

DRAFT

MINUTES – 14 APRIL 2015



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 14 April 2015, commencing at 5.38pm.

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

Cr Paul Le Mottee entered the meeting at 5.43pm, following Item 2.

067	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 24 March 2015 be confirmed.

068	Councillor Chris Doohan Mayor Bruce MacKenzie
	It was resolved that leave of absence be granted to Cr John Nell from 8 June 2015 to 10 August 2015.

	Cr Paul Le Mottee declared a pecuniary conflict of interest in Item 2. The nature of the interest is that the Le Mottee Group have done survey on the site.
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MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Council's Work Health & Safety Manager made a presentation to the Mayor of the First Prize Award for the Statewide 2015 Work Health and Safety for Excellence won by Council.

INDEX

SUBJECT PAGE NO

MOTIONS TO CLOSE 5

- 1. MOTION TO CLOSE 6
- 2. MOTION TO CLOSE 7

COUNCIL REPORTS 8

- 2. DEVELOPMENT APPLICATION FOR RESIDENTIAL FLAT BUILDING
COMPRISING 14 AFFORDABLE RESIDENTIAL HOUSING UNITS AT
NO. 40-42 GLENELG STREET RAYMOND TERRACE) 10
- 1. DEVELOPMENT APPLICATION FOR DETACHED DUAL OCCUPANCY
AND EARTHWORKS AT NO. 887 NEWLINE ROAD, EAGLETON (LOT 4
DP56479..... 16
- 3. SUSTAINABILITY REVIEW - STRATEGY AND ENVIRONMENT SECTION..... 22
- 4. RE-ESTABLISH ALCOHOL FREE ZONES (AFZS) AT ANNA BAY,
LAKESIDE, NELSON BAY AND RAYMOND TERRACE 31
- 5. PLANNING AGREEMENT - FISHERMANS BAY ESTATE - DA 16-2012-
800-1 37
- 6. REVIEW OF AUSTRALIA DAY ACTIVITIES IN PORT STEPHENS 44
- 7. POLICY REVIEW: COMMUNITY ENGAGEMENT 52
- 8. ACQUISITION OF EASEMENT OVER LOT 23 DP 1071458 BEING 3915
NELSON BAY ROAD, BOB'S FARM 57
- 9. POLICY REVIEW - ACQUISITION AND DIVESTMENT OF LAND
POLICY..... 61
- 10. REMOVAL OF BUSINESS UNITS FROM COUNCIL'S ACCOUNTING
SYSTEM..... 65
- 11. REGIONAL PROCUREMENT INITIATIVE TENDER T441415HUN -
PROVISION OF SUPPLY AND INSTALLATION OF SAFETY BARRIER
SYSTEM..... 70
- 12. T19-2014 TENDER FOR THE SUPPLY OF TWO (2) FOUR WHEEL DRIVE
SIDE SHIFT BACKHOES 75
- 13. T02-2015 APPOINTMENT OF A REAL ESTATE AGENT ON AN
EXCLUSIVE BASIS FOR THE MARKETING AND SALE OF 33
RESIDENTIAL LOTS AT 3 TARRANT ROAD, SALAMANDER BAY 80
- 14. T03-2015 TENDER FOR CIVIL WORKS - CONSTRUCTION OF 33
RESIDENTIAL LOTS AT 3 TARRANT ROAD, SALAMANDER BAY 84
- 15. T05-2015 DESIGN AND CONSTRUCTION OF WASTE SORTING SHED
AT SALAMANDER BAY WASTE TRANSFER STATION 88
- 16. POLICY REVIEW - FORESHORE DINGHY STORAGE 93
- 17. NSW GOVERNMENT - 'FIT FOR THE FUTURE' PROGRAM 98

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

18. POLICY REVIEW: FRAUD AND CORRUPTION CONTROL 104
19. REQUEST FOR FINANCIAL ASSISTANCE 108
20. INFORMATION PAPERS 112

INFORMATION PAPERS 114

1. CASH AND INVESTMENTS HELD AS AT 31 MARCH 2015 115
2. BOOMERANG PARK MASTERPLAN SUBMISSIONS 116
3. GENERAL MANAGER'S SIX MONTHLY PERFORMANCE REVIEW 118

CONFIDENTIAL 119

1. ROAD WIDENING - 2143 & 2145 CLARENCE TOWN ROAD, GLEN
OAK 120
2. ACQUISITION OF EASEMENTS FOR DRAINAGE AND ACCESS - 661
MEDOWIE ROAD, MEDOWIE 121

MOTIONS TO CLOSE

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

ITEM NO. 1

FILE NO: PSC2015-01000/092
TRIM REF NO: PSC2014-00501

MOTION TO CLOSE

REPORT OF: TONY WICKHAM - GOVERNANCE MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (e) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely ***ROAD WIDENING - 2143 & 2145 CLARENCE TOWN ROAD, GLEN OAK.***
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - (e) information that would, if disclosed, prejudice the maintenance of law.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 14 APRIL 2015

	This matter was not dealt with by Council.
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ITEM NO. 2

FILE NO: PSC2015-01000/093
TRIM REF NO: PSC2009-01623

MOTION TO CLOSE

REPORT OF: TONY WICKHAM - GOVERNANCE MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (e) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely ***ACQUISITION OF EASEMENTS FOR DRAINAGE AND ACCESS - 661 MEDOWIE ROAD, MEDOWIE.***
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - (e) information that would, if disclosed, prejudice the maintenance of law.
 - 3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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ORDINARY COUNCIL MEETING - 14 APRIL 2015

	This matter was not dealt with by Council.
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COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

ORDINARY COUNCIL MEETING - 14 APRIL 2015

MOTION

069	Councillor Ken Jordan Councillor Steve Tucker
	That Council move into Committee of the Whole.

070	Mayor Bruce MacKenzie Councillor Ken Jordan
	That Item 2 be brought forward and dealt with prior to Item 1.

ITEM NO. 2

FILE NO: PSC2015-01000/020
TRIM REF NO: 16-2014-471-1

**DEVELOPMENT APPLICATION FOR RESIDENTIAL FLAT BUILDING
COMPRISING 14 AFFORDABLE RESIDENTIAL HOUSING UNITS AT NO.
40-42 GLENELG STREET RAYMOND TERRACE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2014-471-1 for a residential flat building comprising 14 affordable housing units, at 40-42 Glenelg Street, Raymond Terrace (Lots 5 & 6 DP6992) **(ATTACHMENT 2)** subject to the conditions contained in **(ATTACHMENT 4)**.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor Chris Doohan
	That Council defer Item 2 to the next meeting of Council to be held on 12 May 2015.

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

Those for the motion: Mayor Bruce MacKenzie, Cr Peter Kafer, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the motion: Nil.

Cr Paul Le Mottee entered the meeting at 5.43pm following Item 2, in Committee of the Whole.

Cr Paul Le Mottee left the meeting at 6.48pm, prior to Item 2, in Open Council.

ORDINARY COUNCIL MEETING - 14 APRIL 2015

MOTION

091	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that Council defer Item 2 to the next meeting of Council to be held on 12 May 2015.

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

Those for the motion: Mayor Bruce MacKenzie, Cr Peter Kafer, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for determination development application 16-2014-471-1. The application has been called to Council by Councillor Jordan due to overshadowing. A copy of the call up form is included at **(ATTACHMENT 1)**.

Proposal

The development proposal relates to a residential flat building comprising 14 affordable housing units. The development comprises 12 one bedroom units and two studio units. The building is two storeys, with units 1-7 having ground floor access and units 8-14 requiring access from internal staircases. Units range in size from 50m² to 53m² for one bedroom units and 38m² for the proposed studio units. Small balconies are provided to first floor units and courtyards form the private open space for ground floor units.

The development involves the demolition of the existing dwelling and garage along with removal of the minor landscape vegetation on site. Two large trees will be retained to the rear of the site and will form part of the landscaped communal private open space area. Seven uncovered car parking spaces are proposed within a hard stand area that runs along the sites south-east boundary.

A site inspection was held with Councillors on 24 March 2015 and the Mayor on 1 March 2015. The development plans have also been made available within the Councillors room for viewing.

Background

The subject site comprises two torrens title lots with a total area of 1,019m² and currently contains a single storey dwelling with detached garage. The site is rectangular in shape having a 25 metre frontage to Glenelg Street. The Raymond Terrace town centre is located a short distance to the north of the site. The area to the east, west and south of the site comprises established single storey residential development. Development to the north includes higher density single storey unit development. Bailiwick Cottage (Heritage Item 150 PSLEP2013) is located on the opposite side of Glenelg Street, at 70 Irawang Street. Several other local heritage items are located nearby, such as St Brigid's Convent and Church Hall. Boomerang Park and Muree Golf Course is located beyond Irawang Street to the south-east of the site.

The subject land is zoned R3 Medium Density Residential under the Port Stephens Local Environmental Plan 2013 (PSLEP2013). The proposed development is defined under the LEP as a 'residential flat building' as it comprises more than 3 dwellings including a number of dwellings that do not have access at ground level. Residential flat buildings are permissible with consent in the R3 Medium Density Residential Zone. The proposal is considered to be consistent with the zone objectives, by providing affordable residential accommodation within an accessible location. Given the proximity of the site to the Raymond Terrace town centre the site is appropriately located in order to facilitate affordable housing.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The proposed development will consist of 14 affordable rental housing units to cater for low-moderate income households. The application was originally lodged under Division 1 'In-fill affordable housing' SEPP (Affordable Rental Housing) 2009. However, the applicant was advised that division 1 did not apply as the site was not located within 400 metres of land zoned either B2 Local Centre or B4 Mixed Use Zone. The site is located 200 metres from the Raymond Terrace B3 Commercial Core.

The development could have been lodged under Division 5 of the SEPP pertaining 'Residential flat buildings'. This division specifically applies to development located within 400 metres of land zoned B3 Commercial Core in Raymond Terrace. Both the development and subject site satisfy the requirements of Division 5. However the application was not assessed in accordance with this part as a site compatibility statement was not provided.

Whilst the application has not been lodged under the SEPP the site is appropriately located in order to facilitate affordable housing, particularly as a result of its proximity to the Raymond Terrace Town Centre. The proposed development is permissible under Council's Local Environmental Plan 2013 (LEP2013) and the application has been assessed in accordance with relevant Council policy.

It is noted that the discounted Section 94 rate for affordable housing under Council's Section 94 Plan would no longer apply to the development. The relevant contribution applicable is \$163,344.

Conclusion

Throughout the assessment process Council staff met with both the applicant and objectors to address key issues associated with the development including:

- Car parking
- Design
- Privacy
- Heritage impacts
- Compliance with LEP2013 and DCP2013

As a result of negotiations with the applicant an amended design was submitted by the applicant. The proposal has been sited and designed to minimise impacts to adjoining properties and the streetscape. Further, the development is considered to adequately respond to the heritage character of the locality.

The application has been considered against the provisions of the LEP2013 and the DCP2013 and is recommended for approval. A detailed assessment of the proposed development is provided within **(ATTACHMENT 3)** in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no known financial or resource implications resulting from the recommendation.

If refused the applicant could challenge Council's decision in the Land and Environment Court. Defending Council's determination could have financial implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Funds to defend Council's decision are available within the existing budget.
Reserve Funds	No		
Section 94	Yes		A condition has been included for Section 94 contributions.
External Grants	No		

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Other	No		
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LEGAL, POLICY AND RISK IMPLICATIONS

The development application is generally consistent with Council's Local Environmental Plan and local policies including Development Control Plan 2013 and Section 94 Plan.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination may be challenged in the Land and Environment Court.	Low	Endorse the recommendation for approval of the application.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The development has a positive social impact through the provision of affordable housing stock within the Raymond Terrace town centre which contributes to increased rental affordability within the region. The works will also result in a number of jobs during construction which will have flow on effects within the local economy. Future residents of the development will have a positive impact upon local retail in the area by increasing the local population utilising local goods and services.

There has been concern raised by objectors to the proposal that the development will result in devaluing of local properties. There is no evidence to suggest that the development will adversely impact upon the value of adjoining properties.

CONSULTATION

The original development lodged with Council was advertised and notified to adjoining neighbours for a period of 14 days from 11 August 2014 to 27 August 2014. During this time six submissions were received (including one submission with 13 signatures). The key issues raised included privacy, amenity, heritage, stormwater, lack of car parking, solar access, density, and visual impact.

Following the initial exhibition period and an assessment of the development by Council officers, negotiations were commenced with the applicant to address a number of concerns including streetscape and building design, privacy, private open space, heritage, engineering, waste management and fencing. As a result of these negotiations, the applicant submitted an amended design and correspondence addressing each of the concerns raised.

The amended development was advertised and notified for a period of 14 days from 26 February 2015 to 12 March 2015. A total of six submissions were received, including two petitions (13 signatures and 93 signatures). The main issues raised during the second exhibition period included:

- Privacy and amenity
- Impacts to heritage values
- Car parking
- Design

The issues raised within the submissions have been assessed and it is considered that the proposed development is satisfactory. A detailed response to the matters raised during the exhibition period is held within the assessment report at **(ATTACHMENT 3)**.

OPTIONS

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

ATTACHMENTS

- 1) Councillor Call to Council form.
- 2) Locality Plan.
- 3) Assessment.
- 4) Conditions.

COUNCILLORS ROOM

- 1) Development plans.
- 2) Statement of Environmental Effects.

TABLED DOCUMENTS

Nil.

ITEM NO. 1

FILE NO: PSC2015-01000/028
TRIM REF NO: 16-2015-28-1

DEVELOPMENT APPLICATION FOR DETACHED DUAL OCCUPANCY AND EARTHWORKS AT NO. 887 NEWLINE ROAD, EAGLETON (LOT 4 DP56479)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2015-28-1 for a detached dual occupancy and earthworks at No. 887 Newline Road, Eagleton (Lot 4 DP 56479) (**ATTACHMENT 1**) for the reasons contained in (**ATTACHMENT 3**).

COMMITTEE OF THE WHOLE RECOMMENDATION

	Mayor Bruce MacKenzie Councillor Chris Doohan
	That Council approve the Development Application 16-2015-28-1 for a detached dual occupancy and earthworks at No. 887 Newline Road, Eagleton (Lot 4 DP 56479) in accordance with the Conditions of Consent tabled.

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

Those for the motion: Mayor Bruce MacKenzie, Cr Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, John Morello and Sally Dover.

Those against the motion: Cr Peter Kafer, Geoff Dingle and John Nell.

ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION

072	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council approve the Development Application 16-2015-28-1 for a detached dual occupancy and earthworks at No. 887 Newline Road, Eagleton (Lot 4 DP 56479) in accordance with the

Conditions of Consent tabled.

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

Those for the motion: Mayor Bruce MacKenzie, Cr Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, John Morello and Sally Dover.

Those against the motion: Cr Peter Kafer, Geoff Dingle and John Nell.

BACKGROUND

The purpose of this report is to present to Council for determination development application 16-2015-28-1 for a detached dual occupancy and earthworks (earth mounds) at No. 887 Newline Road, Eagleton (the 'subject site'). The application was called to Council by Mayor MacKenzie. The call to Council form is provided as an attachment to this report (**ATTACHMENT 4**).

On 24 June 2014 Council resolved to adopt a moratorium to suspend the approval of all new dwellings on high risk floodprone land within the rural west until such time as Council had developed a strategy and policy position for building in flood prone land. It is anticipated the new flood policy will be finalised in June 2015. Therefore, at this point in time the subject application cannot be supported without the flood policy being in place.

