreshore.
  - 6) Dinghies and unauthorised vessels stored outside of the designated dinghy storage areas are to be removed and impounded by Council authorised officers. These vessels will be held at Council's impound and maybe disposed of in accordance with the Impoundment Act 1993.
  - 7) Dinghies without a permit sticker and stored on a dinghy storage rack will also be removed under the Impoundment Act 1993.
  - 8) Owners of unregistered vessel that have been removed from the foreshore will have three months to retrieve their vessel. If the vessel has not been claimed after three months, it may be sold by tender.
  - 9) Permitted areas for Dinghy Storage include:
    - a. Storage racks adjacent to Shoal Bay Boat Ramp and western end of formal reserve.
    - b. Storage racks at the eastern end of Dutchman's Beach
    - c. Reserve area adjacent to the Anchorage Resort
    - d. Western end of Roy Wood Reserve adjacent to toilet/amenities building
    - e. Eastern end of George's Reserve adjacent to Weemala Lane
    - f. Wanda Beach Reserve
    - g. Kangaroo Point Reserve
    - h. Everitt Park
    - i. Sunset Beach
    - j. Northern end of Taylors Beach Foreshore adjacent to Amenities Building
    - k. Koala Park
    - l. John Parade Foreshore
    - m. Foster park
  - 10) and other recreational activities as well as providing a compliance mechanism to manage this balance.

## **PRINCIPLES**

- 1) Dinghy storage on reserves is permissible under a user pay system where income will be allocated to the maintenance, improvement, enforcement and initial signage of foreshore dinghy storage facilities.

- 2) A permit system will enable Council to identify dinghies which have been abandoned on foreshores and subsequently will enable their removal.
- 3) Council will review the fee for dinghy storage annually.

## **RELATED POLICIES**

Nil.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

The use of a dinghy is an important method for residents and visitors to enjoy the waterways within the Port Stephens area. The interaction/balance between the general public recreation use of public land and storage of dinghies needs to be managed. This Policy will allow the storage of dinghies to be managed, to ensure equity of access for all.

### **ECONOMIC IMPLICATIONS**

This policy will allow Council to fund the maintenance and construction of dinghy storage facilities through the collection of fees.

### **ENVIRONMENTAL IMPLICATIONS**

Dinghy storage will be managed to ensure there is minimal environmental impacts.

### **RELEVANT LEGISLATIVE PROVISIONS**

- 1) NSW Coastal Policy, 1997
- 2) Coastal Crown Lands Policy, 1991
- 3) Crown Land Foreshore Tenures Policy, 1991
- 4) Local Government Act 1993
- 5) Impoundment Act 1993

### **IMPLEMENTATION RESPONSIBILITY**

- 1) Community and Recreation Coordinator.

### **PROCESS OWNER**

- 1) Civil Assets Section Manager.

### **REVIEW DATE**

- 1) November 2018

ATTACHMENT 2



ATTACHMENT 3



## Permitted Areas For Dinghy Storage - Soldiers Point/Taylors Beach



ATTACHMENT 4





ITEM NO. 14

FILE NO: PSC2005-2646

**POLICY REVIEW – OUTDOOR TRADING****REPORT OF: JOHN MARETICH - CIVIL ASSETS SECTION MANAGER****GROUP: FACILITIES AND SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the amendments to the Outdoor Trading Policy shown at **(ATTACHMENT 1)**;
- 2) Place the Outdoor Trading Policy, as amended on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 3) Revoke the Footway Dining in Port Stephens policy dated 28 November 2000 (Min No. 656) **(ATTACHMENT 2)**, the Street Trading by Local, Charitable and Organisations Policy dated 19 December 2000 (Min No. 713) **(ATTACHMENT 3)** and the Temporary Structures on Footways (Road Reserves) Policy dated 24 October 2000 (Min No. 574) **(ATTACHMENT 4)** should no submissions be received.

**ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Paul Le Mottee</b> <b>Councillor Sally Dover</b>
	That the recommendation be adopted.

**MOTION**

<b>321</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Endorse the amendments to the Outdoor Trading Policy shown at <b>(ATTACHMENT 1)</b>;</li> <li>2) Place the Outdoor Trading Policy, as amended on public exhibition of a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council;</li> <li>3) Revoke the Footway Dining in Port Stephens policy dated 28 November 2000 (Min No. 656) <b>(ATTACHMENT 2)</b>, the Street Trading by Local, Charitable and Organisations Policy dated 19 December 2000 (Min No. 713) <b>(ATTACHMENT 3)</b> and the Temporary Structures on Footways (Road Reserves) Policy dated 24 October 2000 (Min No. 574) <b>(ATTACHMENT 4)</b> should no submissions be received.</li> </ol>



## **BACKGROUND**

The purpose of this report is to review the existing Outdoor Trading Policy and place on policy on public exhibition. The intent of the Outdoor Trading Policy is to allow business owners and other community groups use of the public footpath for footway dining, street trading, and the use of temporary structures, while ensuring that footpaths remain safe and accessible for all.

The proposed Outdoor Trading Policy supersedes three (3) previously separate policies. These policies were the Footway Dining in Port Stephens Policy, the Street Trading by Organisations Policy and the Temporary Structures on the Footway policy. The outdoor trading activities covered by this policy includes footway dining, the use of temporary structures for display of goods for sale and the use of casual street stalls by charitable and community groups.

While the proposed Outdoor Trading Policy combines the existing individual policies into one policy document, the proposed policy does not change the intent or content of the individual policies. The existing individual policies do work well and this review is an opportunity to reduce the overall number of policies to avoid unnecessary duplication of documents and make outdoors trading easier to understand.

## **FINANCIAL/RESOURCE IMPLICATIONS**

This policy review will not require any additional budget or resources for the management of the outdoor trading policy. The current annual licence fees are sufficient to cover the costs associated with administration and enforcement.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	21,000	The income gained is used to administer and enforce this activity. Income is cost recovery and is set via the Fees & Charges process
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

Council requires that all policies are reviewed at least once within the term of each Council. The advertising signs policy is overdue for review and this report will address this. There are no legal implications in reviewing the policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will fail to meet legislative requirements for policy review leading to community dissatisfaction.	Low	Adopt the recommendation.	Yes
There is a risk that outdoor trading activities will not meet the requirements in terms of occupation of the footpath leading to reduced access and safety implications.	Low	Ensure that all outdoor trading activities meet Council's related guidelines.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Outdoor trading can make a significant contribution to the active quality of public places. Footway dining and display of goods for sale can contribute to active and vibrant streets and can enhance opportunities for economic activities, social interaction and leisure.

Council will continue to charge an annual fee for outdoor dining licences and for temporary structures on the footway, in order to cover the cost of administering approvals and monitoring these activities. These fees are contained in Council's Fees & Charges. No fee is charged by Council for the approval process for casual street stalls for charitable and community organisations.

## CONSULTATION

- 1) Development Assessment and Compliance Section Manager;
- 2) Strategy and Environment Section Manager.

## OPTIONS

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

**ATTACHMENTS**

- 1) Proposed Outdoor Trading Policy (Proposed);
- 2) Footway Dining Areas in Port Stephens Policy (current);
- 3) Street Trading by Local, Charitable and Community Organisations Policy (current);
- 4) Temporary Structures on the Footway (Road Reserve) Policy (current).

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



POLICY

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO:** PSC2005-2640

**TITLE:** OUTDOOR TRADING

**RESPONSIBLE OFFICER:** CIVIL ASSETS MANAGER

**BACKGROUND**

Council has authority to regulate the use of footways within Council road reserves. This policy replaces three (3) separate, existing policies covering the use of footways for footway/alfresco dining, for street trading by organisations and casual street stalls and for the installation or erection of temporary structures. The policies replaced are:

1. Footway dining areas in Port Stephens
2. Street trading by local, charitable and community organisations
3. Temporary structures on the footway (Road Reserve)

The policy must be read in conjunction with:

- The *Footway Dining: Procedures and Guidelines Manual* and the related *Deed of Licence*.
- The *Conditions and Procedures Manual: Temporary Structures on the Footway (Road Reserves) in Port Stephens*

Approval may also be subject to local or specific Development Control Plan conditions or to agreements and conditions formed by the local Chamber of Commerce and Industry or other organisations and approved by Council.

