

DRAFT

MINUTES – 11 AUGUST 2015



PORT STEPHENS
C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 11 August 2015, commencing at 5.30pm.

PRESENT:

Mayor B MacKenzie, Councillors G. Dingle, C. Doohan, S. Dover, K. Jordan, P. Le Mottee, J. Morello, S. Tucker, General Manager, Corporate Services Group Manager, Facilities and Services Group Manager, Development Services Group Manager and Executive Assistant – Councillor Support.

Meeting commenced with a ceremony conducted by Worimi Elders and leaders, including a formal welcome to country performed by Uncle Neville Lilley, a speech from Uncle Graeme Russell, and a demonstration of Gathang language and playing of the didgeridoo by Jonathan Lilley.

229	Councillor Chris Doohan Councillor Ken Jordan That the apology from Cr Peter Kafer and Cr John Nell be received and
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	noted.
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230	Councillor Steve Tucker Councillor Ken Jordan
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	That the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 28 July 2015 be confirmed.
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231	A declaration of interest was received from Cr Paul LeMottee for Item No. 2 that being a Pecuniary Conflict of Interest that the LeMottee Group applied for planning proposal to be prepared.
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SUBJECT

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COUNCIL REPORTS

ITEM NO. 1

FILE NO: PSC2015-01000/328
TRIM REF NO: PSC2012-02935

SOLDIERS POINT ABORIGINAL PLACE PLAN OF MANAGEMENT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the submissions received through the public exhibition for the draft Soldiers Point Aboriginal Place Plan of Management (**ATTACHMENT 1**).
 - 2) Adopt the Soldiers Point Aboriginal Place Plan of Management (**TABLED DOCUMENT**).
 - 3) Delegate authority to the General Manager to make any minor amendments to the Soldiers Point Aboriginal Place Plan of Management as adopted to correct any drafting errors.
 - 4) Endorse a nomination for the declaration of an Aboriginal Place under Section 84 of the National Parks and Wildlife Act 1974 on Council land parcels being Everitt Park (Lot 332 DP 636840), Soldiers Point Memorial Hall (Lot 1 DP 211909), Thou Walla Sunset Retreat (Lot 2 DP 211909), Spencer Park (Lot 205 DP 27084) and the registered Aboriginal midden in Ridgeway Avenue Soldiers Point (Aboriginal Heritage Information Management System AHIMS # 38-5-0152).
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**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
MOTION**

232	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <ol style="list-style-type: none">1) Note the submissions received through the public exhibition for the draft Soldiers Point Aboriginal Place Plan of Management (ATTACHMENT 1).2) Adopt the Soldiers Point Aboriginal Place Plan of Management (TABLED DOCUMENT).3) Delegate authority to the General Manager to make any minor amendments to the Soldiers Point Aboriginal Place Plan of Management as adopted to correct any drafting errors.4) Endorse a nomination for the declaration of an Aboriginal Place under Section 84 of the National Parks and Wildlife Act 1974 on Council land parcels being Everitt Park (Lot 332 DP 636840), Soldiers Point Memorial Hall (Lot 1 DP 211909), Thou Walla Sunset Retreat (Lot 2 DP 211909), Spencer Park (Lot 205 DP 27084) and the registered Aboriginal midden in Ridgeway Avenue Soldiers Point (Aboriginal Heritage Information Management System AHIMS # 38-5-0152).
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The Mayor requested that due to the significance of this decision that the Councillors stand to show their vote of support. Cr Paul LeMottee requested that the unanimous vote be recorded in the minutes.

Those for the Motion: Crs Geoff Dingle, Chris Doohan , Sally Dover, Ken Jordan , Paul Le Mottee , Bruce MacKenzie, John Morello and Steve Tucker

Those against the Motion: Nil

BACKGROUND

The purpose of this report is to seek Council's endorsement of the Soldiers Point Aboriginal Place Plan of Management ("Plan") **(TABLED DOCUMENT)**.