Despite the moratorium, the applicant has argued that this particular application should be considered given that earthworks (mounds) were previously approved on the site. It is acknowledged that an approval for two flood mounds was approved in September 2014 and that the plans in the previous approval did indicate that the mounds would be used for the purposes of cattle and 'future dwellings'. It is however important to note that the mounds approved under the previous consent are in a different location to the mounds proposed under the subject development application. Furthermore, should the current application be approved, consent would exist for a total of four flood mounds on the site (unless the proponent elected to surrender their previous consent).

Given the current application is for two new flood mounds in a different location and new building works, it is considered that the proposal is inconsistent with Council's adopted moratorium and therefore it is recommended that approval not be granted until the particular flood impacts of the development can be considered against an adopted strategy and policy position.

Port Stephens Local Environmental Plan 2013

The application seeks approval for the construction of a new detached dual occupancy and earthworks (earth mounds). The subject site is zoned RU1 Primary Production. The proposed development is permissible in the RU1 zone and consistent with the zone objectives. The site has a dwelling entitlement under Clause 4.2B.

Site Suitability

The subject site is not considered suitable for the proposed development given the increased density is not compatible with the flood risk of the area. There are potential risks to life and property caused by frequent inundation and possible high velocity flood waters.

Site Suitability – Flood Risk

The subject site is located within the Williams River Catchment. Council has a current flood study for this area being the Williams River Flood Study 2009, which was undertaken in accordance with the NSW Floodplain Development Manual 2005. From this data the flood planning level for the site is 5.31 metres AHD. The depth of flow through the subject site will inundate the site to a maximum depth of between 4.3m and 4.8m above natural ground level. Flood water could travel through the site at a rate of 3.6 metres per second.

The subject site is located within a high hazard flood area, which means that:

- the land is a pathway taken by major discharges of floodwaters;
- the obstruction or partial obstruction of which would cause significant redistribution of floodwaters or a significant increase in flood levels within the area; and
- floods in high hazard areas poses a possible danger to personal safety where the evacuation of able-bodied adults would have difficulty wading to safety or where there is a potential for significant damage to buildings.

Key Issue

The key issued associated with the development proposal is flooding. The site is located within a high hazard flood category area. The application is recommended for refusal in accordance with s.79C(1)(c) of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*. A detailed assessment of the proposal against the provisions of S.79C of the *EP&A Act 1979* is provided within **(ATTACHMENT 2)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

Should Council refuse the application the applicant may appeal Council's determination under s.97 (1) *EP&A Act 1979*. Defending the refusal would have financial implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Funds to defend Council's refusal of the development application are available within the existing budget.
Reserve Funds	No		
Section 94	No		Given refusal is recommended no S94 applies. S94 would apply and could be conditioned if the application was approved.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is not consistent with the *Port Stephens Local Environmental Plan 2013* (PSLEP 2013) Clause 7.3 (Flood planning) as the subject site is located within a high hazard flood area and would potentially result in possible danger to personal safety. The development presents a risk to Council and the community if the application is approved.

On 27 November 2012 Council adopted a revised Corporate Risk Management Policy. The policy includes Council's risk appetite statement that explicitly states that Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public. The policy also identifies that Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating.

A decision contrary to the recommendation presents an unacceptable risk to Council as per Council's standard risk management matrix. These unacceptable risks relate to Council and the local community in respect to public safety, Council reputation and legal exposure.

A decision contrary to the planning framework may waiver the good faith provision in the *Local Government Act 1993*. This could result in individuals being personally accountable and responsible for any subsequent implications resulting from the decision. Further, discussions with Council's Corporate Risk Unit confirmed that it is likely Council's insurers may not cover Council should a decision be made contrary to the relevant standards.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination may be challenged in the Land and Environment Court.	Low	Determine application in line with recommendation. In <i>Webster v Muswellbrook Shire Council</i> [2-13] NSWLEC 1146 and <i>Radray Constructions Pty Ltd v Hornsby Shire Council</i> [2014] NSWLEC1024 the Land and Environment Court dismissed appeals against Council's decision to refuse development applications located within a floodway. Council's refusal of the application would therefore be likely to be upheld.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Despite the economic benefits of the development for the proponent, the development shall have an adverse social impact in the locality. Supporting such a development would potentially have an economic cost to the community as it will place undue pressure on emergency services such as the SES, ambulance, fire brigade and police in terms of responding to any natural hazards and any medical emergencies that may occur and affect the site.

In a planning sense, it is not sound decision making to allow new habitable development in high hazard floodways, hence the reason why Council resolved to formulate a policy position on the matter.

CONSULTATION

In accordance with Councils Notification Policy, the application was notified for a period of 14 days during which time no submissions were received.

OPTIONS

- 1) Adopt the recommendation.
- 2) Amend the Recommendation.
- 3) Refuse the recommendation.

ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment.
- 3) Reasons for refusal.
- 4) Call to Council form.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Statement of Environmental Effects.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

FILE NO: PSC2015-01000/018
TRIM REF NO: PSC2015-00253

SUSTAINABILITY REVIEW - STRATEGY AND ENVIRONMENT SECTION

REPORT OF: TIMOTHY CROSDALE - STRATEGY AND ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Strategy and Environment Section (**TABLED DOCUMENT 1**);
- 2) Endorse the recommendations of the sustainability review contained within the tabled Service Strategy – Strategy and Environment Section.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

073	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: 1) Note the information contained in the Service Strategy – Strategy and Environment Section (TABLED DOCUMENT 1); 2) Endorse the recommendations of the sustainability review contained within the tabled Service Strategy – Strategy and Environment Section.

BACKGROUND

The purpose of this report is to present to Council the outcomes of the sustainability review for the Strategy and Environment Section and seek endorsement of the

recommendations contained within the Strategy and Environment Section Service Strategy.

The Strategy and Environment Section was formed in 2014 and contains three business units being Strategic Planning, Natural Resources and Economic Development.

The overall approach to the sustainability review has been to complete the review of services at business unit level which has informed the identification of strategic directions at a section level. Accordingly, the sustainability review has necessarily focussed on the key directions that can be implemented at a section level to enhance the achievement of the stated purpose and direction of these key services.

Integral to the completion of the sustainability review has been the definition the section's purpose and key services. This has been achieved through the comprehensive review of the Section Systems View, which has focussed on a number of critical aspects, being:

- The purpose of the Strategy and Environment Section being "To inform and enable sustainable development of our community through the delivery of services that protect and enhance our natural assets, facilitate economic development and inform the future growth of our community."
- Identification of key services delivered by each business unit with associated key process metrics for each service to inform continuous review and establishment of quarterly reporting on these metrics.

In addition to this, further works on the purpose and direction of the Economic Development service has been completed and outlined in the recently endorsed Economic Development Policy of Council. The Policy has been developed based on Council best practice for the delivery of this service.

The services delivered by the Section links to the Community Strategic Plan 2024 in the following areas:

- Strategic Direction – Our Citizens Ageing Population
2.1.1 Identify and plan for the needs of an ageing population;
- Strategic Direction – Our Citizens People with Disabilities
3.1.1 Make future provision for people with disabilities, their families and carers;
- Strategic Direction – Our Environment Environmental Sustainability
9.1.1 Develop and implement catchment and biodiversity programs;
- Strategic Direction – Our Environment Sustainable Development
11.1.1 Provide Strategic Land Use Planning Services;
- Strategic Direction – Our Economy Economic Development
12.1.2 Provide Economic Development Services to local businesses;
- Strategic Direction Our Economy Economic Development
14.1.1 Support identified needs for training.

The key drivers for Council's delivery of these services are legal, operational and financial.

By way of background, sustainability reviews across Council services comprise three key stages:

- Stage 1 Reviewing what is currently delivered – i.e. service drivers (legal, financial, operational);
- Stage 2 Reviewing what should be delivered – i.e. service levels (at what standard and at what cost);
- Stage 3 Reviewing how it should best be delivered – i.e. service delivery method (delivery model).

The findings of all stages of the review are documented into a comprehensive service strategy, with recommendations on the way forward.

Strategy and Environment Section

As part of its functions the Strategy and Environment Section provides the following key services (by business unit):

Natural Resources

- 1) Bushland management and enhancement
- 2) Ecological Advice Service
- 3) Environmental Education
- 4) Environmental Strategy and Programs

Strategic Planning

- 1) Planning Strategy and Policy (including Social Planning)
- 2) Statutory planning (LEP, DCP, planning proposals)
- 3) Developer Contributions
- 4) Land Attribute Data

Economic Development

- 1) Economic Data Analysis and Advice
- 2) Business Liaison and Support
- 3) Business Advocacy and Communications
- 4) Place Management and Activation

The services delivered from the section are to a range of key customers both internal and external to the organisation. Internal service delivery is detailed in Service Level Agreements across the organisation that clearly outlines our key customer expectations on service delivery. Further, all services delivered from the section have extensive interactions with the external environment of Council which broadens our key customer base as well as necessitates service delivery to be responsive to external changes and expectations,

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Resources available during the current financial year for the Strategy and Environment Section comprise:

Operating Expenditure	\$4,347,807
Capital Expenditure	NA
Revenue	\$989,420
Staffing (EFT)	25.85

The Service Strategy details the key metrics that have been established and monitored to measure the effectiveness of our services to our customers. In addition, there are a range of emerging trends that are a critical consideration in this review of our services. Notable emerging trends include:

- Legislative Changes – including expected changes to coastal zone management legislation, pest and weed management legislation and the range of reviewed environmental planning instruments from State government reforms of the planning system.
- Policy Changes – including expected revisions to regional strategic land use policy and Council's recently adopted Economic Development Policy.
- Service Delivery expectations – whilst this encompasses all of Council operations specific emerging trends for further expectations exist in the expected ongoing devolvement of services including land management, coastal planning and protection, and natural hazard management to local government.
- Risk Management – there is increasing regulatory and community expectations on the management of risks from Council operations as this relates to the environment. This necessitates Council improving its processes on informing itself of these risks and implementing appropriate management actions.
- Stewardship – there is increasing community and customer expectation for Council to balance the protection and enhancement of the natural assets of the LGA with ongoing community development. The services delivered from the Strategy and Environment Section can be positioned to provide for Council decision making and policy to meet this expectation.

SERVICE REVIEW FINDINGS

Internal Efficiencies and Options

It is proposed to implement a restructure within the Natural Resources team to include an additional 1.4 EFT (noting that 1 EFT is proposed as a temporary two year position) comprising:

- Environmental Management System (EMS) Officer: Increase in 1 EFT position for a period of 2 years to develop and implement a Council wide Environmental Management System. This will be implemented for Organisational Development as Integrated Risk Management System (IRMS) process owners and provide services and advice across Council operations.

- Environmental Strategist: This is proposed as a full time EFT position however will result in net increase in 0.4 EFT through replacement of existing Sustainability Officer Role (0.6 EFT). This role is proposed to provide positional responsibility for ensuring Council's natural resource management strategies, plans and policies are aligned to a core purpose of the Natural Resources team around environmental stewardship by ensuring the natural resources function is aligned to broader Council policy and decision making. In addition, this role will have important data collection, interpretation and reporting functions including organisational reports (sustainable energy) and statutory reporting (State of the Environment Report).

It is also proposed to optimise existing resources comprising the following:

- Economic Development Manager – This role is proposed to be substantially changed to include skills related to urban planning / place management in order to provide business specific services to the community. Role proposed to be formalised at coordinator level as reflective of this position of the role in the Section and Organisation. The Economic Development Coordinator role is proposed to replace the existing Economic Development Manager role.
- Environmental Officer Role - Review of existing Environmental Officer with changes to reflect improved internal service offering and management of Council risk. This is proposed as a new Senior Environmental Planner position within Council. This position is proposed to be substantially altered to reflect required skill set for existing and future services (in particular environmental compliance, management and impact assessment advice for Development Assessment & Compliance, Strategic Planning, Facilities & Services and property services). This is to improve Council efficiency in use of this advice service across Council operations. This addresses the opportunity for maximising the utilisation of internal skills and experience to reduce reliance (but not eliminate) the need for external advice.

A range of operational process, procedure and work practices will be implemented as part of normal operational oversight across all units within the Section. A specific recommendation is to complete a formal review of Port Stephens Business Centre (Communicate PS) service with a formal position to be determined within 12 months.

Benchmarking

As part of the completion of the sustainability review benchmarking of the current and future direction of services delivered from the Strategy and Environment Section included the following:

- The proposed approach to the management of broader Council environmental risk (through the development of an Environmental Management System) is a reflection of best practice management across industry. PSC already has a sophisticated approach to the management of risk through its Integrated Risk Management System (IRMS). The best practice approach in PSC context is for the EMS to be an integrated component of the

- IRMS. This will provide for the effective and efficient management of all risks across Council.
- The increase in EFT is considered the most appropriate option to implement the proposed EMS, as it provides the most effective basis for the EMS to be relevant and effective to Council operations. There is no significant cost saving to Council through seeking alternate resourcing (ie. external consultant) to complete this Project.
 - Increased focus on aligning environmental stewardship to Council strategies, plans, policy and decision making is reflective of regional best practice. The proposed achievement of this through an increase of 0.6EFT is efficient relative to other models across Councils.
 - The Natural Resources team maximise the leverage of existing environmental levy funding for external grants for on ground environmental enhancement at a rate of 1.9 times – this essentially means that Council is successful in doubling annual funding for on ground environmental works across the LGA. This is higher than other Councils in the region.
 - Benchmark of existing Strategic Planning services has been related to cost / EFT and also cost for the community. These measures are considered appropriate as they provide an indication of value of the service for internal funding (EFT measure) as well as value to the community. Based on the above measures the current resource set and expenditure for provision of strategic planning unit is consistent with NSW median benchmarks. It is noted that the current resource set is below population measures indicating a value for money service for the community.
 - Through the development and establishment of Council's Economic Development Policy (adopted by Council in November 2014) benchmarking was undertaken across a range of Councils within Australia. This benchmarking exercise established that the internally focussed approach to ED within PSC will be unique and a reflection of best practice approach to this function.
 - The ED Unit is established under the Business Rate Levy which provides funding for this service to the community. The recommendation for this service seeks to ensure efficiency in the expenditure of the business rate levy across the ED Unit.

SERVICE REVIEW RECOMMENDATIONS

The review resulted in the following recommendations:

- 1) Maintain the current functions of the Strategy and Environment Section.
- 2) Reposition the Economic Development service to align with Council's Economic Development Policy and provision of direct services to the business community through:
 - a. Endorse proposed Economic Development Coordinator position and undertake a review of ED service over next 12 months in consultation with the business community;
 - b. Endorse formal review of Port Stephens Business Centre service with a formal position to be determined within 12 months.

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

- 3) Endorse the proposed restructure of the Natural Resources team to enhance Council's management of environmental risk to its operations and environmental stewardship through:
- a. Establish the proposed Senior Environmental Planner position;
 - b. Increase in 1 EFT for two years for proposed EMS Officer position;
 - c. Establish the proposed Environmental Strategist position and associated increase in 0.4 EFT.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens Council's services and assets are sustainable in the longer term.	Council will reduce its underlying deficit to break even in 2014-2015 financial year. Council will increase its revenue from non-rates sources. Manage risks across Council. Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.

FINANCIAL/RESOURCE IMPLICATIONS

The proposed recommendations of the sustainability review have been supported through a funding strategy that establishes that the proposed recommendations can be funded from existing budgets. This will be achieved through identified savings associated with the proposed changes, reallocation of existing budget within the section, internal funding of positions through a user pays model and agreement for funding from existing budget of Council.