## **OBJECTIVE**

- 1) To ensure that Council acts consistently and without bias to regulate the use of the public footway area to avoid nuisance, inconvenience or reduction of safety to the public.
- 2) To ensure that safe access is maintained on footpaths at all times for pedestrians including the users of wheelchairs and mobility aids.
- 3) To facilitate the appropriate use of footpaths and public areas for the purposes of outdoor trading including outdoor dining activities and the promotion of business activity

## **PRINCIPLES**

- 1) Council has authority to grant approval and regulate the use of the footway in accordance with the Roads Act 1993 and the Local Government Act 1993

## **POLICY STATEMENT**

Through implementation of this policy:

- 1) Port Stephens Council seeks to create a cosmopolitan, alfresco dining/café atmosphere in appropriate areas of Port Stephens and to increase the tourism potential of the local government area.
- 2) Port Stephens Council provides the opportunity for local charitable and community organisations to operate casual street stalls, while ensuring that pedestrians and local businesses are not adversely affected.
- 3) Port Stephens Council regulates the use of temporary structures on the footway, providing retailers with an opportunity to integrate commercial activities into pedestrian areas. This will increase exposure of specific commercial activities and gives the opportunity for improved business viability.

## **RELATED POLICIES**

- 1) Advertising signs in road reserves policy
- 2) Smoke free outdoor areas policy
- 3) Footway Dining – Procedures and Guidelines
- 4) Conditions and Procedures Manual – Temporary structures on the footway (road reserve) in Port Stephens
- 5) Port Stephens Council Development Control Plan

## **SUSTAINABILITY IMPLICATIONS**

Council will continue to charge an annual fee for outdoor dining licences and for temporary structures on the footway, in order to cover the cost of administering approvals and monitoring these activities. These fees are contained in Council's Fees & Charges. No fee is charged by Council for the approval process for casual street stalls for charitable and community organisations.

## **SOCIAL IMPLICATIONS**

Appropriate use of footways makes a significant contribution to the quality of public places. Council seeks to assist in the creation of a vibrant business community by implementation of a fair and equitable outdoor trading policy.

## **ECONOMIC IMPLICATIONS**

Appropriate use of the footway assists the viability of business and allows business operators to display goods for sale and information for potential customers.

## **ENVIRONMENTAL IMPLICATIONS**

Appropriate regulation of footway trading activities will ensure that the footway is available for safe pedestrian access and is free of obstructions and hazards.

## **RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government Act 1993;
- 2) Roads Act 1993;
- 3) Commonwealth Disability Discrimination Act 1992;
- 4) Companion Animals Amendment (Outdoor Dining Areas) Act 2010;
- 5) Smoke Free Environment Act 2000;
- 6) Liquor Act 2007;
- 7) Food Act 2003;
- 8) Work Health and Safety Act and Regulations 2011;
- 9) Port Stephens Council Development Control Plan 2013.

## **IMPLEMENTATION RESPONSIBILITY**

- 1) Civil Assets Section.

## **PROCESS OWNER**

- 1) Civil Assets Engineer.

## **REVIEW DATE**

- 1) November 2018

ATTACHMENT 2



Adopted: 28/11/2000  
Minute No: 656  
Amended:  
Minute No:

FILE NO: E5252-001

**TITLE: FOOTWAY DINING AREAS IN PORT STEPHENS**

**BACKGROUND**

This policy relates directly to the use of the footway (road reserve) and associated structures for footway dining.

The approval of such activities applies mainly to urban commercial centres in the Local Government Council area.

This policy will cover areas to be used for footway/alfresco dining and includes the use of items with the activity such as tables, chairs, umbrellas, dividers where the items are not permanently fixed and removed at the end of the trading day.

The policy must be read in conjunction with the *Conditions and Procedures Manual: Footway Dining Areas in Port Stephens* and the related *Deed of Licence*. Approval may also be subject to local or specific Development Control Plan conditions, agreements/conditions formed by the local Chamber of Commerce and Industry or any other sectors approved by Council.

**OBJECTIVE**

To ensure that Council acts consistently and without bias and that Council regulates the use of the footway area to avoid nuisance or inconvenience to the public.

**PRINCIPLES**

Council has the authority to grant approval and regulate the use of the footway for outdoor dining purposes.

The approval is granted within specific conditions and any request for the use of a classified road must be with the concurrence of the Roads and Traffic Authority.

## **POLICY STATEMENT**

Through implementation of this policy, Port Stephens Council aims to create a cosmopolitan alfresco dining/café atmosphere in appropriate areas of Port Stephens and to increase the tourism potential of the local government area.

By adopting the policy, Council is working towards enhancing Port Stephens' image in keeping with Council's Vision and Mission.

The policy, together with the Conditions and Procedures Manual, provide guidelines for implementing and maintaining footway dining areas and for regulating the use of footway dining areas to avoid nuisance or inconvenience to the public.

## **FEES**

The fees for Footway Dining Areas in Port Stephens are published in Council's Schedule of Fees each financial year.

## **RELATED POLICIES**

Nil

## **REVIEW DATE**

This policy will be reviewed within two years of it being adopted by Council.

## **RELEVANT LEGISLATIVE PROVISIONS**

Council's authority to approved footway dining activities is covered under:

- Local Government Act 1993 - Section 68
- Roads Act 1993 – Section 125

## **IMPLEMENTATION RESPONSIBILITY**

The Engineering Services Department's Civil Assets Management Section is responsible for the implementation of this policy.



ATTACHMENT 3



Adopted: 19/12/2000  
Minute No: 713  
Amended:  
Minute No:

FILE NO: E5252-002

**TITLE: STREET TRADING BY LOCAL, CHARITABLE AND COMMUNITY ORGANISATIONS**

## **BACKGROUND**

This policy relates directly to the use of casual street stalls on the footway (road reserve) by local, charitable and community organisations.

The approval of such activities applies mainly to urban commercial centres in the Port Stephens Local Government area.

The policy should be read in conjunction with the *Casual Street Stalls General Conditions and Agreement* and *Casual Street Stalls Application Form*.

## **OBJECTIVE**

To ensure that Council acts consistently and without bias and that Council regulates the use of the footway area, for the purpose of casual street stalls to avoid nuisance or inconvenience to the public.

## **PRINCIPLES**

Port Stephens Council has the authority to grant approval and regulate the use of the footway for casual street stalls.

The approval is granted within the authority of the Local Government Act 1993.

## **POLICY STATEMENT**

Through implementation of this policy, Port Stephens Council aims to provide the opportunity for casual street stalls while ensuring that pedestrian traffic and local businesses are not adversely affected.

By adopting the policy, Council is working towards enhancing Port Stephens' image in keeping with Council's Vision and Mission.

The policy, together with the *Casual Street Stall General Conditions and Agreement*, provide guidelines for approving and regulating casual street stalls and the basis for regulating the use of footway areas to avoid nuisance or inconvenience to the public.

Council staff, following a series of procedural guidelines linked to this policy, will be able to determine the applicants' suitability. This system will ensure that a fair and equitable procedure is in place to allow all local, charitable and community organisations to raise funds.

#### **FEES**

Nil

#### **RELATED POLICIES**

Nil

#### **REVIEW DATE**

This policy will be reviewed within 12 months of it being adopted by Council.

#### **RELEVANT LEGISLATIVE PROVISIONS**

Local Government Act 1993 – Section 68, Part E, 2.

#### **IMPLEMENTATION RESPONSIBILITY**

The Engineering Services Department's Civil Assets Management Section is responsible for the implementation of this policy.

ATTACHMENT 4



Adopted :24/10/2000

Minute No. 574

Amended: #

Minute No. #

FILE NO: E5252-007

**TITLE: TEMPORARY STRUCTURES ON THE FOOTWAY (ROAD RESERVE)**

**BACKGROUND**

Council has not previously had a formal policy for the use of structures on the footway (road reserve) area for the exposure of articles (whether for sale or not). The increasing use of such areas by businesses has highlighted the need to formalise a policy and procedures to assist in reducing Council's liability with such activities.

This policy refers to non-permanent structures such as tables, baskets, sandwich boards, racks used for display of goods, brochures, or information/advertising/promotional material that relates to the adjoining business activity. The only non-permanent structure that does not have to be directly related to the core business activity will be plant boxes/pots used for beautification purposes only and having no advertising content.