The draft Plan was presented to Council on 24 March 2015 and underwent review by public exhibition for 59 days from 1 April 2015. A total of 26 submissions were received. Expressions of support, objection and recommendation were made across a suite of issues. **(ATTACHMENT 2)** is a summary of the key points and responses to each submission.

Upon review of all submissions and further consultation with members of the local Aboriginal community and officers from the NSW Office of Environment and Heritage,

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the Plan has been amended to reflect the result of the public exhibition period. In addition to editing and formatting the major changes to the Plan are the inclusion of an Action Table that lists strategies to be conducted during the term of the Plan and the recommendation to include Spencer Park for nomination in the Aboriginal Place.

The Plan has been designed to comply with Council's obligations for the management of land classified as 'community' under the Local Government Act 1993. The Plan also complies with the requirements for an Aboriginal Place management plan under the National Parks and Wildlife Act 1974. The reason for the dual compliance is to have the management arrangements for the proposed Aboriginal Place area defined and agreed to before endorsing the Aboriginal Place declaration.

During the public exhibition period and in subsequent meetings with members of the local Aboriginal community it came to light that the cultural significance of Spencer Park including the area occupied by the tennis courts had not been documented. The draft Plan neither acknowledged this cultural significance nor did it identify the area as part of the Aboriginal Place nomination.

In order to afford reasonable protection of the Aboriginal cultural values of Spencer Park and to not prolong the adoption of this Plan or the Aboriginal Place nomination process, by way of re-exhibiting the draft Plan, the Plan has been amended to include a recommendation that Spencer Park be recognised as part of the Aboriginal Place area. This amendment does not prohibit the use of Spencer Park as an active sports area and passive recreation space; however it does afford the area the same level of protection as the other land parcels included in the Aboriginal Place nomination.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens has a vibrant cultural life.	Plan for and promote multiculturalism and Port Stephens' heritage, arts and culture.

FINANCIAL/RESOURCE IMPLICATIONS

Adopting the recommendations will require staff time to comply with the Plan. Of particular note is staff time to undertake traffic and parking studies, consultation with the Registered Aboriginal Parties to the Aboriginal Heritage Impact Permit, annual cultural awareness and site identification training and an annual review of on-site work methodologies.

The quantum of staff time is not able to be determined accurately however experience with the management of the Birubi Point Aboriginal Place suggests that some 400 staff hours per year (across management and field staff) would be required to ensure compliance with the Plan.

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Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	20,000	Estimated value of staff time required to ensure compliance with the Plan to be recovered from within existing budgets across all areas of Council.
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy impediments from adopting the recommendation.

The preparation of the Plan of Management has been done pursuant to section 36 of the Local Government Act 1993.

The Aboriginal Place provisions of the National Parks and Wildlife Act 1974 (section 84) and associated policies and guidelines require that a management plan be created within 12 months after the declaration of an Aboriginal Place. By adopting the Plan prior to endorsing the Aboriginal Place nomination Council is identifying and mitigating the risks associated with the management of an Aboriginal Place.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that not adopting the recommendations will cause irreparable reputation damage with the Aboriginal community resulting in strained working relationships in the future.	High	Adopt the recommendations.	Yes
There is a risk that amending the Plan will lead to the Plan being re-exhibited in accordance with the Local Government Act resulting in delays to the Aboriginal Place	Medium	Adopt the recommendations.	Yes

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nomination and reputation damage.			
There is a risk that adopting the recommendations will result in increased costs associated with staff time to comply with the Plan.	Low	Adopt the recommendations and absorb reasonable costs of compliance with the Plan within existing budgets.	Yes
There is a risk that adopting the recommendations may cause confusion in the local community resulting in reputation damage.	Low	Adopt the recommendations and undertake on going consultation with the local community to raise awareness of the Aboriginal Place and how it is managed.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendations ensures that the community land is properly managed to enable community use within the Aboriginal Place controls. Endorsing the Aboriginal Place nomination is likely to be viewed positively in the local community as a genuine attempt to reconcile the difference between Aboriginal and non-Aboriginal people by means of acknowledging the protecting the cultural values of the land.