It is noted that as the recommendations will result in the substantial change to a number of existing positions in Council. This would be managed in accordance with established Council processes as outlined in the Enterprise Agreement (EA).

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Proposed recommendations fully funded from existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

The services delivered through the Strategy and Environment Section has a legal, financial and operational basis. For those services that are legally based, without the current resources Council may not be able to meet these legislative obligations. The sustainability review has established that the risk of alternative models for operational and financially based services would increase Council's risk exposure. Moreover, the recommendations of the sustainability review seek to improve Council management of environmental risks to its operations.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that without adequate resourcing of legislative functions Council would be exposed to increased risk.	Low	Adopt the recommendations.	Yes
There is a risk that implementing alternate models for operationally and financially based services would increase Council's risk exposure.	Low	Adopt the recommendations.	Yes
There is a risk that without improved internal advice and a systematic approach to managing environmental risks Council would be exposed to increased risk.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The recommendations of the sustainability review seek to provide a more efficient approach to the delivery of existing services whilst achieving the proposed future direction of this service.

CONSULTATION

- 1) General Manager.
- 2) Executive Leadership Team.
- 3) Mayor and Councillors.
- 4) Section Managers.

- 5) Strategy and Environment Section.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Strategy and Environment Section Service Strategy.

ITEM NO. 4

FILE NO: PSC2015-01000/025
TRIM REF NO: PSC2014-00222

**RE-ESTABLISH ALCOHOL FREE ZONES (AFZS) AT ANNA BAY, LAKESIDE,
NELSON BAY AND RAYMOND TERRACE**

REPORT OF: TIMOTHY CROSDALE - STRATEGY AND ENVIRONMENT SECTION
MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Prepare a proposal as requested by the NSW Police (Port Stephens Local Area Command (LAC) to re-establish the Alcohol Free Zones (AFZ) at the following locations:
 - a) Anna Bay (**ATTACHMENT 1**);
 - b) Lakeside (**ATTACHMENT 2**);
 - c) Nelson Bay (**ATTACHMENT 3**);
 - d) Raymond Terrace (**ATTACHMENT 4**);
- 2) Commence public consultation for 30 days in accordance with the Local Government Act 1993 for the proposed re-establishment of the above AFZs;
- 3) If no objections submitted, proceed with the re-establishment of these AFZs for a period of 4 years without a report back to Council.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

074	Councillor Chris Doohan Councillor John Morello
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Prepare a proposal as requested by the NSW Police (Port Stephens Local Area Command (LAC) to re-establish the Alcohol Free Zones (AFZ) at the following locations:<ol style="list-style-type: none">a) Anna Bay (ATTACHMENT 1);b) Lakeside (ATTACHMENT 2);c) Nelson Bay (ATTACHMENT 3);d) Raymond Terrace (ATTACHMENT 4);2) Commence public consultation for 30 days in accordance with the Local Government Act 1993 for the proposed re-establishment of the above AFZs;3) If no objections submitted, proceed with the re-establishment of these AFZs for a period of 4 years without a report back to Council.

BACKGROUND

The purpose of this report is to consider applications made from the NSW Police (Port Stephens Local Area Command) to re-establish four existing Alcohol Free Zones (AFZs) at Nelson Bay, Lakeside, Raymond Terrace and Anna Bay (**ATTACHMENTS 1, 2, 3 & 4**).

Alcohol Free Zones are an effective tool for local Police to deal with alcohol related offences to reduce anti-social behaviour and provide a safer street environment for the community.

The existing AFZs were all re-established in 2011 at the request of NSW Police (Port Stephens Local Area Command). The existing AFZs are due to expire 31 August, 2015. The attached proposals are to re-establish the AFZs for another four years, effective 31 August 2015 to August 2019 as below:

Anna Bay

In Anna Bay, the AFZ includes the road and footpath on Gan Gan Road from James Paterson Street to Morna Point Road, including the public car parks to the Anna Bay Tavern and the IGA Shopping Centre (**ATTACHMENT 1**).

Lakeside

In Lakeside, the AFZ includes the road and footpath on Benjamin Lee Drive from Clarke Close to Hastings Drive and along Mount Hall Road to Dunn Place. Council's Lakeside Park No 2 and the car parks for Lakeside Shopping Centre and Lakeside Village Tavern are also included **(ATTACHMENT 2)**.

Nelson Bay

In Nelson Bay, the AFZ covers all streets and car parks bounded by and including part of Church Street, part of Stockton Street, Yacaaba Street, part of Tomaree Street, part of Donald Street, part of Magnus Street, part of Government Road, Laman Street, part of Victoria Parade, Teramby Road, the two Council public carparks in Donald Street and Apex Park **(ATTACHMENT 3)**.

Raymond Terrace

In Raymond Terrace, the AFZ includes the roads and footpaths within the area bounded by Adelaide Street from Swan Street to Riverside Park and Kangaroo Street to the Hunter River. The AFZ also includes the streets of Sturgeon, Port Stephens, Hunter, Henry Carmichael, Bourke William, Glenelg, Jacaranda Avenue and The Boulevard **(ATTACHMENT 4)**.

Licensed Alfresco Dining Areas on footpaths within the Alcohol Free Zones are exempt.

With the re-establishment of the Alcohol Free Zones within the Port Stephens LAC (in particular Nelson Bay, Raymond Terrace, Lakeside and Anna Bay), crime statistics reflect that the implementation of these zones has contributed to the reduction of crime as a whole within the LAC. The figures provided at the Community Safety Precinct Committee by Port Stephens LAC indicate this has occurred on all aspects of crime. The statistics show that in the previous 3 years Port Stephens LAC has in fact been below the PS LAC business plan, and Police believe it is this same period of time that the Alcohol Free Zones have been implemented.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens is a community where people feel safe.	Use Council's regulatory powers and Government legislation to enhance public safety.

FINANCIAL/RESOURCE IMPLICATIONS

The costs of re-establishing an AFZ includes installing or amending AFZ street signs, public consultation and notification. Funds to cover these costs will be sourced from Strategic Planning & Civil Assets existing budgets.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Public Notices Exhibition Advertisement – Strategic Planning.
	Yes		AFZ signage – Civil Assets.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The establishment of an AFZ is governed by section 646 (1) of the Local Government Act 1993. An AFZ can be established for a maximum period of four years, after which it must be re-established following the procedure prescribed by the Department of Local Government's Ministerial Guidelines on Alcohol-Free Zones. The Guidelines stipulate that a proposal to establish an AFZ must adequately address the following:

- Reasons supporting an AFZ
- Location of an AFZ
- Duration of an AFZ
- Consultation with local Police Patrol Commander

This report and attached proposals satisfies the Guidelines for re-establishment of AFZs in Nelson Bay, Raymond Terrace, Lakeside and Anna Bay.

AFZs are effective tools for local police to deal with alcohol-related offences to reduce anti-social behaviour and provide a safer street environment for the community. AFZs give police the power to seize and tip out or otherwise dispose of alcohol without the need to issue a warning and they can also use their discretion to issue a warning to a person who is drinking in an AFZ, for example, where the person may be unaware of the zone. In circumstances where a person does not cooperate with a police officer, they can be charged with obstruction under section 660 of the Local Government Act which carries a maximum penalty of \$2,200.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the removal of the AFZs will see a rise in anti- social behaviour and malicious damage.	Medium	Re-establish the AFZs.	Yes
There is a risk of safety to the community and damage to property without AFZs in place.	Medium	Re-establish the AFZs.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The re-establishment of the existing AFZs will assist Police in reducing anti-social and criminal behaviour in public places. The establishment of these AFZs in the past has helped to improve public perceptions of safety in these areas, which can increase social and economic activities. Reduced crime can also lead to reductions in the costs of repairing vandalised premises, replacing stolen goods and insurance premiums due to alcohol related crimes.

Changing the patterns of alcohol consumption in these areas has also reduced the amount of litter and broken glass found in the area and improved the overall amenity and safety of these environments.

CONSULTATION

The public consultation process to address the AFZ re-establishment submission by Police will include the steps prescribed by the Department of Local Government's *Ministerial Guidelines on Alcohol-Free Zones*:

- Publishing a notice of the proposal in a newspaper circulating in the area, allow inspection of the proposal and invite representations or objections within 30 days. The notice should state the exact location of the proposed AFZ and the place and time at which the proposal may be inspected;
- Sending a copy of the proposal to:
 - a) the officer in charge of the police station within or nearest to the proposed zone;
 - b) liquor licensees and secretaries of registered clubs whose premises border on or adjoin or are adjacent to the proposed zone, and invite representations or objections within 30 days.

The process will commence subject to Council's resolution to support the re-establishment of AFZs in these areas.

OPTIONS

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

ATTACHMENTS

- 1) AFZ Proposal & Police Application - Map of Anna Bay AFZ.
- 2) AFZ Proposal & Police Application - Map of Lakeside AFZ.
- 3) AFZ Proposal & Police Application - Map of Nelson Bay AFZ.
- 4) AFZ Proposal & Police Application - Map of Raymond Terrace AFZ.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: PSC2015-01000/057
TRIM REF NO: PSC2008-1496

PLANNING AGREEMENT - FISHERMANS BAY ESTATE - DA 16-2012-800-1

REPORT OF: TIMOTHY CROSDALE - STRATEGY AND ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Planning Agreement with Landcom (trading as UrbanGrowth NSW) in accordance with the draft Planning Agreement (**ATTACHMENT 1**);
- 2) Place the Planning Agreement on exhibition for a period of not less than 28 days;
- 3) Should no submissions be made, the Planning Agreement be entered into.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

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

Those for the motion: Mayor Bruce MacKenzie, Cr Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the motion: Nil.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

075	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: 1) Endorse the Planning Agreement with Landcom (trading as

- | | |
|----|---|
| | UrbanGrowth NSW) in accordance with the draft Planning Agreement (ATTACHMENT 1); |
| 2) | Place the Planning Agreement on exhibition for a period of not less than 28 days; |
| 3) | Should no submissions be made, the Planning Agreement be entered into. |

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

Those for the motion: Mayor Bruce MacKenzie, Cr Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for consideration the proposed draft Fisherman's Bay Estate Planning Agreement between Council and Landcom (trading as UrbanGrowth NSW) (**ATTACHMENT 1**).

Planning Agreements are made in accordance with s93F of the Environmental Planning and Assessment Act 1979 and Clause 25E(1) of the Environmental Planning and Assessment Regulation 2000. Under a Planning Agreement the developer is required to make development contributions for a public purpose. The development contributions can include monetary contributions or land dedication or public works or the provision of material public benefits.

UrbanGrowth NSW (the Developer) submitted a development application for a 106 lot subdivision at 21-27 Fishermans Bay Road, Fishermans Bay (Lots 1-4, DP 1184315), 4 Clonmeen Circuit (Lot 132, DP 834467) and 2 Clonmeen Circuit (Lot 59, DP 815148), including supporting infrastructure. On 5 February 2015, UrbanGrowth NSW offered to enter into a Planning Agreement in relation to the Development Application (**ATTACHMENT 2**). Deferred commencement development consent was issued on 12 February 2015 by the Joint Regional Planning Panel (JRPP). The consent does not become operational until the Planning Agreement has been executed.

The key elements of the Planning Agreement are for works to be completed by the Developer in lieu of Section 94 monetary contributions paid to Council, which include the project management and construction of Stage 1 of the Anna Bay Community Recreation Centre.

In addition, the draft planning Agreement provides the framework for the delivery of other works as part of the development, including:

- Providing an open space playground and kick about area;

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

- Providing a bush track;
- Rehabilitation and dedication of conservation land to Council and National Parks and a formal entrance to Tomaree National Park;
- Fishermans Bay Road shared use path;
- Shared use path between 4 Clonmeen Circuit and the proposed residential subdivision to Fishermans Bay Road;
- Providing a public walkway and road on part of 4 Clonmeen Circuit;
- Council's legal costs associated with the Planning Agreement.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Agreement is proposed in lieu of Section 94 contributions. If Section 94 levies were applied to the development these contributions would equate to \$1,483,784.00. The financial benefit of the proposed Planning Agreement is that it will allow for the funds to be directly distributed to works under the Planning Agreement i.e Anna Bay Community Recreation Centre instead of works in the Section 94 works schedule. The Developer will also project manage the building of the Centre in line with the development. This allows the Centre to be built sooner at a lesser cost than if Council was to undertake the project. Also any costs overruns are borne by the Developer and not Council.

As a part of the terms of the Planning Agreement, Council's legal fees for the preparation of the draft Planning Agreement will be paid by the Developer.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Staff time
Reserve Funds	No		
Section 94	No		\$1,483,784 of Section 94 funds will not be received in lieu of the delivery of Stage 1 of the Anna Bay Community Recreation Centre.
External Grants	No		

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Source of Funds	Yes/No	Funding (\$)	Comment
Other	Yes		Council's legal fees associated with the preparation of the Planning Agreement will be paid by the Developer in accordance with Schedule 1 of the Planning Agreement.

LEGAL, POLICY AND RISK IMPLICATIONSEnvironmental Planning & Assessment Act 1979

A Planning Agreement is a voluntary agreement between a planning authority and a Developer who has sought a change to an environmental planning instrument, made or proposes to make a development application or has made an agreement with, or is associated with a person to whom the above applies.

Under the Planning Agreement, a Developer is required to make development contributions for public purposes. These can include monetary contributions, land dedication, public works and the provision of material public benefits. A public purpose includes forward funding, recouping the cost, and recurrent funding of public facilities, affordable housing, transport or other infrastructure, and conservation or enhancement of the natural environment. There is no requirement for any connection between the development to which a Planning Agreement relates and the object of expenditure of any money required to be paid under the agreement.

Port Stephens Section 94 Development Contributions Plan 2007

Council will typically enter into a Planning Agreement where it can be demonstrated that there is a net community benefit. A net community benefit is the value of the contributions under the agreement, in comparison to the value of the contributions and development works that would otherwise be required under Council's Section 94 Plan and development works (Section 80A works) requirements in respect of the development. A positive value would indicate on balance a potential net community benefit.

The table below indicates a balance the proposed works are of equal or greater monetary value therefore providing community value.

WORKS WITHIN AGREEMENT	ALIGNMENT WITH SECTION 94 PLAN
Project manage and construct Stage 1 of the Anna Bay Community Recreation Centre	Item listed in the Section 94 works schedule (SD365) totalling \$1,483,784
Open space playground and kick about area	Not listed in the works schedule.

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

WORKS WITHIN AGREEMENT	ALIGNMENT WITH SECTION 94 PLAN
Bush track	Not listed in the works schedule.
Rehabilitation and dedication of conservation land to Council and National Parks and a formal entrance to Tomaree National Park	Not listed in the works schedule
Fishermans Bay Road shared use path	Section 80A condition (required by the development)
Shared use path between 4 Clonmeen Circuit and the proposed residential subdivision to Fishermans Bay Road	Section 80A condition (required by the development)
Public walkway and road on part of 4 Clonmeen Circuit	Section 80A condition (required by the development)
Council's legal costs associated with the Planning Agreement	As required and agreed totalling \$4,125.00

The Planning Agreement provides for all monies to be directed towards the Anna Bay Community Recreation Centre. The net community benefit of this approach is it enables the Developer to deliver the Anna Bay Community Recreation Centre to an agreed standard in a timely manner as development proceeds with any risk of cost overrun to be borne by the Developer. As outlined in the draft Planning Agreement (**ATTACHMENT 1**) the works are to be completed by Urban Growth as part of this development. The draft Planning Agreement specifies that completion of works are to be not later than the issue of the first subdivision certificate that creates a final lot in the final stage of the development.