**OBJECTIVE**

To ensure that Council acts consistently and without bias and that Council regulates the use of the footway area to avoid nuisance or inconvenience to the public.

**PRINCIPLES**

- 1) To legitimise and manage an existing retail business practice where it impacts on pedestrian safety.
- 2) To ensure businesses participating are adequately covered by public liability insurance.
- 3) To regulate the use of areas in a consistent and equitable manner.

**POLICY STATEMENT**

The approval of such structures applies mainly to urban commercial centres in the Local Government Council area.

This policy **covers** the following types of structures:

- Clothing racks;
- Sandwich boards/ A frames (in all areas);
- Tables/barrows/display structures for the sale or advertising of items;
- Information/advertising/promotional material racks; and
- Plants in boxes/pots.

This policy **does not cover** the following types of structures:

- Items related to Footway Dining, such as tables, chairs, umbrellas, dividers etc which are covered by the Footway Dining Policy.;
- Any structures, furniture, fixtures etc that are intended to be fixed or not removed at the end of the trading day;
- Kiosks;
- Road side stalls in rural areas; and
- Sails and other fixed shade items.

Placement of structures must be on the actual shop frontage and should not impinge on adjacent business frontages.

This policy does not cover any structures that are permanent or are not removed at the end of each days trading.

## **Fees**

The fees for Temporary Structures on Footway (Road Reserve) are published in Council's Schedule of Fees each financial year.

## **RELATED POLICIES**

- Footway Dining Policy (Adopted: date 14/12/93 Minute No.1021 and date 14/11/95 Minute No. 561).
- Sandwich Boards – covered under the Advertising Signs Code (Adopted: date 26/11/96 Minute No. 704 and date 16/9/97 Minute No.1263).

## **REVIEW DATE**

This policy will be reviewed within 12 months of it being adopted by Council.

## **RELEVANT LEGISLATIVE PROVISIONS**

Street vending activity is controlled by Council approval under Section 68 of the Local Government Act 1993. The installation of structures and the operation of footway restaurants is controlled by approvals under the Roads Act 1993.

## **IMPLEMENTATION RESPONSIBILITY**

The Engineering Services Department's Civil Assets Management Section is responsible for the implementation of this policy.

ITEM NO. 15

FILE NO: PSC2011-02308

## BOOMERANG PARK, RAYMOND TERRACE – DRAFT MASTERPLAN

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the public submissions received during the public exhibition period.
- 2) Adopt the Draft Boomerang Park Master Plan **(TABLED DOCUMENT 1)**.
- 3) Endorse the proposed funding strategy as shown in **(ATTACHMENT 1)**.
- 4) That the General Manager be authorised to initiate the reclassification and rezoning process for the land identified as 27 in the Boomerang Park Master Plan **(TABLED DOCUMENT 1)** to be reported to Council for consideration as the Relevant Planning Authority under the Environmental Planning & Assessment Act 1979.

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### ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

Item 15 was brought forward and dealt with prior to Item 1.

	<b>Mayor Bruce MacKenzie</b> <b>Councillor Chris Doohan</b>
	That Council:  1) Receive and note the Supplementary Information 2) Adopt the recommendation.

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

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

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

## MOTION

322	<p><b>Mayor Bruce MacKenzie</b> <b>Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Consider the public submissions received during the public exhibition period.</li> <li>2) Adopt the Draft Boomerang Park Master Plan (<b>TABLED DOCUMENT 1</b>).</li> <li>3) Endorse the proposed funding strategy as shown in (<b>ATTACHMENT 1</b>).</li> <li>4) That the General Manager be authorised to initiate the reclassification and rezoning process for the land identified as 27 in the Boomerang Park Master Plan (<b>TABLED DOCUMENT 1</b>) to be reported to Council for consideration as the Relevant Planning Authority under the Environmental Planning &amp; Assessment Act 1979.</li> <li>5) That the Supplementary Information dated 24 November 2014, be received and noted.</li> </ol>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

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

**BACKGROUND**

The purpose of this report is to consider submissions made during the public exhibition of the draft Master Plan for Boomerang Park, to adopt the amended draft master plan and endorse the proposed funding strategy.

On 10 June 2014, Council resolved to "*place the draft Master Plan on public exhibition for a period of 28 days and that a further report be presented to Council at the expiration of the exhibition period*" (**TABLED DOCUMENT 2**).

Boomerang Park is situated in a high profile location, bounded by Kangaroo St, Irrawang St and Elizabeth Ave, in close proximity to the Raymond Terrace CBD. The park is a 21.6 hectare passive recreation facility and is predominantly utilised by the local community. It houses three buildings which are utilised by the Raymond Terrace Senior Citizens Centre, Raymond Terrace Before and After School Care and the Port Stephens All Breeds and Obedience Canine Club.

The size of Boomerang Park and the relatively small number of formal users has resulted in a large proportion of the facility being underutilised. It is proposed that by

adopting this master plan and approving the funding model, Boomerang Park will become a destination for locals and visitors to enjoy.

The Raymond Terrace Planning District has a total of 240.784 hectares of open space which equates to 16.94 hectares per 1000 residents. NSW Planning and Environment recommends a standard of 2.83 hectares per 1000 residents. These figures show that numerically the Raymond Terrace Planning District has a high amount of open space and by reducing that area by 4 hectares will not have a significant effect on the total amount of open space provided.

During the exhibition period, which ran from 18 June 2014 to 15 July 2014, Council received a total of eighteen (18) submissions. Of these eighteen (18) submissions, seventeen (17) opposed the proposed reclassification and rezoning of the allotted land areas for residential purposes.

In response to the submissions received as well as consultation with Councils Land Acquisition and Development Manager, it was deemed appropriate to reduce the amount of land that was originally proposed for reclassification and rezoning. The areas that were removed would have impinged on Councils detention basin, the topography of the land was not conducive to development and would not have provided sufficient profitability. The revised draft master plan proposes the reclassification and rezoning of a 4.5 hectare site which fronts onto Elizabeth St (**TABLED DOCUMENT 1**). This site was preferred as it will not impinge on the other activities shown in the draft master plan and it will provide sufficient profitability to allow Council to fund a number of the priority projects as shown in the proposed funding strategy (**ATTACHMENT 1**).

## **FINANCIAL/RESOURCE IMPLICATIONS**

An external Quantity Surveyor has prepared a cost estimate for all works proposed in the Master Plan (**ATTACHMENT 2**). The estimate to complete all of the proposed works is \$4.1 million.

The size of investment required to complete the draft master plan works has required a funding strategy to be developed. As a development of this nature could not be solely funded through Councils existing funding sources, a funding strategy (**ATTACHMENT 1**) totalling \$2.84 million was developed to investigate potential funding sources that would allow Council to complete some of the prioritised works. The funding strategy (**ATTACHMENT 1**) takes into account the funding streams that are available to Council for this type of development including the potential profits from the proposed reclassification and rezoning shown in the draft master plan. It should be noted that the funding strategy assumes the availability and success of the grants. The works have been prioritised based on the remaining useful life of the existing assets, the benefit to the community and the benefit to the overall park.

It is proposed that Council would enter into a loan agreement once the reclassification and rezoning process is completed. The loan would be against the \$1.7 million proposed profits to enable the prioritised master plan works to be

completed prior to the land being developed for sale. This amount could then be repaid once the development of the land has been completed. It is anticipated that the proposed area for reclassification and rezoning would have enhanced marketability by the draft master plan works being completed prior to any land sales taking place.

The projects that have not been included in the funding model include car parking improvements, sedge planting to the detention basin and pond, soccer field upgrade and tree plantings. These projects although important to the overall master plan, were deemed to not provide the overall community benefit as those included in the funding strategy.

The works shown in the Funding Strategy as unfunded will be included in Council's Forward Works Plan and considered for funding as part of the Strategic Asset Management Plan process in future years.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	210,000	
Section 94	Yes	230,000	
External Grants	Yes	470,000	External grant funding has not been approved and would be subject to the relevant application process.
Other	Yes	1,700,000	Potential profits from reclassification and rezoning process.

## LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications to adopting the recommendation. The risks associated with adopting the recommendation are listed below:

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that some parts of the community will not support the proposed re-classification process resulting in reputation damage to Council.	Low	Ensure that proper consultation is carried out detailing how the profits will be invested into the projects identified in the draft master plan and the benefits they will provide to the community.	Yes



Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without having planning and investigation studies completed, Council's ability to make informed sustainable decisions will be affected leading to re-work and unidentified costs.	Low	Adopt the Recommendation to allow for the appropriate planning and investigation studies to be undertaken, so that Council is able to make informed and sustainable decisions.	Yes
There is a risk that all proposed funding may not be realised leading to works being unfunded and not completed.	Low	Loan agreement should not be entered into until reclassification and rezoning process is complete.	Yes
There is a risk that the local koala population may be impacted by the development leading to a reduced number of koalas in the Raymond Terrace area.	Low	Vegetation density will be increased in the natural vegetation corridor to enhance the koala habitat. Any future development will be subject to the development application process which will assess the proposal against threatened species legislation.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The draft Master Plan will enable greater public use and enjoyment of the site through the provision of new infrastructure and facilities. The proposal expands the opportunities for informal community interaction as well as organised events and gatherings at a range of scales.

It will co-locate compatible activities in precincts with the Raymond Terrace Senior Citizens Centre, Raymond Terrace Men's Shed, Community Garden and Croquet Courts being in close proximity. The pathway network will connect this precinct with the other facilities in the park such as the skate park, regional scale playground, fitness trail, Raymond Terrace Before and After School Care and the Port Stephens All Breeds and Obedience Canine Club.

The draft master plan shows the large natural areas remaining with increased planting density to increase the natural character and also assisting in habitat

connectivity. By maintaining this large section of natural area it will ensure a balance between the developed area of the park and the natural area.

The proposed works within the Master Plan will contribute to the ongoing development of Boomerang Park, delivering an improved landscape, recreation and community asset to sustain an increasing population in Raymond Terrace and surrounds.

## **CONSULTATION**

In the development of this draft master plan a Community Workshop was held at the Senior Citizens Hall in Boomerang Park on 18 November 2013. This workshop involved the local community and also a number of Councillors. A total of 17 community members were in attendance at this workshop. A consultation session was also held with the Youth Advisory Panel on 16 January 2014.

The draft Master Plan was publicly exhibited from 18 June 2014 to 15 July 2014 on Council's website and copies were also available for viewing at Council's Administration Building, Tomaree Library and Tilligerry Library.

Notification of the exhibition was advertised in the 19 June 2014 edition of the Examiner and details were also posted on Council's website.

Eighteen (18) submissions were received. Of these, seventeen (17) submissions were opposed to the proposed possible rezoning of the allotted land areas for residential purposes.

A summary table of the submissions is attached as **(ATTACHMENT 3)**.

The sections of Council that have been consulted in the development of this master plan include:

- Public Domain and Services Section;
- Capital Works Section;
- Communications Section; and
- Strategy and Environment Section.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Funding Strategy;
- 2) Preliminary Cost Estimate;
- 3) Submissions Summary Table.

**COUNCILLORS ROOM**

- 1) Copy of Boomerang Park Raymond Terrace Draft Master Plan.

**TABLED DOCUMENTS**

- 1) Boomerang Park Raymond Terrace Draft Master Plan proposed for adoption.
- 2) Boomerang Park, Raymond Terrace Exhibited Master Plan.

## ATTACHMENT 1

**Attachment 1 – Funding Strategy**

The below table outlines the major proposed projects and proposed funding strategy, which includes the possible income generated by the development of the proposed reclassified and rezoned land.

Project	Year	Total	Grants	Section 94	Asset Reserve	Rehab Reserve	Land Sales
Playground Precinct	2014/15	\$400,000	\$200,000	\$100,000	\$100,000		
Fitness Trail Exercise Stations	2015/16	\$80,000	\$20,000	\$20,000			\$40,000
Picnic/BBQ Facilities & Park Seating	2015/16	\$165,000					\$165,000
Croquet Court	2015/16	\$70,000		\$40,000	\$30,000		
Feature garden planting	2015/16	\$65,000			\$30,000		\$35,000
Pathway Network	2016/17	\$500,000					\$500,000
Accessible Toilet Facilities	2016/17	\$140,000		\$70,000			\$70,000
Mens Shed	2016/17	\$600,000	\$100,000				\$500,000
Deck and planting upgrade to upper level pond	2016/17	\$290,000					\$290,000
Skate Park	2016/17	\$300,000	\$150,000		\$50,000		\$100,000
<b>Total (Funded works)</b>		<b>\$2,610,000</b>	<b>\$470,000</b>	<b>\$230,000</b>	<b>\$210,000</b>		<b>\$1,700,000</b>
Sedge planting to detention basin and pond and tree plantings	Unfunded	\$250,000					
Car parking improvements	Unfunded	\$270,000					
Soccer field upgrade	Unfunded	\$40,000					
Bollards surrounding park	Unfunded	\$80,000					
<b>Total</b>		<b>\$3,250,000</b>	<b>\$470,000</b>	<b>\$230,000</b>	<b>\$210,000</b>		<b>\$1,700,000</b>

The funding streams for each project have been identified based on a range of factors including:

- The projects eligibility for existing grant opportunities
- The projects potential to attract grant funding for example a skate park or playground is a more attractive project to grant funding bodies than construction of a pathway network
- The projects eligibility under Councils Section 94 plan

Note: The difference between the total amount of the Quantity Survey and the Funding Strategy is due to the Quantity Survey utilises a 30% construction contingency whereas the Funding Strategy was determined utilising a 10% contingency.

## ATTACHMENT 2

Opinion of Probable Costs					
<b>Job Number: 41-27135</b> <b>Project Name: Boomerang Park Draft Landscape Master Plan (SK004-RA)</b> Project Location: Irrawang Street, Raymond Terrace Project Type: Public Recreation Park <div style="text-align: right;">Revision: A Date 06/12/2013</div>					
Item No	Item	Qty	Unit	Rate	Amount
<b>1.00</b>	<b>Preliminaries &amp; Demolition</b>				
	Contractors on site overheads including supervision, temporary services, scaffolding, hoisting and major plant, small tools, site sheds, sanitation, insurances, programming, cleaning up etc		item		INCL
	Demolish existing under-utilised / damaged structures (such as existing playground, picnic settings, shelters, seats, bins)	1	item	\$15,000.00	\$15,000.00
	<i>Preliminaries &amp; Demolition Subtotal</i>				<b>\$15,000.00</b>
<b>2.00</b>	<b>Site Infrastructure</b>				
<b>2.10</b>	<b>Vehicular Car Parks and Driveways</b>				
	Excavation and preparation to formalise existing driveways, car parking and circulation space (Irrawang and Kangaroo St accesses, excluding RTSC car park)	3800	m²	\$5.00	\$19,000.00
	kerb edge restraints	600	lin.m	\$50.00	\$30,000.00
	Subgrade, base course, wearing course (asphalt) and line marking to driveways, car parking and circulation spaces	3800	m²	\$45.00	\$171,000.00
	lighting to car parks in accordance with AS 1158.3.1	1	Item	\$50,000.00	\$50,000.00
<b>2.20</b>	<b>Access Control Measures</b>				
	HW timber bollards at 1.5m centres to road frontage of property boundary, and to perimeter of car parks (where no grade separation)	1400	No	\$90.00	\$126,000.00
	Lockrail maintenance access gates (HWV timber bollards and galv. Locking rail)	4	No	\$3,500.00	\$14,000.00
<b>2.30</b>	<b>Signage and entrance gates</b>				
	Major park signage at Irrawang St entry (blockwork, rendered and painted, steel lettering)	1	item	\$5,000.00	\$5,000.00
	Feature entrance gates to vehicle driveway at Irrawang st entry (steel, powdercoated)	1	item	\$10,000.00	\$10,000.00
	Minor park signage at Kangaroo St and Elizabeth Av entries (steel frame, signage panel)	3	item	\$1,500.00	\$4,500.00
	<i>Site Infrastructure Subtotal</i>				<b>\$429,500.00</b>
<b>3.00</b>	<b>New Buildings</b>				
<b>3.10</b>	<b>Men's Shed</b>				
	Earthworks and site preparation to required levels	600	m²	\$10.00	\$6,000.00
	Max. 1 storey height. Concrete slab on ground, Colorbond walls, external roller doors, external personnel doors, internal plasterboard walls, doors, kitchen, amenities, concrete floor, steel structure and Colorbond roofing	570	m²	\$950.00	\$541,500.00
<b>3.20</b>	<b>Upgraded Public Amenities</b>				
	Single storey. Concrete slab on ground, blockwork external / internal walls, aluminium panel screening/luvres, concrete floor, steel structure and Colorbond roofing, WCs, basins, timber bench seats	140	m²	\$1,000.00	\$140,000.00
	<i>New Buildings Subtotal</i>				<b>\$687,500.00</b>
<b>4.00</b>	<b>Recreation and Community Facilities</b>				
<b>4.10</b>	<b>Regional Playground</b>				
	Site preparation to required levels	1500	m²	\$5.00	\$7,500.00
	Splitface blockwork retaining / seating walls (<1m height), core filled, reinforced, including footings	60	lin.m	\$400.00	\$24,000.00
	Proprietary play equipment (type TBC)	1	item	\$150,000.00	\$150,000.00
	Subsurface drainage to playground	1	item	\$20,000.00	\$20,000.00
	Certified bark softfall	800	m²	\$45.00	\$36,000.00
	Surface wear pads and feature softfall - Classic Rubbertech (rubber surface to be installed on 100mm concrete slab foundation)	400	m²	\$230.00	\$92,000.00
	Shade sails (2 No)	1	item	\$30,000.00	\$30,000.00
	Fencing to perimeter of playground (aluminium pool-type fencing, black, compliant to AS for playgrounds)	150	lin.m	\$150.00	\$22,500.00
	1.5m wide Concrete children's bike track around playground, including surface painting, signage elements	150	m²	\$120.00	\$18,000.00