It is noted that Council does have the option to amend the Planning Agreement to include a monetary amount or reject the Planning Agreement and require a Section 94 levy to be \$1,483,784.00. This approach would allow Council to apply the contributions to a range of items on the Section 94 works schedule and/or direct money towards the repayment of any borrowings that have occurred from other catchment areas. If this is the case, the Developer would be required to lodge a Section 96 application to amend the requirement for a Planning Agreement as part of the condition of consent.

In taking this approach the timing and delivery of the Anna Bay Community Recreation Centre would be subject to availability of future Section 94 funds as well as other funding with timing determined as part of the Capital Works program process. However Council would be required to project manage the works at an additional cost and more time than if the Developer carried out the work. As such, it is recommended that Council enter into the draft Planning Agreement.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Planning Agreement will be challenged in the Land and Environment Court.	Low	Ensure all processes are executed in accordance with relevant legislation.	Yes
There is a risk that Council's reputation may be impacted by entering into the agreement due to public concern over the associated development application.	Low	Ensure all processes are executed in accordance with relevant legislation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Agreement represents the Developer's commitment to delivering infrastructure, as identified in the current Section 94 Plan, for existing and future growth within the Fishermans Bay and Anna Bay communities.

The economic benefits of the Planning Agreement allows the Developer to deliver the project in a timely manner in line with development and growth in the area rather than Council delivering the project through the Capital Works program at a later stage.

In additional to the Anna Bay Community Recreation Centre, the Planning Agreement provides for works which otherwise would be included as a condition of consent (Section 80A works). The benefit of having these works included in the Planning Agreement is to provide greater security that the works will be undertaken in a timely manner consistent with the approved subdivision.

CONSULTATION

The Developer initially approached Council to seek a Planning Agreement and requested Council to identify key projects in the Section 94 Plan within the immediate vicinity of the proposed Fishermans Bay development. Legal Services and Facilities and Services have been extensively involved throughout the negotiation stage of the draft Planning Agreement.

It is a recommendation of this report that the draft Planning Agreement be placed on exhibition for a minimum of 28 days. During the exhibition period the document will be available to view on Council's website, Administration Building and Tomaree

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Library. A further report will be prepared for Council's consideration should submissions be received during public exhibition.

OPTIONS

- 1) Adopt the draft Planning Agreement and place on public exhibition.
- 2) Amend the draft Planning Agreement to seek a monetary contribution.
- 3) Reject the draft Planning Agreement and require a Section 94 contribution.

ATTACHMENTS

- 1) Draft Planning Agreement. (Provided under separate cover)
- 2) Letter of Offer from UrbanGrowth NSW dated 5 February 2015. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: PSC2015-01000/033
TRIM REF NO: PSC2013-02696

REVIEW OF AUSTRALIA DAY ACTIVITIES IN PORT STEPHENS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse changes to the current 355(c) Port Stephens Australia Day Celebrations Coordinating Committee and rename it the Port Stephens Australia Day Committee;
- 2) Revoke the current committee constitution schedule to standard 355(c) Constitution - Port Stephens Australia Day Celebration Coordinating Committee (**ATTACHMENT 1**) in accordance with Section 355(c) of the Local Government Act 1993;
- 3) Adopt the revised Committee Constitution Schedule to standard 355(c) constitution (**ATTACHMENT 2**) and;
 - a. appoint three councillors (one from each Ward) as Councillor representatives on the Port Stephens Australia Day Committee;
 - b. seek expressions of interest from the community to form a Raymond Terrace sub-committee;
 - c. seek formal volunteer registrations from the Nelson Bay subcommittee;
- 4) Note Australia Day activities held in Port Stephens for 2015 (**ATTACHMENT 3**);
- 5) Review the committee and its activities at the next review date following Council elections in September 2016.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor John Nell
	That the recommendation be adopted and that Councillors Jordan, Tucker and Dover be nominated as the Council delegates.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

076	Councillor Chris Doohan Councillor John Morello
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse changes to the current 355(c) Port Stephens Australia Day Celebrations Coordinating Committee and rename it the Port Stephens Australia Day Committee;2) Revoke the current committee constitution schedule to standard 355(c) Constitution - Port Stephens Australia Day Celebration Coordinating Committee (ATTACHMENT 1) in accordance with Section 355(c) of the Local Government Act 1993;3) Adopt the revised Committee Constitution Schedule to standard 355(c) constitution (ATTACHMENT 2) and;<ol style="list-style-type: none">a. appoint Councillors Jordan, Tucker and Dover as Councillor representatives on the Port Stephens Australia Day Committee;b. seek expressions of interest from the community to form a Raymond Terrace sub-committee;c. seek formal volunteer registrations from the Nelson Bay subcommittee;4) Note Australia Day activities held in Port Stephens for 2015 (ATTACHMENT 3);5) Review the committee and its activities at the next review date following Council elections in September 2016.

BACKGROUND

The purpose of this report is to provide information on 2014 and 2015 Australia Day activities at Raymond Terrace and determine a way forward for future activities in Port Stephens. This report also provides information about the status of the current 355(c) Port Stephens Australia Day Celebrations Coordinating Committee.

At its meeting on 5 March 2013, Council resolved to:

- 1) conduct a sustainability review of civic ceremonies and events;
- 2) disband the Raymond Terrace Australia Day subcommittee and call for expressions of interest from the community.

At its meeting on 23 July 2013, Council resolved to:

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

- 1) Continue to support and host Australia Day activities in Nelson Bay and Raymond Terrace;
- 2) Conduct a review of these arrangements after two years.

Council's financial support for Australia Day activities in 2015 was:

- Nelson Bay subcommittee - \$12,000 – to increase by CPI each year (Council meeting 26 June 2012), \$12,872 (2015);
- Raymond Terrace subcommittee - \$12,000 – to increase by CPI each year (Council meeting 26 June 2012), \$12,872 (2015); and
- \$3,000 per year to be paid to the Lions Club of Tilligerry Peninsula Inc. for Australia Day activities on the Tilligerry Peninsula.

Raymond Terrace Australia Day activities

For 2014 and 2015, Council contracted an event management company (Mothership Events) to assist with logistics of the community activities at Raymond Terrace.

2014

Mothership Events selected activities (food vendors and children's activities) in consultation with Council staff. No commercial market element was organised.

Staff made arrangements for the civic ceremonies and held the presentations of the Port Stephens Community Awards at Raymond Terrace on Australia Day (rather than in September, which had been past practice), re-allocating \$10,000 in budget aligned to the September event to Australia Day to offset hard costs (stage hire, public address system hire) relating to delivery of the awards within a broader Australia Day celebration program.

Cash sponsorship was secured from The Mutual (Maitland Mutual Building Society) and MarketPlace (Raymond Terrace). In kind support was provided by Solo Resource Recovery.

2015

To assist with preparations for 2015, Council called for expressions of interest to form a community advisory committee, however no applications were received. As a result, Council invited members of the community to form an informal community advisory group to guide its preparations.

Membership of the group consisted of Robert Findley (Lions Club of Raymond Terrace), Steve Frith (Rotary Club of Raymond Terrace), Robert Bull (Raymond Terrace Men's Shed), Alan Williams (State Emergency Services representative and local business owner), and Councillors Jordan and Le Mottee. It should be noted that both Mr Frith & Mr Williams are both former members of the Raymond Terrace subcommittee disbanded in 2013. Staff members involved in planning the event included Kim Latham (Tourism and Events Coordinator), Emily Graham (Public Relations & Marketing Coordinator), Penny Amberg (Community Development & Engagement Coordinator) and Ross Smart (Communications Manager).

While Mothership Events still provided event management, in response to 2014 feedback requesting greater local market content, Council staff worked with the advisory group to identify local food vendors, stall holders and appropriate activities. Again, no commercial market was arranged, with community groups being approached to have stalls and so provide an income stream while promoting their services.

Cash sponsorship was again received from The Mutual, Raymond Terrace Central, Raymond Terrace Bowling Club and Junction Inn. In kind support was also provided by Solo Resource Recovery.

Australia Day Celebrations Coordinating Committee

The current 355(c) Port Stephens Australia Day Celebrations Coordinating Committee was adopted by Council on 16 December 2003 with a schedule to the standard 355(c) constitution (**ATTACHMENT 1**). This followed a resolution on 28 August 2003 that a 355(c) committee with two community sub-committees be formed to coordinate the annual celebrations. An annual allocation of \$20,000 (including CPI) was approved and was designated to fund civic components of the day.

The committee's primary role was to coordinate the annual Australia Day celebrations and to oversee the two sub-committees – Nelson Bay and Raymond Terrace. Three Councillors are appointed to the committee – most recently Councillors Dover, Morello and Jordan (adopted at Council meeting on 23 September 2014).

The 355(c) coordinating committee has not convened a meeting since at least mid-2012. The Nelson Bay sub-committee is active and responsible for activities at Nelson Bay each year. This sub-committee has been in operation for over fifteen years.

To bring consistency to Council's support, efficient use of resources and funds, equitable access, and improved risk management, it is proposed the 355(c) committee be reformatted as per the draft revised schedule (**ATTACHMENT 2**). This will provide a coordinated approach for Raymond Terrace, Nelson Bay and smaller communities in the local government area.

Membership would include two representatives each from Raymond Terrace (to be revived via Expression of Interest) and Nelson Bay subcommittees, three Councillors (as currently exists) and one staff representative, the Tourism and Events Coordinator. The Community Development and Engagement Coordinator would assist the new Raymond Terrace sub-committee for the first year of its operation.

It is proposed that the Committee may invite up to one representative from up to three organisations hosting Australia Day activities in other areas of the local government area to join the committee. These could be other organisations that receive funding for Council such as the Lions Club of Tilligerry Peninsula Inc.

The committee's responsibility would be to:

- 1) co-ordinate the Australia Day activities in the region;
- 2) elect and coordinate the Australia Day Ambassador's duties in the region;
- 3) make recommendations on the expenditure of Australia Day funds available from Council, and;
- 4) report to Council on the activities undertaken each year.

The allocation of Australia Day funds is determined by Council resolution. The revitalised committee would oversee sub-committee finances.

It is proposed that the Committee would meet three times each year and as needed:

September:

- finalise concepts and plans for forthcoming year;
- make recommendations for Australia Day Ambassador;
- review expenditure of funds available from Council (allocation amounts determined by Council resolution).

November:

- operational planning meeting;
- table proposed programs;
- sign-off risk management plans;
- confirm Australia Day Ambassador's program in the region.

February:

- review the year's events throughout the local government area;
- collate report on activities;
- account for the expenditure of Council's Australia Day funds;
- prepare a report for Council on activities (with staff assistance).

Members of the new Committee would also form the core of the Community Awards Assessment Panel (excluding the Tourism and Events Coordinator and Community Development and Engagement Coordinator), which would meet in December.

The sub-committees would meet more regularly to organise the Raymond Terrace and Nelson Bay events.

If adopted, members of a reformed sub-committee for Raymond Terrace would be sought from the community. To establish the Raymond Terrace subcommittee, nominations would be considered by the three Councillor representatives and two Nelson Bay representatives.

At the same time, existing members of the Nelson Bay subcommittee would be invited to register as volunteers of Council, to update Council's volunteer register for Australia Day.

2015 Australia Day activities

Since the establishment of the 355(c) committee, a number of other locations in Port Stephens hold Australia Day celebrations. A summary of 2015 activities is at **(ATTACHMENT 3)**.

Australia Day Address

In the past, the Australia Day Ambassador (provided through the NSW Australia Day Council) delivered a speech at both the Raymond Terrace and Nelson Bay events.

In 2014, the Nelson Bay subcommittee applied for its own Australia Day Ambassador from the NSW Australia Day Council. This was also in place this year.

It is proposed that Council return to the model of one Ambassador for the region, who tours with the Mayor, Councillors and staff to other activities in the region on the day. However, it is proposed that the revised 355(c) committee review these arrangements and with staff assistance, would be responsible for selecting the Ambassador or Ambassadors.

Ceremonies

Originally, funds from Council were to be used to assist with the civic component of events as outlined in the 355(c) committee's current schedule. In recent years, these funds have been expended more broadly on ancillary activities.

For many years, Council has conducted a civic ceremony at both Raymond Terrace and Nelson Bay, attended by the Mayor, the Australia Day Ambassador and staff. Citizenship ceremonies have also been held at both locations. It is anticipated that this would continue.

Annual Awards

As part of a sustainability review, Port Stephens community awards were announced as part of the Australia Day event at Raymond Terrace for the first time in 2014. This was repeated in 2015. At its meeting of 24 February 2015, Council endorsed modification to the Awards and the assessment panel.

It is proposed that the Port Stephens Annual Awards continue to be presented as part of Australia Day celebrations at Raymond Terrace. The reformatted 355(c) committee would form the basis of the awards assessment panel, with four community representatives and three Councillors be drawn from this committee.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

FINANCIAL/RESOURCE IMPLICATIONS

It is proposed that the current funding remain in place until review in 2016.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	28,744	2015 payments \$22,000 each year (to increase by CPI) for Nelson Bay and Raymond Terrace, allocated by Council resolution in 2012; \$3,000 each year (with no CPI increase) for Lions Club or for Tilligerry event, allocated by Council resolution in 2013.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications related to adopting the recommendations. This report has been drafted in accordance with Section 355(c) of the *Local Government Act 1993* and all legal implications are managed through the 355(c) committee constitution and revised schedule included as **(ATTACHMENT 2)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of adverse public perception if Australia Day activities are not suitably managed by Council.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting this recommendation will demonstrate Council's commitment to the efficient and coordinated management of community organised Australia Day activities throughout the local government area.

CONSULTATION

During the review, the following were consulted:

- 1) Councillors Le Mottee and Jordan.
- 2) Raymond Terrace Australia Day informal community advisory group.
- 3) Nelson Bay Australia Day subcommittee.
- 4) General Manager's Office.
- 5) Staff (communications section and risk management).

OPTIONS

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

ATTACHMENTS

- 1) Current schedule to standard 355(c) Constitution - Port Stephens. Australia Day Celebration Coordinating Committee
- 2) New schedule to standard 355(c) Constitution - Port Stephens. Australia Day Committee
- 3) Australia Day activities held in Port Stephens for 2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

FILE NO: PSC2015-01000/053
TRIM REF NO: PSC2014-01768

POLICY REVIEW: COMMUNITY ENGAGEMENT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Community Engagement Policy shown at **(ATTACHMENT 1)**;
- 2) Note the draft Community Engagement Guidelines at **(ATTACHMENT 2)**;
- 3) Place the draft Community Engagement Policy and Guidelines on public exhibition for a period of 28 days, and should no submissions be received, adopt the policy and guidelines;
- 4) Revoke the Port Stephens Community Engagement Policy shown at **(ATTACHMENT 3)** dated 22 September 2009 (Minute No. 318).

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

077	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: 1) Endorse the draft Community Engagement Policy shown at (ATTACHMENT 1) ; 2) Note the draft Community Engagement Guidelines at (ATTACHMENT 2) ; 3) Place the draft Community Engagement Policy and Guidelines on public exhibition for a period of 28 days, and should no submissions be received, adopt the policy and guidelines; 4) Revoke the Port Stephens Community Engagement Policy shown at

(ATTACHMENT 3) dated 22 September 2009 (Minute No. 318).

BACKGROUND

The purpose of this report is to recommend that Council adopt the draft Community Engagement Policy shown at **(ATTACHMENT 1)**.

The draft Community Engagement Policy, and the associated draft guidelines shown at **(ATTACHMENT 2)** were developed following the review of the existing Community Engagement Policy, shown at **(ATTACHMENT 3)** dated 22 September 2009 (Minute No. 318). This current Policy was first adopted on 18 December 2007 (minute No. 392) and reviewed by Council at its meeting on 22 August 2009 (Minute No. 318).

The creation of a Community Development and Engagement (CD&E) unit in mid-2014 allowed for a wide ranging review of Council's current approach to Community Engagement, including development of updated materials and methods used by Council in engaging with its community.

Council's previous approach to Community Engagement included a policy and toolkit for staff, facilitated by a de-centralised, internal Community Engagement Panel. An external Residents Panel was also utilised. While the intent and methodology of the approach was robust, the delivery of community engagement was, at times, inconsistent across Council.

The proposed approach has been developed following extensive internal consultation and has also involved road testing on a number of engagement projects undertaken since August 2014, primarily for Capital Works projects.

The essence of the community engagement policy and its associated materials is a new framework consisting of a simplified engagement spectrum made up of three levels of engagement (namely Level 1 Inform, Level 2 Involve, and Level 3 Participate) and seven steps for implementation. The revised framework provides staff with a systematic approach, one which is facilitated by a dedicated Community Development & Engagement unit in conjunction with responsible officers.

The level of engagement is determined by a number of factors, including:

- the complexity of the issue;
- legislative requirements; and
- the level of community interest.

Some matters, such as the development of Council's Community Strategic Plan or the consideration of a Joint Regional Planning Panel determination of a regionally significant development may require a wide-ranging and comprehensive

consultative process. Other engagement activities may be more targeted and seek the involvement of a smaller, more targeted group of people.

Key elements of the policy and materials include:

- A clear framework for the timely dissemination of accurate information to the community through a variety of channels including digital technologies.
- Consistent processes to involve the community at different levels of engagement.
- Processes to strengthen reporting on community engagement outcomes.
- Processes to strengthen providing feedback to community.

To support the amended Community Engagement Policy, associated materials consist of:

Current	Proposed
Current Community Engagement Policy (ATTACHMENT 3)	Revised Community Engagement Policy (ATTACHMENT 1)
Our Guide to Community Engagement	<i>Discontinue</i> Replace with Guidelines (ATTACHMENT 2)
Community Engagement Staff Management Directive	Revised Community Engagement Staff Management Directive
Five levels of engagement	Three levels of engagement
Community Engagement - a tool kit for staff	Community Engagement Handbook including a training module and easy to use templates
Internal Community Engagement Panel (no longer functioning)	<i>discontinued</i>
<i>New</i>	In-house staff community engagement register
Residents Panel	Revitalised role
<i>New</i>	Face to Face Direct, regular community consultation – once annually in each ward
<i>New</i>	Customer service business card for outdoor staff
<i>New</i>	Short staff training module to be offered on a regular basis
<i>New</i>	Information provided as part of Council's staff induction process

COMMUNITY STRATEGIC PLAN

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Strategic Direction	Delivery Program 2013-2017
The community is a partner in developing the future of the local government area.	Council will engage its citizens in developing plans for the future of the Port Stephens local government area.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications related to the adoption of this recommendation.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources related to Policy review are covered within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal, policy or risk implications as a result of the proposed recommendation. There are positive legal, policy and risk implications in updating this policy as becomes more accurate, contemporary and responsive to the Port Stephens community. The policy will assist in fostering a positive relationship between Council and the community.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council's reputation may be damaged as a result of decisions made in relation to an out of date Policy.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A comprehensive community engagement program supports Council's purpose to deliver services valued by our community, to meet current and future social, economic and environmental needs.

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Participation and inclusion of our community in the framing of key decisions for the region strengthens ownership and commitment, supporting sustainable programming.

CONSULTATION

- 1) Two way presentation to Councillors - 10 March 2015.
- 2) Executive Leadership Team.
- 3) Senior Leadership Team.
- 4) General Manager's Office.
- 5) Facilities and Services Combined Leadership Team.
- 6) Corporate Services Group Combined Leadership Team.
- 7) Development Services Combined Group Leadership Team.
- 8) Community Services Section Coordinators.
- 9) Organisational Development Combined Leadership Team.
- 10) Strategy and Environment Leadership Team Leaders.
- 11) Communications Section Coordinators.

OPTIONS

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

ATTACHMENTS

- 1) Draft Community Engagement Policy.
- 2) Draft Community Engagement guidelines.
- 3) Current Community Engagement Policy, 22 August 2009 (Minute No. 318).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8

FILE NO: PSC2015-01000/005
TRIM REF NO: PSC2011-03947

**ACQUISITION OF EASEMENT OVER LOT 23 DP 1071458 BEING 3915
NELSON BAY ROAD, BOB'S FARM**

REPORT OF: CARMEL FOSTER - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

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 new Land and Property Information (LPI) **(ATTACHMENT 1)**;
- 2) Endorses the payment of compensation for the acquisition of easements for drainage and access over 3915 Nelson Bay Road, Bobs Farm.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

078	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none">1) Grants authority to affix Council Seal and Signatures to the Deposited Plan Administration Sheet and the 88B Instrument prior to lodging at the new Land and Property Information (LPI) (ATTACHMENT 1);2) Endorses the payment of compensation for the acquisition of easements for drainage and access over 3915 Nelson Bay Road, Bobs Farm.

BACKGROUND

The purpose of this report is to authorise the Mayor and the General Manager to affix the Council Seal and signatures to legal documents for registration at the Land Titles Office, following agreement of compensation for the acquisition of easements for access and drainage over part of property at 3915 Nelson Bay Road, Bob's Farm. The legal documents comprise the Deposited Plan Administration Sheet with associated Deposited Plan and 88B Instrument (**ATTACHMENT 1**).

The acquisition of easements for access and drainage are as a consequence of RMS widening Nelson Bay Road at Bob's Farm. "In principle" agreement has been reached with the landowner for RMS to complete drainage and property adjustment works which commenced on 30 March 2015. At the completion of works, Council will take over the periodic maintenance of the drainage system. Easements for access and Drainage are required to permit Council to enter onto the land for periodic inspection and maintenance, responsibility for which will rest with Council's Facilities & Services Section.

Both Council and the landowners have retained the services of a consultant valuer and there is provision for the parties to negotiate satisfactory compensation for the grant of easements. As part of the "in principle" agreement a single expert valuer will be appointed to make a determination if the parties cannot reach agreement. This will avoid the need to finalise the matter by way of Compulsory Acquisition. Upon agreement of the compensation by both parties, the Deposited Plan Administration Sheet and the 88B Instrument can be executed.

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 Easements for notation on the Certificate of Title. RMS is to reimburse Council for the compensation paid and the related acquisition costs.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens' infrastructure and utilities meet the needs of all sections of the community.	Reduce the infrastructure backlog on all Council assets.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	Depends on	Roads & Maritime Services are

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

		Valuer's Reports and negotiations.	providing funding for this acquisition.
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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	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that RMS will complete the works but the easements will not be registered.	Low	The "in principle" agreement with the landowners provides a mechanism for the compensation to be determined which then allows the easement registration to proceed.	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 easements will provide a benefit to this and surrounding properties with the controlled drainage of stormwater to reduce the possibility of inundation.

CONSULTATION

- 1) Civil Assets Engineer.
- 2) Senior Survey and Land Information Manager.
- 3) Land Acquisition and Development Manager.
- 4) Property Officer.
- 5) Roads & Maritime Services.

OPTIONS

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

ATTACHMENTS

- 1) Deposited Plan Administration Sheet with Associated Plan and 88B Instrument.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9

FILE NO: PSC2015-01000/045
TRIM REF NO: A2004-0853

POLICY REVIEW - ACQUISITION AND DIVESTMENT OF LAND POLICY

REPORT OF: CARMEL FOSTER - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Acquisition and Divestment of Land Policy as shown at **(ATTACHMENT 1)**;
- 2) Place the Acquisition and Divestment of Land Policy on public exhibition for a period of 28 days;
- 3) Adopt the Acquisition and Divestment of Land Policy as presented to Council should no submissions be received;
- 4) Should no submissions be received in relation to the Acquisition and Divestment of Land Policy, revoke the Acquisition and Divestment of Land Policy adopted by Council on 29 May 2012, Minute 110.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

079	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none">1) Endorse the amendments to the Acquisition and Divestment of Land Policy as shown at (ATTACHMENT 1);2) Place the Acquisition and Divestment of Land Policy on public exhibition for a period of 28 days;3) Adopt the Acquisition and Divestment of Land Policy as presented to Council should no submissions be received;4) Should no submissions be received in relation to the Acquisition and

Divestment of Land Policy, revoke the Acquisition and Divestment of Land Policy adopted by Council on 29 May 2012, Minute 110.

BACKGROUND

The purpose of this report is to have Council endorse the Acquisition and Divestment of Land Policy (**ATTACHMENT 1**) and resolve to place the Policy on public exhibition for a period of 28 days.

Council's existing Acquisition and Divestment of Land Policy was adopted by Council on 29 May 2012, Minute 110, and related to acquisition and divestment activities with regards to property. The Acquisition and Divestment of Land Policy includes all of Council's land holdings.

The Policy provides a framework and formal process to ensure a consistent and informed approach to acquisition and divestment of land and buildings is undertaken. The updated Policy now includes provision for advertisement of properties for sale (prior to resolution to sell) and a new requirement in relation to the acquisition of land by compulsory process.

Previously, Council has not advertised for sale any of its operational properties without a prior resolution for the sale. Council has now included in its website a page dedicated to advertising for lease vacant areas within its Operational properties. It is considered prudent to also advertise any operational properties that Council has for sale. A statement to the effect that any sale will be conditional on a formal resolution of Council will be included

Circular 15-09 from the Office of Local Government dated 25 February 2015 outlines changes to the process for acquiring privately owned land by compulsory process, to improve fairness and transparency. The new requirements apply to all acquiring authorities in NSW, including local councils. Compliance with the requirements is mandatory. NSW Office of Finance and Services (OFS) has issued Circular No 2015-01 (of 1 January 2015) setting out the new requirements. Before making an application for approval to compulsorily acquire private land, Councils must provide the land owner with information about the compulsory acquisition process. OFS has prepared a "Land Acquisition Information Guide", which Councils can use for that purpose. In addition, Councils must make additional efforts to negotiate with the land owner, including making every reasonable effort to have at least one face to face meeting with the land owner and/or their representative. Councils seeking to acquire privately owned land by compulsory process, either under the *Local Government Act 1993* or the *Roads Act 1993*, must comply with the new requirements. Councils will need to provide evidence of having complied with these requirements with their application form. Compliance with the new requirements is mandatory. The changes apply from 1 February 2015. They should be applied to all proposals to acquire private land currently under consideration by Councils, to all future proposals for the acquisition of private land and to any application currently being assessed by the

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Office of Local Government, where it is deemed appropriate for additional negotiation to occur.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

FINANCIAL/RESOURCE IMPLICATIONS

The Policy outlines the process for the acquisition and divestment of Council Lands from land development activities and the sale of reclassified and rezoned land. As there is no change to the structure of the distribution of funds from existing arrangements, there are no financial or resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources required to review this policy are covered within the existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Policy sets a framework under which Port Stephens Council will manage acquisition and divestment of its property assets. The Policy ensures that Council takes account of the relevant legislation provisions; procedures/processes required under the provisions of the legislation and demonstrate a transparent process for both acquisitions and divestments.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that acquisition and divestment of land and investment properties without appropriate controls may result in	Medium	Adopt Acquisition and Divestment of Land Policy.	Yes

poor acquisition outcomes such as higher costs and a lack of legal process being followed. Poor divestment outcomes may include sale for under market value and sale to a selected market lacking transparency.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Efficient and effective management of the acquisition and disposal of all Real Property provides an ongoing alternate revenue stream to Council. Additionally, the Policy outlines the distribution of funds in accordance with Council's Long Term Financial Plan.

CONSULTATION

- 1) Civil Assets Manager.
- 2) Community and Recreation Manager.
- 3) Senior Survey and Land Information Manager.
- 4) Property Services Section Manager.
- 5) Property Services Development Coordinator.
- 6) Property Services Property Officer.
- 7) Property Services Investment & Asset Manager.
- 8) Property Services Land Acquisition & Development Manager.

OPTIONS

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

ATTACHMENTS

- 1) Acquisition and Divestment of Land Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 10

FILE NO: PSC2015-01000/019
TRIM REF NO: PSC2010-03190

REMOVAL OF BUSINESS UNITS FROM COUNCIL'S ACCOUNTING SYSTEM

REPORT OF: TIMOTHY HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to declassify business units within Council. Specifically; Property Development, Holiday Parks, Civil Works, and Newcastle Airport;
- 2) That the declassification be effective from the 2014-2015 financial year;
- 3) Following declassification, the Special Purpose Annual Financial Reports be replaced by the Holiday Parks and Investment Property Report as detailed in **(ATTACHMENT 1)**.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

080	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none">1) Resolve to declassify business units within Council. Specifically; Property Development, Holiday Parks, Civil Works, and Newcastle Airport;2) That the declassification be effective from the 2014-2015 financial year;3) Following declassification, the Special Purpose Annual Financial Reports be replaced by the Holiday Parks and Investment Property Report as detailed in (ATTACHMENT 1).

BACKGROUND

This report was deferred from the 10 March 2015 Ordinary meeting of Council to allow for a briefing to Councillors on the matter. The briefing was held on 17 March 2015.

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

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

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

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

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

These include but are not limited to:

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

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

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

Council determined to classify the following activities as a "Category 2 business":

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens Council's services and assets are sustainable in the longer term.	Council will reduce its underlying deficit to break even in 2014-2015 financial year. Council will increase its revenue from non-rates sources. Manage risks across Council. Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.

FINANCIAL/RESOURCE IMPLICATIONS

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

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

It is also contended that the current classification of business units is no longer relevant to the operation of Council due to a number of significant organisational movements.

Property Development - No longer a standalone section of Council, now integrated within the Property Services Section with a number of Council Policies and Management Directives to determine the overall direction of the commercial property.

Holiday Parks – Contains a mixture of parks that are operated on behalf of the Crown and some that are wholly owned and operated by Council. Reporting is done on a re-organised basis with those parks operated on behalf of the Crown subject to a separate reporting regime through the Trust Managers to the Crown. Council owned and operated parks can, and will, be separately reported on a basic profit/loss statement level and that information is to be publically available on an annual basis.

Civil Works – No separate unit of Council exists to fit with earlier definition. All capital works are included with Community Strategic Plan and are reported as required by legislation, typically included with each formal quarterly budget review.

Newcastle Airport – Has been corporately restructured and now separate accounts on airport operations are available in the public arena.