Item No	Item	Qty	Unit	Rate	Amount
<b>4.20</b>	<b>Skate Park</b>				
	Excavation to form skate bowl building pad to required levels	400	m²	\$10.00	\$4,000.00
	Concrete skate park including slab on ground, cast insitu walls / ramps, CHS skate rails (composite rate including finishes, reinforcing, subbase, mebrames, formwork, joints)	400	m²	\$300.00	\$120,000.00
<b>4.30</b>	<b>Picnic Facilities</b>				
	Park shelters (4m x 4m) incl concrete slab	12	No	\$10,000.00	\$120,000.00
	Picnic settings (1 No Table x 2 No bench)	12	No	\$5,000.00	\$60,000.00
	Bins - waste and recycling	5	No	\$2,000.00	\$10,000.00
	Double electric BBQs	4	No	\$10,000.00	\$40,000.00
	Park seating along path network (bench seating, incl concrete slab)	10	No	\$2,500.00	\$25,000.00
<b>4.40</b>	<b>Croquet Court</b>				
	Earthworks / grading of playing court	820	m²	\$10.00	\$8,200.00
	Site preparation including installation of subsurface drainage	820	m²	\$2.50	\$2,050.00
	Spray irrigation for court, including pumps and controls	820	m²	\$18.00	\$14,760.00
	Laying new court surface (100mm topsoil, 'A' grade turf)	820	m²	\$16.00	\$13,120.00
	Lighting to croquet court	1	item	\$15,000.00	\$15,000.00
	Provide new fencing and gates around court (1.2m high weld mesh fencing, black)	120	lin.m	\$120.00	\$14,400.00
<b>4.50</b>	<b>Upgrades to existing Soccer Fields</b>				
	Provide new fencing and gates around unfenced field (1.2m high weld mesh fencing, black)	400	lin.m	\$120.00	\$48,000.00
<b>4.60</b>	<b>Pedestrian / cycle trails and footpaths</b>				
	2.5m wide concrete shared pedestrian / cycle paths (composite rate including broom finished concrete, mesh, subbase, membrane, formwork, joints)	3750	m²	\$90.00	\$337,500.00
	1.5m wide concrete pedestrian paths (composite rate including broom finished concrete, mesh, subbase, membrane, formwork, joints)	1650	m²	\$90.00	\$148,500.00
	2.5m wide Timber boardwalk to drainage areas and around pond (including kick rails and handrails)	150	lin.m	\$200.00	\$30,000.00
	Fitness trail exercise stations (6 No)	1	item	\$75,000.00	\$75,000.00
	<b>Recreation and Community Facilities subtotal</b>				<b>\$1,485,530.00</b>
<b>5.00</b>	<b>Landscaping</b>				
<b>5.10</b>	<b>Natural Character Vegetation Areas</b>				
	Trees to buffer and passive recreation areas (Tubestock - avg. 1/10m², includes planting preparation and marker stakes)	400	No	\$3.50	\$1,400.00
	Establishment (12 weeks)	12	weeks	\$140.00	\$1,680.00
<b>5.20</b>	<b>New shade tree planting</b>				
	Shade trees (45L stock, includes planting preparation and stakes)	70	No	\$150.00	\$10,500.00
	Establishment (12 weeks)	12	weeks	\$500.00	\$6,000.00
<b>5.30</b>	<b>Feature planting beds around key activity precinct</b>				
	Garden beds (incl 150mm cultivation, 200mm topsoil, 100mm mulch, concrete edging, 140mm plants @ avg. 2/m²)	1000	m²	\$60.00	\$60,000.00
	Establishment (12 weeks)	12	weeks	\$350.00	\$4,200.00
<b>5.40</b>	<b>Sedge planting to pond and detention basin</b>				
	Mass planting of sedges (incl 150mm cultivation, 200mm topsoil, jutemat, tubestock plants @ avg. 4/m²)	5000	m²	\$40.00	\$200,000.00
	Establishment (12 weeks)	12	weeks	\$1,000.00	\$12,000.00
	<b>Landscaping Subtotal</b>				<b>\$295,780.00</b>
	<b>Project TOTAL</b>				<b>\$2,913,310.00</b>
	W H and S Levy (.525% of Total Cost-if over 80K)				\$15,294.88
	Project Establishment (3% of Total Cost) 12 week period				\$87,399.30
	Design & Construction Contingency (30%)				\$873,993.00
	Design (Project Mgt) - (9% of total cost)				\$262,197.90
	<b>GRAND TOTAL</b>				<b>\$4,152,195.08</b>

Item No	Item	Qty	Unit	Rate	Amount
<p>EXCLUSIONS AND IMPORTANT NOTES:</p> <ol style="list-style-type: none"> <li>1. Some works may be undertaken by Council at Council's discretion, which may result in some cost savings</li> <li>2. Excludes any works external to the site boundaries including upgrades to intersections, street footpath networks, future depot works or potential linkages to Muree Golf Course redevelopment</li> <li>3. Extents of car parking are indicative only. Final areas subject to future traffic demand assessment and engineering design</li> <li>4. Allowances for new buildings are indicative only. Subject to future design of facilities</li> <li>5. Excludes services supply and upgrades including water, sewer, electricity, gas services. Demand / capacity assessment required to quantify these elements.</li> <li>6. Excludes upgrade works to existing buildings, as the scope of required upgrades is not determined. Subject to future condition assessments and detailed facility planning.</li> <li>7. Excludes maintenance costs associated with existing or new facilities</li> <li>8. Excludes DA works, authority fees, charges and contributions</li> <li>9. Excludes Goods and Services Tax</li> <li>10. Excludes allowance for cost escalation</li> <li>11. Excludes staged preliminaries and construction costs</li> <li>12. This is a preliminary estimate only, based on the Draft Landscape Master Plan (drawing SK004-RA). The estimate is representative of the concept documents prepared and should be viewed accordingly.</li> <li>13. Quantities and rates have been estimated based on available design and survey information at the date of preparation, and current industry information (Landscape Queensland Ind. Inc. Costing Guide Edition 6, similar previous Quantity Surveyor cost estimates).</li> <li>14. GHD recommends that a Quantity Surveyor be engaged at each project development decision gate to verify quantities and rates. Contingency to be confirmed by QS.</li> </ol>					

## ATTACHMENT 3

## Community Consultation

## Boomerang Park Draft Master Plan

## Public Submissions Summary – From 18 June to 15 July 2014

The draft Boomerang Park Master Plan was prepared to set the long term vision for the parkland. The plan was exhibited from 18 June 2014 to 15 July 2014.