By eliminating the classification of business units this will have a reduction in the time taken to complete the financial statements, a reduction in the time taken to audit the financial statements, and remove an area of great complexity from the interpretation of the result of the business units.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

OPTIONS

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

ATTACHMENTS

- 1) Holiday Parks and Investment Property Report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 11

FILE NO: PSC2015-00378/017
TRIM REF NO: PSC2014-02492

**REGIONAL PROCUREMENT INITIATIVE TENDER T441415HUN -
PROVISION OF SUPPLY AND INSTALLATION OF SAFETY BARRIER
SYSTEM**

REPORT OF: TIMOTHY HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the *Local Government Act, 1993*, the Council resolve to close to the public that part of its meetings to discuss Item 11 on the Ordinary Council agenda namely Provision of Supply and Installation of Safety Barrier Systems.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the provision of supply and installation safety barrier systems.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the Local Government (General) Regulation 2005.
- 5) That the following tenders be accepted on a best fit for purpose basis as a panel source supplier for the tender period of 23 months from 1 May 2015 to 30 March 2017, with an option of a further 12 month extension:
 - Destraz Pty Ltd (t/a D&P Fencing Contractors);
 - AJ & LJ Irwin family Trust (t/a Irwin Fencing Pty Ltd);
 - Guardrail Systems Pty Ltd.

MINUTES ORDINARY COUNCIL - 14 APRIL 2015**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Ken Jordan
	That the following tenders be accepted on a best fit for purpose basis as a panel source supplier for the tender period of 23 months from 1 May 2015 to 30 March 2017, with an option of a further 12 month extension: <ul style="list-style-type: none">• Destraz Pty Ltd (t/a D&P Fencing Contractors);• AJ & LJ Irwin family Trust (t/a Irwin Fencing Pty Ltd);• Guardrail Systems Pty Ltd.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

081	Councillor Chris Doohan Councillor John Morello
	It was resolved that the following tenders be accepted on a best fit for purpose basis as a panel source supplier for the tender period of 23 months from 1 May 2015 to 30 March 2017, with an option of a further 12 month extension: <ul style="list-style-type: none">• Destraz Pty Ltd (t/a D&P Fencing Contractors);• AJ & LJ Irwin family Trust (t/a Irwin Fencing Pty Ltd);• Guardrail Systems Pty Ltd.

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel of tenderers for the Supply and Installation of Safety Barrier Systems.

Council purchases these services as part of our roads maintenance and construction activities. Council is currently committed to a Supply and Installation of Safety Barrier Systems contract with Hunter Procurement that will be replaced when the new contract is accepted. The contract will run for 23 months from 1 May 2015 to 30 March 2017, with an option for a further 12 month extension based on satisfactory performance by the successful tenderers.

This process is conducted in accordance with the requirements of Councils Procurement Policy.

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Regional Procurement Initiative, a division of Hunter Councils Inc. has been established in response to a need for a collaborative approach to regional tendering and contracting. It is estimated the Regional Procurement Initiative members contribute upwards of \$200 Million to the region through their tenders and contracts. By utilising Regional Procurement Initiative to facilitate the tender process, we support the Memorandum of Agreement signed by the General Managers of each of the Hunter Councils that agree to support Regional Procurement Initiative and accept the outcomes of tenders where there is an equal to or better outcome than alternative sources.

Regional Procurement Initiative called Tenders for the supply of these services across a number of member LGA'S that included Mid-Western Regional Council, Dungog Shire Council, Cessnock City Council, Upper Hunter Shire, Singleton Council, Muswellbrook Shire Council, Maitland City Council, Lake Macquarie City Council, Port Stephens Council and The City of Newcastle.

Each bid was evaluated against "Value Selection" criteria and allocated a weighted score for each assessed criteria. This evaluation allows each bid to be ranked according to its performance against a pre-determined set of criteria. The "Value Selection" method for the provision of supply and installation of safety barrier systems were assessed against criteria that included price, WH&S, referees, physical resources, quality assurance and previous experience. Evaluation for Port Stephens Council is shown in **(ATTACHMENT 1)** and the scenario used is based on a sliding scale representing best value for Council.

Council will be awarding the contract to three (3) of the evaluated tenderers based on "best fit for purpose". See the successful tenderers highlighted in **(ATTACHMENT 1)**.

A total of seven (7) tender submissions were received, a summary of which is included as **(ATTACHMENT 1)**. These tender submissions were assessed by Council staff.

The weightings agreed for this Tender evaluation were:

Criteria	Weighting %
Total Price	45
WH&S	15
Referees	10
Previous Experience	15
Quality Assurance	5
Physical Resources	10

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens' infrastructure and utilities meet the needs of all sections of the community.	Reduce the infrastructure backlog on all Council assets.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$480,000 (excl.GST) per annum which was last financial year's expenditure for the Facilities & Services Group. The actual annual expenditure varies year to year and is dependent on the extent of Capital Works required based on Councils Capital Works Program within the Strategic Asset Management Plan on Local, Regional and State Road networks. The procurement of the "best value for money" services is critical to providing sustainable services to the community.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	480,000	Works funded by existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

This tender process complies with the *Local Government Act 1993* and Local Government (tendering) Regulations. Each bid was assessed using "Value Selection" method with weighted selection criteria.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that supply and delivery of safety barrier systems may not be available as required which may lead to works being delayed or cancelled.	Medium	Appoint multiple providers as part of panel tender.	Yes
There is a risk that the provision of safety barrier systems may not be supplied to approved	High	Appoint only suitably qualified tenders from panel.	Yes

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

relevant standards which may result in work delays and/or costly rework.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A 23 month contract allows Council to program works with known safety barrier systems costs and thereby provides for improved project scheduling, cost accuracy and budget management.

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

CONSULTATION

- 1) Procurement & Contracts Co-ordinator.
- 2) F&S Officer - Capital Works.
- 3) Group Manager Facilities and Services.
- 4) Capital Works Manager.
- 5) Project Manager - Capital Works.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Supply and Installation of Safety Barrier System Tender Evaluation. Results for Port Stephens Council.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 12

FILE NO: PSC2015-00378/008
TRIM REF NO: T19-2014

**T19-2014 TENDER FOR THE SUPPLY OF TWO (2) FOUR WHEEL DRIVE
SIDE SHIFT BACKHOES**

REPORT OF: TIMOTHY HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the *Local Government Act, 1993*, the Council resolve to close to the public that part of its meetings to discuss Item 12 Tender for the Supply of two Four Wheel Drive Side Shift Backhoes on the Ordinary Council agenda namely T19-2014 Tender for the supply of two four wheel drive side shift backhoes.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the T19-2014 Tender for the supply of two four wheel drive side shift backhoes.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the Local Government (General) Regulation 2005.
 - 5) Accept the tender from G.C.M. Agencies Pty Ltd for the supply of two (2) MST 642 four wheel drive side shift backhoes at a net changeover price of \$175,000. The tendered price is \$250,000 ex GST and a trade in price of \$75,000.
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**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Ken Jordan
	That Council accept the tender from G.C.M. Agencies Pty Ltd for the supply of two (2) MST 642 four wheel drive side shift backhoes at a net changeover price of \$175,000. The tendered price is \$250,000 ex GST and a trade in price of \$75,000.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

082	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council accept the tender from G.C.M. Agencies Pty Ltd for the supply of two (2) MST 642 four wheel drive side shift backhoes at a net changeover price of \$175,000. The tendered price is \$250,000 ex GST and a trade in price of \$75,000.

BACKGROUND

The purpose of this report is for Council to consider and accept the tender for two (2) four wheel drive side shift backhoes and the disposal of two existing units.

In accordance with Council's plant replacement schedule, tenders were called for the supply and delivery of two (2) four wheel drive side shift backhoes and trade or outright purchase of two of Council's existing backhoes (plant numbers 30703 and 31201).

Eight tenders were received from seven companies by the advertised closing date, Tuesday, 2 December 2014.

The following seven (7) companies had submitted conforming tenders for the supply and trade of Council's existing backhoes:

- GCM Agencies Pty Ltd (MST642 Deluxe Edition).
- Earthmoving Equipment Australia (Case 580ST).
- Hitachi Construction Machinery (Australia) Pty Ltd (John Deere model 315SK).
- Newcastle Commercial Vehicles trading as JCB Newcastle (JCB model 3CX Classic).
- Newcastle Commercial Vehicles trading as JCB Newcastle (JCB model 3CX Elite).
- Komatsu Australia Pty Ltd (WBR97R-5EO Platinum).

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

- WesTrac Pty Ltd (Caterpillar model 432F).

One tender was deemed non-conforming:

- Semco Equipment Sales due to not completing mandatory schedules as requested.

There were no tender submissions for the outright purchase only of the tendered Council owned backhoes. The tendered prices, including tenders for the purchase of Council's existing backhoes, are compared in detail at (**ATTACHMENT 1**).

The weightings agreed for this Tender evaluation were:

Criteria	Weighting %
Net Present Value	45
Specification Compliance and Performance	35
Operator Evaluation	10
Maintenance Evaluation	10

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens Council's services and assets are sustainable in the longer term.	Council will reduce its underlying deficit to break even in 2014-2015 financial year. Council will increase its revenue from non-rates sources. Manage risks across Council. Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.

FINANCIAL/RESOURCE IMPLICATIONS

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

- Financial analysis, including net present value and value selection methodologies.
- Specification compliance and equipment performance.

The four (4) top rating companies were invited to submit their proposed models for demonstration:

- GCM Agencies Pty Ltd (MST642 Deluxe Edition).
- Earthmoving Equipment Australia (Case 580ST).
- Hitachi Construction Machinery (Australia) Pty Ltd (John Deere model 315SK).
- WesTrac Pty Ltd (Caterpillar model 432F).

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

At this stage of the tender process, Council required the purchase of the items to be postponed until the 2015/16 financial year. Rather than revoke the tender, the top four companies were approached and requested to maintain their tendered price until the 1 July 2015. Three of the selected four companies agreed whilst Hitachi Construction Machinery (Australia) Pty Ltd. decided that at this stage of the tender they would be unable to supply and requested to withdraw from the process.

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

(ATTACHMENT 1) contains an overall ranking based on the scores of the final three (3) Tenders achieved in each of the nominated selection criteria according to the make and model of backhoes tendered.

Based on the assessment ratings and comments from the operators and the workshop mechanic the MST 642 Deluxe Edition backhoe would be considered an ideal option for Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	175,000	2015-16 Capital Budget.

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the procurement of an unsuitable replacement plant item may result in a sub-optimal outcome.	Low	Minimise risk by following a tendering and specification process that involves other stakeholders such as workshop and actual operator.	Yes
There is a risk that non procurement of these items of plant may result in increased	High	Minimise risk by procuring new items of plant within allocated life cycles.	Yes

maintenance costs due to the age of the backhoes.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social or economic implications.

Environmental Efficiency Features

The MST 642 ECO MODE system works primarily on the hydraulic operations when the operator is working at 30-70% which is everyday use such as loading, trenching, excavating etc. therefore the engine only requires minimal RPM. Sufficient hydraulic flow is still produced enabling maximum breakout force and significantly reduces fuel consumption by up to 18% and also emits far less carbon emissions into the environment with reduced noise levels whilst also reducing the running cost of the machine.

20% of the MST products are made from recycled materials such as plastics, trims, rubber and glass. Also the MST backhoe and tele handler range are up 100% recyclable once reached the end of their life cycle.

CONSULTATION

- 1) Facilities and Services – Roadside and Drainage Coordinator and Operators.
- 2) Corporate Services – Procurement.
- 3) Facilities and Services – Fleet Services.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Tender Assessment Summary T19-2014.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 13

FILE NO: PSC2015-00378/021
TRIM REF NO: A2004-0846 & 034-015

T02-2015 APPOINTMENT OF A REAL ESTATE AGENT ON AN EXCLUSIVE BASIS FOR THE MARKETING AND SALE OF 33 RESIDENTIAL LOTS AT 3 TARRANT ROAD, SALAMANDER BAY

REPORT OF: TIMOTHY HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the *Local Government Act, 1993*, the Council resolve to close to the public that part of its meetings to discuss Item 13 on the Ordinary Council agenda namely tender – appointment of a real estate agent on an exclusive basis for the marketing and sale of 33 residential lots at 3 Tarrant Road Salamander Bay.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the Tender – Appointment of a real estate agent on an exclusive basis for the marketing and sale of 33 residential lots at 3 Tarrant Road, Salamander Bay.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the *Local Government (General) Regulation 2005*.
- 5) It is recommended that Council accept the tender submitted by LJ Hooker Nelson Bay for the sale by public auction of 33 residential lots to be subdivided by Council at 3 Tarrant Rd Salamander Bay at a total price of \$183,000 (excl.GST).

ORDINARY COUNCIL MEETING - 14 APRIL 2015

COMMITTEE OF THE WHOLE RECOMMENDATION

	Mayor Bruce MacKenzie Councillor Ken Jordan
	That Council accept the tender submitted by LJ Hooker Nelson Bay for the sale by public auction of 33 residential lots to be subdivided by Council at 3 Tarrant Rd Salamander Bay at a total price of \$183,000 (excl.GST).

ORDINARY COUNCIL MEETING - 14 APRIL 2015**MOTION**

083	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council accept the tender submitted by LJ Hooker Nelson Bay for the sale by public auction of 33 residential lots to be subdivided by Council at 3 Tarrant Rd Salamander Bay at a total price of \$183,000 (excl.GST).

BACKGROUND

The purpose of this report is to recommend the acceptance of the tender submitted by LJ Hooker Nelson Bay in response to the call for tenders T02-2015.

A total of four (4) tender submissions were received, a summary of which is included as **(ATTACHMENT 1)**. These tender submissions were assessed by a panel comprising two (2) Council staff with the assistance of Council's Contracts Coordinator. The Council staff were the Land Acquisition & Development Manager and the Land Development Coordinator.

The weightings agreed for this Tender evaluation were:

Criteria	Weighting %
Marketing proposal incl budget	35
End sale prices & timeframe to sell	25
Agents commission	20
Experience in local residential market incl project marketing	20

The recommended method of sale is by Public Auction with the recommended tenderer demonstrating relevant experience with project marketing of vacant land on this basis. The appointment of the recommended tenderer will provide the following benefits:

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

- Access to a database of pre-qualified purchasers;
- Experience in running an appropriate marketing campaign using a variety of mediums;
- Public Auction will negate any "camping out" of prospective purchasers where land is advertised for sale at a specific list price;
- Experience in negotiations with purchasers.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens Council's services and assets are sustainable in the longer term.	Council will reduce its underlying deficit to break even in 2014-2015 financial year. Council will increase its revenue from non-rates sources. Manage risks across Council. Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.

FINANCIAL/RESOURCE IMPLICATIONS

Council will be required to fund the marketing campaign for the sale of the lots. The recommended real estate agent has provided a budget of \$18,712.48 for this purpose. There will be no requirement for Council to fund sales commission as this will be deducted by the agent from the deposit held, upon settlement of each sale.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget		183,000	Price includes flat rate of commission and will be paid as blocks are sold.
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

The Acquisition & Divestment of Land Policy has been considered and there are no known Legal, Policy or Risk Implications

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that lower overall sale prices will occur if an experienced real estate agent is not appointed.	High	Adopt the recommendations.	Yes
There is a risk that a lower standard of marketing campaign will result if an experienced real estate agent is not appointed, and this will impact on sales and prices achieved.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The appointment of a local suitable experienced real estate agent to run an orderly marketing campaign will result in local purchasers having the best opportunity to purchase a vacant home site and will provide income to a local business. There are no known environmental implications related to this recommendation.

CONSULTATION

- 1) Land Acquisition & Development Manager.
- 2) Property Development Coordinator.
- 3) Contracts Coordinator.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Tender Assessment Summary T02-2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 14

FILE NO: PSC2015-00378/019
TRIM REF NO: A2004-0846 & 042-15

**T03-2015 TENDER FOR CIVIL WORKS - CONSTRUCTION OF 33
RESIDENTIAL LOTS AT 3 TARRANT ROAD, SALAMANDER BAY**

REPORT OF: TIMOTHY HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the *Local Government Act, 1993*, the Council resolve to close to the public that part of its meetings to discuss Item 14 on the Ordinary Council agenda namely Tender For Civil Works – Construction of 33 Residential Lots at 3 Tarrant Rd Salamander Bay.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the Tender for Civil Works – Construction of 33 Residential Lots at 3 Tarrant Rd Salamander Bay.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the Local Government (General) Regulation 2005.
 - 5) That Council accept the tender submitted by Daracon Contractors Pty Ltd to the extent of \$2.559 Million.
-

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Sally Dover
	That Council accept the tender submitted by Daracon Contractors Pty Ltd to the extent of \$2.559 Million.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

084	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council accept the tender submitted by Daracon Contractors Pty Ltd to the extent of \$2.559 Million.

BACKGROUND

The purpose of this report is to recommend the acceptance of a tender received from Daracon Contractors Pty Ltd for the construction of a 33 residential lot subdivision of Council owned land at 3 Tarrant Rd Salamander Bay.

A total of (4) tender submissions were received, a summary of which is included as **(ATTACHMENT 1)**. These tender submissions were assessed by a panel composed of both Council staff and external consultants. Council staff were the Land Acquisition & Development Manager and the Property Development Coordinator. The external consultants were a Quantity Surveyor from Rider Levitt Bucknall and a Civil Engineer/Project Manager from Monteath & Powys, both of which had prior experience with this development proposal. This assessment panel was also assisted by Council's Contracts Coordinator.

The weightings agreed for this Tender evaluation were:

Criteria	Weighting %
Construction commencement date	15
Construction completion date	5
Financial offer	40
Demonstrated capacity & previous experience	25
Compliance with call for tenders	15

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

While the preferred tenderer was not the cheapest, it was considered appropriate to accept the tender based on a much shorter construction timeframe of only 15 weeks. The next tenderer suggested a timeframe of 20 weeks.

By accepting the shorter time frame for construction Council will be able to realise sales sooner and therefore receive a positive cash flow.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens' infrastructure and utilities meet the needs of all sections of the community.	Reduce the infrastructure backlog on all Council assets.

FINANCIAL/RESOURCE IMPLICATIONS

Funding for the civil works of circa \$2,600,000 will be funded internally and will be reimbursed from sales. Property Services anticipates that sales of the completed lots will total at least \$6,600,000. After all development costs are deducted, a return to Council in the order of \$2,300,000 to \$3,000,000 is indicated depending on the total of all lot sales. This is well above the offer of \$1,700,000 made to Council for the site in 2014.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No	2.559M	Funding to be sourced from internal restricted assets and loan funds held for property development.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council's Procurement Policy has been considered and there are no known Legal, Policy or Risk Implications from the appointment of the recommended Tenderer.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the construction cost will exceed the recommended Tender price.	Low	The recommended Tender price is supported by Council's independent Quantity Surveyor's report - accept the	Yes

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

		recommendations.	
There is a risk that the project will not be delivered in accordance with all approvals	Low	The recommended Tenderer has demonstrated subdivision experience – accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The subdivision will provide affordable land to the local market and will create local jobs and expenditure both during and after construction. A local real estate agency has been recommended to sell the land. A residue lot from the subdivision will be retained by Council and maintained in perpetuity as an Environmental Offset lot. All environmental requirements under the Development Approval have been addressed and as a consequence, a Construction Certificate was issued in December 2014

CONSULTATION

- 1) Land Acquisition and Development Manager.
- 2) Development Coordinator.
- 3) Contracts Coordinator.
- 4) External Civil Engineer/Project Manager (Monteath & Powys).
- 5) External Quantity Surveyor (Rider Levitt Bucknall).

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Tender Assessment Summary T03-2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 15

FILE NO: PSC2015-01000/074
TRIM REF NO: T05-2015

T05-2015 DESIGN AND CONSTRUCTION OF WASTE SORTING SHED AT SALAMANDER BAY WASTE TRANSFER STATION

REPORT OF: TIMOTHY HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 5 on the Ordinary Council agenda namely T05-2015 DESIGN AND CONSTRUCTION OF WASTE SORTING SHED AT SALAMANDER BAY WASTE TRANSFER STATION.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the T05-2015 DESIGN AND CONSTRUCTION OF WASTE SORTING SHED AT SALAMANDER BAY WASTE TRANSFER STATION.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) Accept the Tender offered by Builtform Constructions Pty Ltd for \$391,674 (ex GST) for the design and construction of the waste sorting shed at the Salamander Bay waste transfer station.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor John Morello
	That Council accept the Tender offered by Builtform Constructions Pty Ltd for \$391,674 (ex GST) for the design and construction of the waste sorting shed at the Salamander Bay waste transfer station.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

085	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council accept the Tender offered by Builtform Constructions Pty Ltd for \$391,674 (ex GST) for the design and construction of the waste sorting shed at the Salamander Bay waste transfer station.

BACKGROUND

The purpose of this report is to seek approval for entering into a contract for the design and construction of the waste sorting shed at the Salamander Bay Waste Transfer Station. As part of the new waste services contract awarded by Council at the 14th of October Council meeting in 2014 the material collected from the new on-call bulky waste collections will be taken to Salamander Bay Waste Transfer Station for sorting. Currently at the facility there is not a suitable indoor area to perform this task, so this new shed requires construction to meet the needs of this service.

A total of (3) tender submissions were received, a summary of which is included as **(ATTACHMENT 1)**. These tender submissions were assessed by Council staff.

The weightings agreed for this Tender evaluation were:

Criteria	Weighting %
Price	30%
Compliance	20%
Design	20%
Experience	15%
Capability	15%

COMMUNITY STRATEGIC PLAN

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Strategic Direction	Delivery Program 2013-2017
Port Stephens has a highly valued, affordable and convenient waste and recycling system.	Provide waste and recycling services.

FINANCIAL/RESOURCE IMPLICATIONS

The funds for this project come from an external grant and the Domestic Waste Management Reserve. The cost of this work was factored into Council's decision to award the waste services tender to Sita Australia for the collection of Council's kerbside waste.

The financial implications are that the lowest tender has not been recommended. The recommended tender, whilst the second highest in price, provides the best overall value to Council based on building design and capability of the company to deliver the project.

There are no resource implications for Council in awarding this contract as the project management of the works will be performed by the Waste Transfer Station Coordinator who is already based on the site.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	224,674	Funds from the Domestic Waste Reserve, this is an allowable use of these funds as the shed is to be used for the sorting of the domestic bulky waste.
Section 94	No		
External Grants	Yes	167,000	Funding is from the non-contestable grant money given to Council as part of the Waste Less Recycle More program.
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications to Council through awarding this contract to design and construct the waste sorting shed at the salamander Bay Waste Transfer Station.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the contract is not awarded at this council meeting the construction of the shed will not occur in time frame that is in line with the commencement of the new on-call bulky waste collections on July 1 st 2015.	Medium	Endorse the recommendations.	Yes
There is a risk that changing the recommendation and awarding this tender to the lowest tendered rate will result in a structure that is not fit for purpose and will have long term financial and operational implications.	High	Endorse the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no social, economic or environmental implications to Council through the awarding of this contract to design and construction the waste sorting shed at Salamander Bay Waste Transfer Station.

CONSULTATION

- 1) Waste Management Coordinator.
- 2) Waste Transfer Station Coordinator.
- 3) Waste Operators.
- 4) Suez Environment.
- 5) Civil and Landscapes Projects Coordinator.
- 6) Development Assessment and Compliance Section Manager.
- 7) Contracts Coordinator.

OPTIONS

- 1) Adopt the recommendations.
- 2) Alter the recommendations and award to an alternate tenderer.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) CONFIDENTIAL Tender Assessment Summary T05-2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 16

FILE NO: PSC2015-01000/038
TRIM REF NO: PSC2011-02312

POLICY REVIEW - FORESHORE DINGHY STORAGE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the public submissions received during the public exhibition period as shown in **ATTACHMENT 1**.
- 2) Adopt the draft Foreshore Dinghy Storage Policy with implementation of the policy occurring from 1 July 2015 (**ATTACHMENT 2**).

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Sally Dover
	That the recommendation be adopted and that Council receive and note the Supplementary Information.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

086	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: 1) Consider the public submissions received during the public exhibition period as shown in ATTACHMENT 1 . 2) Adopt the draft Foreshore Dinghy Storage Policy with implementation of the policy occurring from 1 July 2015 (ATTACHMENT 2). 3) Receive and note the Supplementary Information.

1. BACKGROUND

The purpose of this report is to consider submissions made during the public exhibition of the Foreshore Dinghy Storage Policy and to adopt the amended draft Foreshore Dinghy Storage Policy (**ATTACHMENT 2**).

On 25 November 2014, Council resolved to "*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*".

Following this resolution the draft Foreshore Dinghy Storage Policy was placed on public exhibition for a period of 70 days. The extension of time from 28 days to 70 days was due to requests from the public for further time for submissions to be developed. During this public exhibition period a total of twelve (12) submissions were received which required this further report to Council to re-consider the draft Foreshore Dinghy Storage Policy prior to adoption.

Many foreshore reserves have experienced a high number of dinghies and other water vessels being placed on the reserve in an unmanaged manner. Unmanaged placement of dinghies on our reserves limits the ability of residents and visitors to use and enjoy the foreshore reserves. The increased demand for foreshore reserve space, particularly during peak seasons, has created the need for a managed approach for dinghy storage on Council reserves and use of the foreshore reserves to coexist.

Common themes raised in the in the submissions included the limitation of storage areas and the description of a dinghy. To address these concerns changes have been made to the draft Foreshore Dinghy Storage Policy. These changes include:

- the inclusion of multi-hulled vessels to the dinghy definition;
- a reduction in the overall length of a dinghy to a maximum of 3 metres; and
- Dinghies will be permitted to be stored in any Council managed foreshore reserve. In the Council managed foreshore reserves that have designated storage areas, dinghies must be stored within the storage area. In the Council managed foreshore reserves that do not have a designated storage area, dinghies can be stored anywhere within the reserve.

Another concern regularly raised throughout submissions was the cost of registration. The cost of \$100 per annum is consistent with other Hunter based Councils and is lower than Sydney based Councils with a similar policy. The income derived from the registration process will be utilised to fund the clean-up of unregistered dinghies as well as the maintenance and improvement of foreshore dinghy storage facilities.

The submissions have been summarised in **ATTACHMENT 1** and recommendations have been made to address the concerns raised.

It is proposed that, if adopted, the registration process will not begin until July 1 2015 to allow sufficient time for the policy to be advertised and new signage to be erected to inform dinghy owners of the new requirements.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Provide passive and active recreation and leisure services and facilities.	Maintain and develop recreational facilities for residents and visitors.

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 Council's 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.

Source of Funds	Yes/No	Funding (\$)	Comment
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	Nil	
Section 94	No	Nil	
External Grants	No	Nil	
Other	Yes	13,000	Estimated income derived from the implementation of this policy.

LEGAL, POLICY AND RISK IMPLICATIONS

Removal of unregistered dinghies can occur under the Impoundment Act 1993. The risks associated with adopting the recommendations are detailed in the table below

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
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
There is a risk that the Council managed foreshore reserves without designated storage areas will experience an increase in the number of dinghies being stored within them.	Low	The Foreshore Dinghy Storage Policy will be reviewed every four years at which time the reserves with designated storage areas can be updated to reflect current storage trends.	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 Port Stephens Council Fees and Charges process.

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.

The draft policy was publicly exhibited from 10 December 2014 to 18 February 2015 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 10 December 2014 and 4 February 2015 editions of the Port Stephens Examiner and details were also posted on Council's website. Twelve (12) submissions were received during this exhibition period.

A summary table of the submissions is attached as **ATTACHMENT 1**.

OPTIONS

- 1) That Council consider the public submissions received during the exhibition period and adopt the draft Foreshore Dinghy Storage Policy.
- 2) Amend the draft foreshore Dinghy Storage Policy and re-exhibit the draft policy for further comments.
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Submission Table - Foreshore Dinghy Policy.
- 2) Draft Foreshore Dinghy Storage Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 17

FILE NO: PSC2015-01000/037
TRIM REF NO: PSC2014-03240**NSW GOVERNMENT - 'FIT FOR THE FUTURE' PROGRAM**REPORT OF: **FRAN FLAVEL - CORPORATE STRATEGY & PLANNING MANAGER**
GROUP: **GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the report on the progress of the self-assessment work undertaken to date in response to the NSW Government's 'Fit for the Future' reform program.
- 2) Request the General Manager to prepare the Port Stephens Council 'Fit for the Future' Improvement Proposal for consideration by Council on 26 May 2015.
- 3) Endorse the Mayor and General Manager to undertake discussions of potential future boundary changes with neighbouring councils, being:
 - a) Maitland City Council;
 - b) Dungog Council;
 - c) Great Lakes Council;
 - d) Newcastle City Council.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

087	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none">1) Note the report on the progress of the self-assessment work undertaken to date in response to the NSW Government's 'Fit for the Future' reform program.2) Request the General Manager to prepare the Port Stephens Council 'Fit for the Future' Improvement Proposal for consideration by Council on 26 May 2015.

- 3) Endorse the Mayor and General Manager to undertake discussions of potential future boundary changes with neighbouring councils, being:
- a) Maitland City Council;
 - b) Dungog Council;
 - c) Great Lakes Council;
 - d) Newcastle City Council.

BACKGROUND

The purpose of this report is to advise Council of actions to date in response to the NSW Government's Fit for the Future local government reform framework. The report also seeks Council's endorsement to undertake preliminary discussions with neighbouring councils on possible future boundary changes pursuant to the NSW Government's Fit for the Future program.

NSW Local Government reform – the Journey so Far

Building a shared vision for change

The journey towards stronger, more sustainable local government began in late 2011 when councils from throughout NSW came together for Destination 2036 to discuss their long-term future. The gathering considered how communities, economies and technologies might change over the next 25 years and how the local government sector might adapt to meet these challenges.

Over the two-day event, local government representatives, the Office of Local Government and other State agencies worked together to produce a Vision for Local Government and an Action Plan to guide the process of change. This led to the appointment of the Independent Local Government Review Panel and a review of the Local Government Act

Independent Local Government Review Panel

The independent Local Government Review Panel was appointed by the State Government in 2012, following a request from the local government sector. The Panel, led by Professor Graham Sansom, looked at options for local government structures, governance models and boundary changes. Over the review period, Panel members travelled throughout NSW consulting with councils and communities to develop and refine a range of options. The Panel also commissioned independent research to help inform its thinking.

The Panel completed its work in October 2013 and its final report and recommendations were exhibited for public comment in early 2014. The NSW Government delivered its response to the recommendations in September 2014.

Local Government Acts Taskforce

Following Destination 2036, the Minister for Local Government appointed a four-person Taskforce to review the *Local Government Act 1993* and the *City of Sydney Act 1988*.

The Taskforce looked at ways to modernise the legislation, to ensure that it would meet the future needs of councils and communities. Taskforce members conducted workshops throughout NSW to discuss and refine the ideas presented in the paper and worked with the Independent Local Government Review Panel to ensure that the two review processes were suitably aligned.

The Taskforce completed its work in late 2013 and its final report and recommendations were exhibited for public comment in early 2014.

The Government Response

The NSW Government delivered its response to the recommendations of the Independent Panel and Acts Taskforce in September 2014, with the launch of the Fit for the Future package.

The package adopted most of the recommendations of the two reviews and considered community feedback on the final reports.