A total of eighteen (18) submissions were received during the consultation period. Of these, seventeen (17) submissions the key concern raised was over the proposal to further investigate the possibility to rezone and reclassify allotted land areas for residential purposes.

The following table provides details of the submissions received during the public exhibition for the period.

Date of Receipt	Form of Submission	Organisation	Comments
21 June 14	Email	Resident 1	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> <li>- Provides the following suggestions: <ul style="list-style-type: none"> <li>- Re-instate the cross country obstacle course that existed in the 1980's</li> <li>- Expand the allocated area for a playground</li> <li>- Incorporate garden areas with BBQ and picnic facilities around the outskirts of the park and away from the proposed playground and bike tracks</li> </ul> </li> </ul>
24 June 14	Email	Resident 1	<ul style="list-style-type: none"> <li>- Expresses dissatisfaction that Council has no other means of obtaining the finances to develop Boomerang Park for recreational purposes</li> </ul>
21 June 14	Email	Resident 2	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> </ul>
21 June 14	Email & Letter	Resident 3	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> </ul>
24 June 14	Email	Resident 4	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> </ul>
24 June 14	Email	Resident 5	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> <li>- Supports the plans for a playground upgrade and bike track.</li> <li>- Would like to see the lighting improved for night time use.</li> </ul>
25 June 14	Email	Resident 6	<ul style="list-style-type: none"> <li>- Supports the proposed Master Plan for Boomerang as believes Raymond Terrace is in need of a modern, functional, clean and safe public outdoor recreational area for families.</li> <li>- Asks whether: <ul style="list-style-type: none"> <li>- the playground is proposed to be fenced to deter vandalism?</li> <li>- Lighting (including solar) is proposed?</li> <li>- The playground will be located in a visible location from the street?</li> <li>- Fencing will be installed around the dog 'off leash' area</li> <li>- The proposed housing would be Department of Housing or private?</li> </ul> </li> </ul>



2 July 14	Memo	Comprehensive Koala Plan of Management Committee	<ul style="list-style-type: none"> <li>- The Committee supports a fenced off leash area for dogs (16) and supports the proposed infrastructure along the Irrawang Street side.</li> <li>- The Committee does not support the proposed possible rezoning of the allotted land for residential purposes and would like it to remain public open space for the enjoyment of the community and most importantly for the survival and genetic diversity of the koala population.</li> </ul>
2 July 14	Letter	Resident 7	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> </ul>
6 July 14	Email	Resident 8	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes. Believes that this will detract from the visual appearance of the park and attract undesirables.</li> <li>- Suggests that Council should renegotiate with Hunter Water to take responsibility of the disused water tower.</li> <li>- Believes that Boomerang Park should remain as is and be developed for recreational purposes only, which will attract outside visitors to the area (re-investing money back into Raymond Terrace)</li> <li>- Residential subdivision will isolate the cemetery from the rest of the park</li> <li>- The location of the playground would be better placed along Elizabeth Avenue with additional recreational facilities added alongside over time</li> <li>- The skate park should be a top class facility that will be a destination facility</li> <li>- The proposed location of the Men's Shed should be closer to the Senior Citizen's building.</li> <li>- Adequate parking needs to be better considered for the park</li> <li>- The natural bush area is an important link to the Hunter Wildlife Corridor with the remainder of the park an important buffer.</li> <li>- Agrees there is a need for over fifties residential areas but suggests Council investigates alternative options to Boomerang Park for this</li> <li>- Suggests that the Council depot be relocated to an industrial area which would free up this land for a sports club and associated accommodation complex</li> </ul>
8 July 14	Email	Raymond Terrace Parks, Reserves and Tidy Towns Committee	<ul style="list-style-type: none"> <li>- Duplicate of Resident 8's submission:</li> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes. Believes that this will detract from the visual appearance of the park and attract undesirables.</li> <li>- Suggests that Council should renegotiate with Hunter Water to take responsibility of the disused water tower.</li> <li>- Believes that Boomerang Park should remain as is and be developed for recreational purposes only, which will attract outside visitors to the area (re-investing money back into Raymond Terrace)</li> <li>- Residential subdivision will isolate the cemetery from the rest of the park</li> <li>- The location of the playground would be better placed along Elizabeth Avenue with additional recreational</li> </ul>

			<p>facilities added alongside over time</p> <ul style="list-style-type: none"> <li>- The skate park should be a top class facility that will be a destination facility</li> <li>- The proposed location of the Men's Shed should be closer to the Senior Citizen's building.</li> <li>- Adequate parking needs to be better considered for the park</li> <li>- The natural bush area is an important link to the Hunter Wildlife Corridor with the remainder of the park an important buffer.</li> <li>- Agrees there is a need for over fifties residential areas but suggests Council investigates alternative options to Boomerang Park for this</li> <li>- Suggests that the Council depot be relocated to an industrial area which would free up this land for a sports club and associated accommodation complex</li> </ul>
8 July 14	Email	Resident 9	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> <li>- Suggests that Council investigate alternative sites for residential housing</li> </ul>
8 July 14	Email	Resident 10	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> <li>- Questions why a 'Regional Playground' is planned for Raymond Terrace. Suggests that a more ambient location would be more suitable</li> <li>- Questions why ratepayers money is being spent to re-locate the Men's Shed and even further that it will be taking up space in a community park</li> <li>- Does not support the proposed Croquet Club, as unless it already has a dedicated group in Raymond Terrace it will also be a waste of rate payers money</li> <li>- Suggests that the fitness trail would be better located along a foreshore and in Tomaree for that matter</li> <li>- Primary concern is that a disproportionate amount of ratepayers money will be dedicated to this park instead of to the main tourism area of Tomaree, which provides the most economic benefit to Port Stephens</li> </ul>
8 July 14	Email	Resident 11	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes. Believes that the land areas indicated on the plan are too close to the existing cemetery and that Council should seek alternative ways of funding improvements to the park.</li> </ul>
8 July 14	Email	Resident 12	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> <li>- Believes the park should be retained for recreation uses only and for the protection of wildlife in the park</li> <li>- Supports the concept of a fitness trail in the park and suggests that the trail circumnavigates the perimeter of the park</li> <li>- Supports the proposed playground, BBQ and picnic facilities, skate park and community gardens</li> <li>- Opposes the proposed croquet club, as believes that this is a poor investment for the area</li> </ul>
9 July 14	Email	Resident 13	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> <li>- Suggests that this park would be better suited to being</li> </ul>

			a wildlife reserve or botanical gardens and that Council could make financial gains through historical tours
9 July 14	Letter	Resident 14	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes. Concerned that this will displace users such as the local schools from using for their athletics carnival and other families who would typically come to the park to celebrate special occasions etc..</li> <li>- Supports additional recreational facilities such as playgrounds and picnic areas</li> </ul>
13 July 14	Email	Resident 15	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> <li>- Believes that the reduction in park area for residential purposes will increase the population and therefore will rely on more, not less, access to open space for recreation purposes</li> </ul>
15 July 14	Letter	Resident 16	<ul style="list-style-type: none"> <li>- Opposes the proposed possible rezoning of the allotted land areas for residential purposes.</li> <li>- Questions the due process Council will need to go through in order to permit the rezoning of the allotted areas</li> </ul>

ITEM NO. 16

FILE NO: PSC2014-01368

**PORT STEPHENS COUNCIL ANNUAL REPORT 2013-2014****REPORT OF: WAYNE WALLIS – GENERAL MANAGER****GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Annual Report 2013-2014 Volumes 1 and 2 presented as **(TABLED DOCUMENTS 1 AND 2)**.

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**ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Chris Doohan</b> <b>Councillor Sally Dover</b>
	That the recommendation be adopted.

**MOTION**

<b>323</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council adopt the Annual Report 2013-2014 Volumes 1 and 2 presented as <b>(TABLED DOCUMENTS 1 AND 2)</b> .

**BACKGROUND**

The purpose of this report is to present the Port Stephens Council Annual Report 2013-2014, which is in two volumes. Volume1 provides details of Council's progress in implementing its Delivery Program 2013-2017 and Operational Plan 2013-2014. Volume 2 provides Council's audited financial statements for 2013-2014.

**FINANCIAL/RESOURCE IMPLICATIONS**

Volume 2 of the Annual Report 2013-2014 contains the audited accounts of Council. Volume 1 contains a summary of financial performance for the period together with details of Council's results against key performance indicators, and its capital expenditure and governance across the whole of Council's operations.