The reforms, to be implemented over a two-year period, will lay the foundations for a stronger system of local government in NSW.

Fit for the Future – Port Stephens Council

In its Review of NSW Local Government the Independent Panel identified that Port Stephens Council had the scale and capacity that led to its determination that no amalgamation(s) were necessary or desirable for Council in order to ensure it could deliver services to its community.

Since that Review Report the State government has accepted the recommendations of the Independent Review Panel that confirms that Port Stephens Council meets the scale and capacity test and there is no requirement for Council to make adjustments to the size of its local government area. Council is required to submit an Improvement Proposal by 30 June 2015 using the templates supplied by the Office of Local Government.

The Fit for the Future Improvement Proposal template provides an opportunity for councils to comment on agreed boundary changes. It is therefore important for councils to hold discussions about boundary changes with their neighbours, within the context of regional and sub-regional planning, catchment and demographic fit, and address these in their proposals, where appropriate.

Preliminary work by staff addressing the seven criteria suggests that Council would meet the criteria currently or in the next three to five years. A detailed draft proposal

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

will be provided for Council at its meeting on 26 May 2015 for endorsement. It is proposed that prior to that meeting, Councillors would have an additional opportunity on 19 May 2015 to have input to the final documentation.

Discussions with Neighbouring Councils

On 19 February 2015 Council received a formal request from Maitland City Council to discuss local government boundaries between our councils. Specifically the proposed discussions include the townships of Hinton, Wallalong and Woodville, and their association with Maitland. It is proposed that if Council agrees, discussions would take place in May 2015.

As a result of this formal request, staff were asked to provide scoping of the impacts as currently known, and also other possible changes to Port Stephens Council boundaries as indicated in the Independent Review Panel's recommendations for discussions. As a result it is further proposed to seek discussions with Dungog, Great Lakes and Newcastle councils where possible communities of interest may be identified.

As these proposed discussions are not required or essential to Council's response within the Fit for the Future framework, if Council endorses the recommendation they would be noted only in the Improvement Proposal due to the government by 30 June 2015. Should both sides find merit in pursuing matters of boundary changes the Boundaries Commission processes would eventually come into play. The Boundaries Commission process is a lengthy and exhaustive exercise that entails significant formal consultation with affected communities.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
The community is a partner in developing the future of the local government area.	Council will engage its citizens in developing plans for the future of the Port Stephens local government area.

FINANCIAL/RESOURCE IMPLICATIONS

Council should note that the State government has provided \$5 - \$13.5 million for rural and regional council mergers; however this amount is only for full amalgamations.

Boundary adjustments do not qualify for any form of State funding or subsidy under Fit for the Future or any other process. In undertaking any discussions with neighbouring councils regarding boundaries, the issue of the considerable cost of the Boundaries Commission processes would need to be clarified early as the cost would be borne by relevant councils' ratepayers, should boundary realignment be considered to have merit.

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

At this stage there are no other financial or resource implications associated with the recommendation in this Report.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There is no legal or policy impediment to Council entering into preliminary discussions with its neighbours. Notwithstanding any agreement reached between the parties as a result of the discussions, such agreement would not be legally binding on either party and the legal processes described under Section 218 of the *Local Government Act 1993* would require to be initiated

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that failure to engage with neighbouring councils in the spirit of the Fit for the Future program would result in reputational damage that may adversely affect the overall reception of Council's Improvement Proposal.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

At this stage the recommendation is to enter into informal discussions where sustainability issues would form the basis for assessment of any future boundary realignments. Until the scope of such possibilities is known an assessment of the implications is premature.

CONSULTATION

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

A discussion was held with Councillors on 17 March 2015 to provide advice of the current preliminary assessment of Council's position in relation to the Fit for the Future criteria; and to advise of the approach of Maitland City Council and other considerations and to receive Councillors' input which has informed this Report.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 18

FILE NO: PSC2015-01000/091
TRIM REF NO: PSC2009-02488

POLICY REVIEW: FRAUD AND CORRUPTION CONTROL

REPORT OF: TONY WICKHAM - GOVERNANCE MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Fraud and Corruption policy shown at **(ATTACHMENT 1)**;
- 2) Place the Fraud and Corruption policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as at the close of submissions, without a further report to Council.
- 3) Revoke the Fraud and Corruption policy dated 26 November 2013 (Min No. 346, should no submissions be received).

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

088	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council: <ol style="list-style-type: none">1) Endorse the amendments to the Fraud and Corruption policy shown at (ATTACHMENT 1);2) Place the Fraud and Corruption policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as at the close of submissions, without a further report to Council.3) Revoke the Fraud and Corruption policy dated 26 November 2013 (Min No. 346, should no submissions be received).

BACKGROUND

The purpose of this report is to recommend the amendments to the Fraud and Corruption Control Policy, **(ATTACHMENT 1)** which represents Council's commitment to effective fraud and corruption risk management and prevention. The policy has been reviewed and endorsed by the Audit Committee at its meeting of 26 February 2015.

Port Stephens Council is committed to protecting its revenue, expenditure and property from any attempt, either by members of the public, contractors, elected Councillors or its own employees, to gain by deceit, financial or other benefits. The policy (and a supporting management directive) has been developed to protect public funds and other assets, protect the integrity, security and reputation of Council and its employees, and assist in maintaining high levels of service to the community.

This Policy draws together Council's fraud and corruption prevention and detection initiatives into one document. It forms part of Council's Risk Management Framework and has three major components:

Prevention – initiatives to deter and minimise the opportunities of fraud and corruption;

Detection – initiatives to detect fraud and corruption as soon as possible after it occurs; and

Response – initiatives to deal with detected or suspected fraud and corruption.

The desired outcome of this Policy is the elimination of fraud and corruption against Council.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the development and implementation of the Policy are within the existing 2014-2015 Budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.

The Policy has been developed in accordance with Australian Standard AS8001:2008 Fraud and Corruption Control.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that fraudulent activity could occur within Council which is a risk of any business. The key to managing the exposure to fraudulent activity is to ensure appropriate controls are in place.	Low	Adopt the policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Fraud and Corruption Control Policy provides the community with assurance of the integrity in the Local Government system and of Port Stephens Council. Related policies provide confidence to those who identify potential fraud or corruption to come forward.

Fraud and corruption cost the organisation because they detract from its financial performance and its ability to provide and enhance facilities and services to its community. This policy addresses this risk.

By putting in place mechanisms to detect corruption it allows for a 'level playing field' for promoters of economic development opportunities and the enhanced reputation of Council will underpin other strategies for economic growth in the LGA.

By preventing fraud and corruption, this Policy allows for those other controls and conditions that are in place to protect the environment from being subverted.

CONSULTATION

- 1) General Manager.
- 2) Executive Team
- 3) Council's Audit Committee.

OPTIONS

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

ATTACHMENTS

- 1) Fraud and Corruption policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 19

FILE NO: PSC2015-01000/090
TRIM REF NO: PSC2015-00381

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a. East Ward Funds – Councillor Sally Dover – The Rock Church – Reimbursement of expenses for 2014 Carols at Fly Point - \$1,491.00;
 - b. Mayoral Funds - Mayor Bruce MacKenzie – Karuah Craft & Quilt Fete – Reimburse hall hire fees - \$208.00;
 - c. Mayoral Funds – Mayor Bruce MacKenzie – Raymond Terrace Arts & Crafts – Donation toward Raymond Terrace Art Show August 2015 - \$500.00.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Peter Kafer Councillor Chris Doohan
	That the recommendation be adopted.

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION**

089	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council approve provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:- <ol style="list-style-type: none">a. East Ward Funds – Councillor Sally Dover – The Rock Church – Reimbursement of expenses for 2014 Carols at Fly Point - \$1,491.00;b. Mayoral Funds - Mayor Bruce MacKenzie – Karuah Craft & Quilt Fete – Reimburse hall hire fees - \$208.00;c. Mayoral Funds – Mayor Bruce MacKenzie – Raymond Terrace Arts & Crafts – Donation toward Raymond Terrace Art Show August 2015 - \$500.00.

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

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

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

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

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

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

EAST WARD – Councillors Dover, Morello & Nell

The Rock Church	Reimbursement of expenses at 2014 Carols at Fly Point.	\$1,491.00
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MAYORAL FUNDS – Mayor MacKenzie

Karuah Craft & Quilt Fete	Reimburse hall hire fees	\$208.00
Raymond Terrace Arts & Crafts	Donation toward Raymond Terrace Art Show August 2015.	\$500.00

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

FINANCIAL/RESOURCE IMPLICATIONS

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

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	1,491.00	\$1,491 Ward Funds \$708 Mayoral Funds Financial assistance is covered within existing budgets.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 20

FILE NO: PSC2015-01000/094
TRIM REF NO: PSC2015-01022**INFORMATION PAPERS**REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**RECOMMENDATION IS THAT THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 14 April 2015.

No:	Report Title	Page:
1	CASH AND INVESTMENTS HELD AS AT 31 MARCH 2015	115
2	BOOMERANG PARK MASTERPLAN SUBMISSIONS	116
3	GENERAL MANAGER'S SIX MONTHLY PERFORMANCE REVIEW	118
4	NEWCASTLE AIRPORT DIRECTOR (NON-EXECUTIVE) ROLE – Item withdrawn	

**ORDINARY COUNCIL MEETING - 14 APRIL 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

071	Councillor Paul Le Mottee Councillor Steve Tucker
	That Council move out of Committee of the Whole.

ORDINARY COUNCIL MEETING - 14 APRIL 2015

MOTION

090	Councillor Chris Doohan Councillor John Morello
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 14 April 2015: 1 CASH AND INVESTMENTS HELD AS AT 31 MARCH 2015 2 BOOMERANG PARK MASTERPLAN SUBMISSIONS 3 GENERAL MANAGER'S SIX MONTHLY PERFORMANCE REVIEW

INFORMATION PAPERS



INFORMATION ITEM NO. 1

FILE NO: PSC2015-01000/064
TRIM REF NO: PSC2006-6531

CASH AND INVESTMENTS HELD AS AT 31 MARCH 2015

REPORT OF: TIMOTHY HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 31 March 2015.

ATTACHMENTS

- 1) Cash and Investments Held at 31 March 2015.
- 2) Monthly Cash and Investments Balance March 2014 to March 2015.
- 3) Monthly Australian Term Deposit Index March 2014 to March 2015.

INFORMATION ITEM NO. 2

FILE NO: PSC2015-01000/014
TRIM REF NO: PSC2011-02308

BOOMERANG PARK MASTERPLAN SUBMISSIONS

REPORT OF: JASON LINNANE - GROUP MANAGER FACILITIES & SERVICES
GROUP: FACILITIES & SERVICES

BACKGROUND

The purpose of this report is to provide information to Council on three (3) submissions that were inadvertently overlooked when Council considered the Boomerang Park Master Plan at its meeting on 25 November 2014.

A process error has been detected and as such three (3) submissions were missed in the review and reporting process. This means that the authors of the three (3) submissions did not receive an acknowledgement from Council and they were not referenced in the Council report.

In short, the submissions were in Council's document management system but were not allocated to the appropriate staff member. Therefore, they were not included in the Council report.

Two (2) of the submissions were against the proposal. One (1) submission was for the proposal. **Attachment 1** includes a full copy of the submissions.

The contents of the opposing submissions are not dissimilar to the other 18 submissions that were received and reported in the Council report. **Table 1** provides a summary.

Date of Receipt	Form of Submission	Organisation	Comments
26 June 14	Email	Resident 1	<ul style="list-style-type: none"> • Suggestion to install a skate facility of the same standard as the existing facility at Bar Beach in Newcastle. Believes that it is important to create a vibrant and healthy skate culture. • Opposes the proposed possible rezoning of the allotted land areas for residential purposes. For the following reasons: <ul style="list-style-type: none"> - it will remove views and access from neighbouring residents and loss of amenity; - concern it will create a rise in criminal and undesirable activity due to loss of passive surveillance; and - believes funding can be sourced from other streams e.g. Section 94 funding. • Opposes croquet court as believes it is an

MINUTES ORDINARY COUNCIL - 14 APRIL 2015

Date of Receipt	Form of Submission	Organisation	Comments
			exclusive sport with a limited number of players.
26 June 14	Email	Resident 2	<ul style="list-style-type: none">• Expresses support for the master plan.• Suggestion to incorporate a bike/scooter pathway similar to Maitland Park.• Suggestion to incorporate multi-use of croquet court.
4 July 14	Email	Resident 3	<ul style="list-style-type: none">• Opposes the proposed possible rezoning of the allotted land areas for residential purposes.• Believes it is contrary to the objectives of the current Plan of Management.• Suggests that the Council should invest in the existing infrastructure in the park.

Table 1 – summary of three (3) submissions that were not included in Council report 25 November 2014.

The oversight of these submissions does not affect the decision Council made to adopt the Master Plan. The Master Plan will continue to act as a guide for Council in its ongoing improvement program for Boomerang Park. The adoption of the Master Plan does not in any way negate the need for Council to undertake the full legislative requirements of the planning process in its consideration of future possible reclassification and rezoning.

There are obvious opportunities for improvement for this process that Council needs to identify. Council's Community Engagement team has commenced a review of the process and will clarify the opportunities for improvement and put in place agreed process changes so this risk is managed in the future.

The Community Engagement Team has led the process for the design of the community engagement plan for the reclassification and rezone process. It will be robust and an example of how we can better engage with the community for future similar projects.

ATTACHMENTS

- 1) Boomerang Park Masterplan Submissions.

INFORMATION ITEM NO. 3

FILE NO: PSC2015-01000/075
TRIM REF NO: PSC2005-1318

GENERAL MANAGER'S SIX MONTHLY PERFORMANCE REVIEW

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to receive and note the outcome of the General Manager's Six Monthly Performance Review 1 July to 31 December 2014 which has been signed by the Mayor and General Manager.

Council established a Performance Evaluation process for the General Manager in accordance with the Guidelines for the Appointment and Oversight of General Managers issued pursuant to Sections 23A and 338 of the *Local Government Act 2013*. This includes the establishment of a Performance Evaluation Panel to review the General Manager's performance against the agreed criteria.

A further element is available to Council, that any concern should be raised when it occurs. It should include written notification to the Mayor and General Manager. After assessment, the General Manager will respond to the Council to ensure a review in the annual meeting of the Performance Evaluation Panel.

The Performance Evaluation process provides an opportunity for Councillors and the General Manager to participate in the review process.

The Six Monthly Performance Review Summary is noted as **(ATTACHMENT 1)**.

ATTACHMENTS

- 1) General Manager's Performance Review Summary.

CONFIDENTIAL ITEMS



In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 14 APRIL 2015 MOTION

	The Confidential reports were not dealt with by Council.
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CONFIDENTIAL

ITEM NO. 1

FILE NO: PSC2015-00378/003
TRIM REF NO: PSC2014-00501

ROAD WIDENING - 2143 & 2145 CLARENCE TOWN ROAD, GLEN OAK

REPORT OF: CARMEL FOSTER - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION

	This matter was not dealt with by Council.
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CONFIDENTIAL

ITEM NO. 2

FILE NO: PSC2015-00378/013
TRIM REF NO: PSC2009-01623

**ACQUISITION OF EASEMENTS FOR DRAINAGE AND ACCESS - 661
MEDOWIE ROAD, MEDOWIE**

REPORT OF: CARMEL FOSTER - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

ORDINARY COUNCIL MEETING - 14 APRIL 2015
MOTION

	This matter was not dealt with by Council.
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There being no further business the meeting closed at 6.50pm.