The adopted Annual Report 2013-2014 will be placed on Council's web site, and hard copies distributed to Council's libraries, the State Library of NSW and the Office of Local Government.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Printing of hard copies and postage are funded within the existing operational budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

## LEGAL, POLICY AND RISK IMPLICATIONS

Section 428(1) of the Local Government Act 1993 states: Within 5 months after the end of each year, a council must prepare a report (its annual report) for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed. Volume 1 of the Annual Report 2013-2014 has been prepared in accordance with that section.

Section 428(4)(a) states: The Annual Report must contain a copy of the council's audited financial reports prepared in accordance with the Local Government Code of Accounting Practice and Financial Reporting, published by the Office of Local Government, as in force from time to time. Volume 2 of the Annual Report 2013-2014 has been prepared in accordance with that section.

The Annual Report 2013-2014 complies with all the legislative requirements contained in the Act and the Regulations.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that failure to provide the Annual Report within the legislated timeframe could lead to financial and reputational loss.	Yes	Council adopts the Annual Report 2013-2014 volumes 1 and 2 at its meeting on 25 November 2014.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Annual Report 2013-2014 provides information on Council's performance across a range of social, economic and environmental indicators; and it provides details of

the principal activities of Council against the actions in the Operational Plan 2013-2014.

## **CONSULTATION**

The Annual Report was compiled from information gathered across Council. A draft was submitted to Councillors and the Executive team for feedback prior to being published.

## **OPTIONS**

- 1) Council adopts the recommendation;
- 2) Council amends the recommendation;
- 3) Council rejects the recommendation.

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

- 1) Port Stephens Council Annual Report 2013-2014 Volume 1;
- 2) Port Stephens Council Annual Report 2013-2014 Volume 2.

**ITEM NO. 17****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 25 November, 2014.

No:	Report Title	Page:
1	Cash and Investments held at 31 October 2014	
2	Report on the Local Government NSW Conference 2014 held at Coffs Harbour	
3	Report on the Excellence Planning Awards	

**ORDINARY COUNCIL MEETING – 25 NOVEMBER 2014  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Paul Le Mottee</b> <b>Councillor Chris Doohan</b>
	That the recommendation be adopted.

<b>307</b>	<b>Councillor Paul Le Mottee</b> <b>Councillor Chris Doohan</b>
	It was resolved that Council move out Committee of the Whole.

**MOTION**

<b>324</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>
	It was resolved that Council receive and notes the Information Papers listed below being presented to Council on 25 November, 2014.

# INFORMATION PAPERS





INFORMATION ITEM NO. 1

**CASH AND INVESTMENTS HELD AT 31 OCTOBER 2014**

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**REPORT OF:** TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER

**GROUP:** CORPORATE SERVICES

**FILE:** PSC2006-6531

**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 October 2014.

**ATTACHMENTS**

- 1) Cash and investments held at 31 October 2014;
- 2) Monthly cash and investments balance October 2013 to October 2014;
- 3) Monthly Australian term deposit index October 2013 to October 2014.

# ORDINARY COUNCIL – 25 NOVEMBER 2014

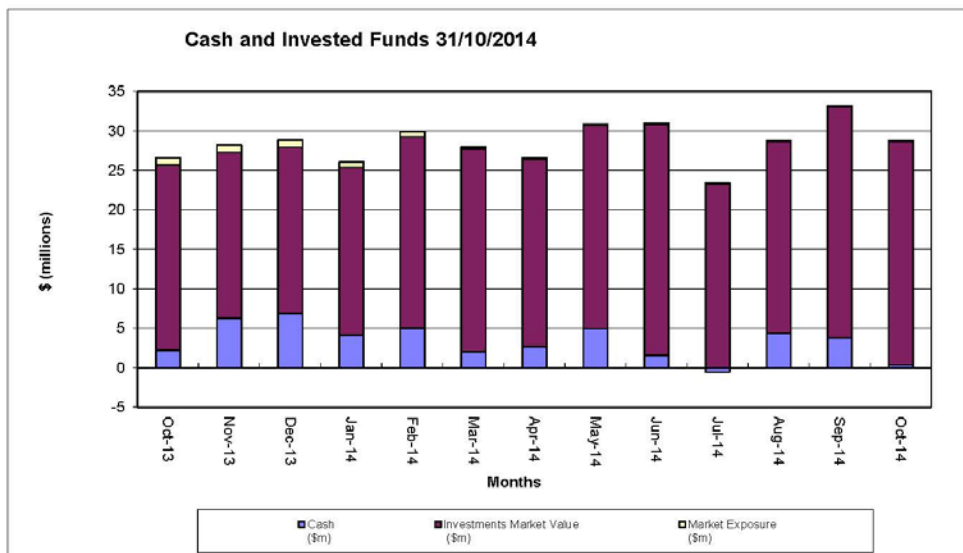
## ATTACHMENT 1

CASH AND INVESTMENTS HELD AS AT 31 OCTOBER 2014								
ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
WIDE BAY AUSTRALIA LTD	CURVE	BBB	TD	3.75%	182	5-Nov-14	1,000,000	1,000,000
WIDE BAY AUSTRALIA LTD	CURVE	BBB	TD	3.75%	182	5-Nov-14	1,000,000	1,000,000
BANANACOAST CREDIT UNION LTD	FARQUHARSON	N/R	TD	3.70%	189	19-Nov-14	2,000,000	2,000,000
BANK OF SYDNEY LTD	FIIG	N/R	TD	3.75%	196	3-Dec-14	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.74%	266	17-Dec-14	1,005,896	1,005,896
ING BANK (AUSTRALIA)	CURVE	A	TD	3.65%	182	17-Dec-14	1,000,000	1,000,000
BANK OF SYDNEY LTD	RIM	N/R	TD	3.75%	210	14-Jan-15	1,000,000	1,000,000
SUNCORP	SUNCORP	A+	TD	3.45%	147	28-Jan-15	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.65%	182	11-Feb-15	1,000,000	1,000,000
ING BANK (AUSTRALIA)	FIIG	A	TD	3.56%	182	25-Feb-15	1,000,000	1,000,000
ARAB BANK AUSTRALIA LTD	RIM	BB+	TD	3.90%	271	11-Mar-15	1,500,000	1,500,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.58%	182	25-Mar-15	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.58%	182	8-Apr-15	2,000,000	2,000,000
ARAB BANK AUSTRALIA LTD	RIM	BB+	TD	3.85%	266	6-May-15	500,000	500,000
POLICE CREDIT UNION LTD (SA)	FARQUHARSON	N/R	TD	3.65%	224	14-May-15	2,000,000	2,000,000
AMP BANK LTD	FARQUHARSON	A+	TD	3.50%	275	29-May-15	1,000,000	1,000,000
BANK OF QUEENSLAND LTD	BOQ	A-	TD	3.60%	266	3-Jun-15	2,500,000	2,500,000
AMP BANK LTD	CURVE	A+	TD	3.50%	266	3-Jun-15	1,000,000	1,000,000
WAW CREDIT UNION CO-OPERATIVE	CURVE	N/R	TD	3.65%	301	1-Jul-15	2,000,000	2,000,000
SUB TOTAL (\$)							26,505,896	26,505,896
OTHER INVESTMENTS								
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99% 10yrs		31-Dec-14	500,000	500,000
NEXUS BONDS LTD 'TOPAZ AA-'	GRANGE	A	CDO	0.00% 10yrs		23-Jun-15	412,500	373,317
ANZ ZERO COUPON BOND	ANZ	AA-	BOND	0.00% 9yrs		1-Jun-17	1,017,877	934,269
SUB TOTAL (\$)							1,930,377	1,807,586
INVESTMENTS TOTAL (\$)							28,436,273	28,313,482
CASH AT BANK (\$)							349,674	349,674
TOTAL CASH AND INVESTMENTS (\$)							28,785,948	28,663,157
CASH AT BANK INTEREST RATE				2.50%				
BBSW FOR PREVIOUS 3 MONTHS				2.72%				
AVG. INVESTMENT RATE OF RETURN				3.49%				
TD = TERM DEPOSIT				FRN = FLOATING RATE NOTE				
CDO = COLLATERALISED DEBT OBLIGATION				FRSD = FLOATING RATE SUBORDINATED DEBT				
*STANDARD AND POORS LONG TERM RATING								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE								
LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND								
COUNCIL'S CASH INVESTMENT POLICY								
W WALLIS								

ATTACHMENT 2

Cash and Investments Held

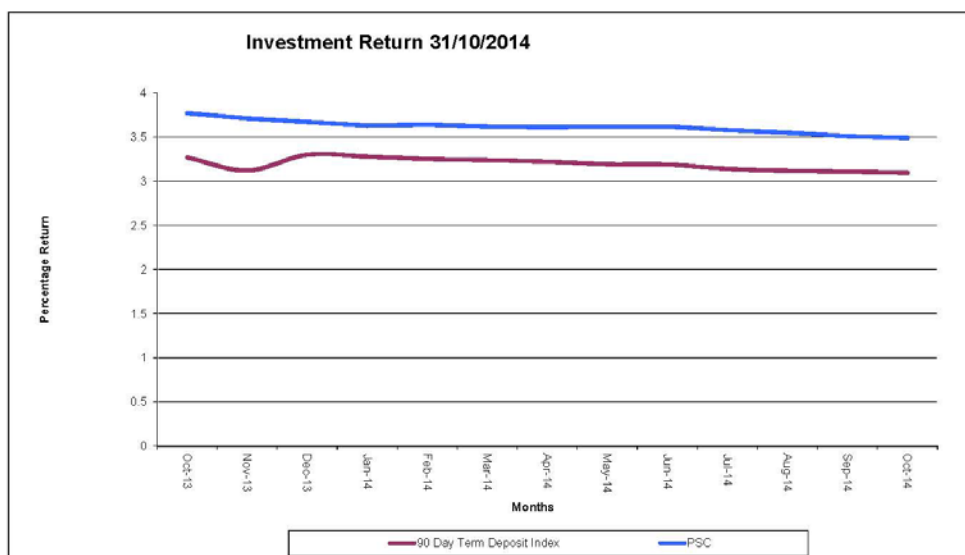
Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Oct-13	2.193	23.484	0.946	30.652
Nov-13	6.305	20.992	0.939	28.236
Dec-13	6.932	20.992	0.939	28.863
Jan-14	4.122	21.271	0.659	26.052
Feb-14	5.006	24.274	0.656	29.936
Mar-14	2.048	25.759	0.171	27.978
Apr-14	2.692	23.761	0.169	26.622
May-14	4.964	25.775	0.156	30.895
Jun-14	1.572	29.276	0.155	31.002
Jul-14	0.532	23.290	0.147	22.905
Aug-14	4.375	24.305	0.132	28.811
Sep-14	3.793	29.310	0.126	33.230
Oct-14	0.350	28.313	0.123	28.786



ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	90 Day Term Deposit Index	PSC
Oct-13	3.27	3.77
Nov-13	3.1212	3.71
Dec-13	3.3007	3.67
Jan-14	3.2797	3.63
Feb-14	3.2527	3.64
Mar-14	3.2397	3.62
Apr-14	3.2216	3.61
May-14	3.1931	3.62
Jun-14	3.1897	3.62
Jul-14	3.1389	3.58
Aug-14	3.1182	3.55
Sep-14	3.1082	3.51
Oct-14	3.0955	3.49



INFORMATION ITEM NO. 2

REPORT ON THE LOCAL GOVERNMENT NSW CONFERENCE 2014  
HELD AT COFFS HARBOUR

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REPORT OF: CR PAUL LE MOTTEE

FILE: PSC2010-04464

**BACKGROUND**

The purpose of this report is to provide an overview of the Local Government NSW (LGNSW) Annual Conference.

Of all the conferences I attend, whether it's Council, surveying or planning, this conference is far and away the most important conference I go to. You simply cannot have 152 Councils approaching the State and Federal Governments individually all wanting different things. Nothing would ever change if individual approaches were made and all the requests would end up being contrary to each other. Accordingly, it is paramount that the Local Government of NSW presents a united front to the State and Federal Government regarding changes to legislation, funding, arguments relating to cost shifting and many other issues facing Local Government.

The conference is conducted like a giant Council meeting with a business paper containing over 200 motions. Unfortunately, this year a great deal of motions were to do with minor administrative matters and most delegates felt frustrated at the lack of time available to debate those issues far more meaningful to the community.

Notwithstanding that, the conference was generally regarded to be a success with many interesting issues discussed. For example, it was revealed that Australia's population has just passed 23 million and with a population growth of around 1.8%, this means that there will be 400,000 additional people living in Australia in 12 months' time, whether this is by natural birth or immigration. This forced delegates to realise that building, housing and property development is simply not going to go away and systems have to be improved across the board to facilitate this never-ending population growth.

Again, it was a little frustrating that much of the talk involved capital cities and, in particular, Sydney. However, the Port Stephens delegates, along with many other regional Councils, did their best to remind the conference that NSW exists outside of Sydney and much needed to be done in those areas as well.

Another interesting key note speaker was the CEO of the NSW Aboriginal Land Councils who spoke passionately about how many Land Councils are now using their land to generate income for their particular Land Council. In a lot of western areas,

this includes drilling for natural gas and coal seam gas. Should they be successful in discovering significant quantities of these gases, then those Land Councils will be extremely well placed to improve the education and medical facilities in those western areas. It was very encouraging to hear how they are truly striving to be self-sufficient and improve their lifestyle when they are so remote from larger towns and capital cities.

The conference was attended by Crs Jordan, Tucker and I together with Wayne Wallis, General Manager and Carmel Foster, acting Group Manager Corporate Services.

Our attendance rate at the business sessions was nearly 100% with only some minor distractions to visit the trade display which is a very big part of the conference philosophy.

I am so convinced that this particular conference is the most important conference I go to that it is my intention to run for the board of Local Government NSW at the next election with a view to improving the substance of the business sessions. For example, I would be pushing the board to vet all the motions submitted by the various Councils. Those that are considered to be of a minor nature could be put to the delegates prior to the conference to vote on electronically so time is not wasted with needless discussion on minor administrative matters leaving the conference ample time to debate those things of true significance to Local Government and to the community.

I commend this particular conference to all Councillors from all Councils as the conference that can truly make a difference to the people you represent.

INFORMATION ITEM NO. 3

REPORT ON THE EXCELLENCE PLANNING AWARDS

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REPORT OF: CR PAUL LE MOTTEE

FILE: PSC2010-04464

**BACKGROUND**

The Excellence in Planning Awards are conducted by the Planning Institute of Australia (PIA). These awards are open to any member of the PIA whether they are State or Local Government or the private sector. Whilst there are many awards for planning and design and things of that nature, this particular set of awards is the big league.

Accordingly, I was extremely proud of the organisation when it won an excellence award for development application processing and engaging the community. What drove this award to be possible was acceptance of the fact that Australia is growing at approximately 400,000 people per year and building and property development is simply not going to go away while ever that population growth remains as it is.

With that in mind, Port Stephens Council's planning department developed a philosophy and business model that accepted the fact that this kind of growth is happening and processes needed to be improved so that the wheels of construction simply did not grind to a halt as has happened in many other areas of the State.

The concept was not to decide to be pro-development. It was decided to be efficient. If a development application had to be refused then it would be done so quickly, whereas if a development was to be approved, it would also be done quickly. Bureaucracy was not to be used as a tool to improve determination times by "stopping the clock" which is a key indicator of Council's functionality. It was generally a case of empowering planners in Council to seek the advice that they needed and to make a decision and to not be afraid of what decision they made or fear repercussions because there is an acceptance that all humans will occasionally make a mistake or an error. All staff are to be highly trained and motivated and to take ownership of applications rather than act in a clerical role of receiving comments from agencies and ticking a box to indicate it had been received.

Councils, Councillors and Council staff are much maligned in the community and sometimes that is deserved. Conversely, it is often not deserved and those that really do go above and beyond are frequently not recognised. Accordingly, it was touching to see how much this award meant to those who made it possible.

There being no further business the meeting closed at 7.17pm.

*I certify that pages 1 to 64 of the Open Ordinary Minutes of Council 25 November 2014 were confirmed by Council at its meeting held on 9 December 2014.*

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**Bruce MacKenzie**  
**MAYOR**