Adopting the recommendation is unlikely to have any economic implications as the Plan of Management does not recommend any restrictions of trade or reductions in business at Soldiers Point.

Ecological implications may arise should a future traffic and parking strategy determine the removal of trees or disturbance to tree roots from the creation of new car parking areas. These risks will be managed as part of any works that may or may not arise from the results of such a strategy.

CONSULTATION

Public exhibition consultation:

The table below details the consultation plan for the public exhibition period that commenced Wednesday 1 April 2015 and concluded on 29 May 2015.

Task	Description	Stakeholders	Timing
Written Notices	Pursuant to Reg. 112 of the Local Government (General) Regulation 2005, written notice of consideration to renew	1. Worimi Local Aboriginal Land Council. 2. NSW Native Titles Services Ltd.	8/4/15

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	land categorisation as "Cultural Significance" shall be sent to the stakeholders listed.	3. The Registrar appointed under the Land Rights Act 1983. 4. Director General of Department of Aboriginal Affairs. 5. Director General of the Department of Environment and Conservation.	
Media release	Re: Soldiers Point Plan of Management on exhibition and upcoming community information session.	External	8/4/15
Advert/ Public notice/web update/social media/Examiner	Re: Soldiers Point Plan of Management on exhibition and upcoming community information session.	External	8/4/15
Advert in Koori Mail	Pursuant to Reg. 112 of the Local Government (General) Regulation 2005, advert circulating across NSW advising of consideration to renew land categorisation as "cultural Significance".	External	8/4/15
Advise Facilities and Services staff	Via weekly email newsletter from Group Manager Facilities and Services.	Internal	8/4/15
Advise Customer Service team	Via email to Customer Relations Coordinator.	Internal	8/4/15
Advise all staff via MyPort notice	Via email to Customer Relations Coordinator.	Internal	8/4/15
Newsletter	Newsletter #1 to be distributed to known community groups by email; hand letterbox dropped to nearby neighbourhood (100 estimate).	External	28/4/15
Advise Councillors via PS newsletter	Re: scheduled Face to face community information session.	Internal	17/4/15
Staff community	Contact relevant staff re:	Internal	24/4/15

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engagement reference register	their thoughts on Plan of Management and Aboriginal Place implications.		
Site signage	Pursuant to Reg. 112 of the Local Government (General) Regulation 2005.	External	28/4/15
Site signage	Posters to be erected at nearby businesses.	External	28/4/15
External meeting	Scheduled face to face session with community including Frequently Asked Questions sheet and feedback forms.	External	2/5/15
Internal meeting	Various staff met to resolve the historical accuracy of land classification of the Port Stephens Yacht Club.	Corporate Services, Development Services, Facilities and Services.	18/5/2015
External meeting	Port Stephens Yacht Club to determine how lease will be managed in context of an Aboriginal Place.	Port Stephens Yacht Club.	21/5/2015

Post public exhibition period consultation:

A meeting was held on Monday 13 July 2015 with five members of the local Aboriginal community, a NSW Office of Environment and Heritage Archaeologist, the General Manager and the Community Services Section Manager. The meeting reviewed redacted submissions to the draft Plan and provided a cultural perspective of the submissions.

A two way conversation was held with Councillors on Tuesday 21 July 2015.

Communication plan for the Plan:

Task	Description	Stakeholders	Timing
Media release/Social Media	Media release to announce adoption of the Plan and endorsement of Aboriginal Place nomination.	External	12/8/15
Letter	To NSW Office of Environment and Heritage advising of endorsement of Aboriginal Place nomination.	External	14/8/15
Letter	To all lessees of the land detailed in the Plan.	External	28/8/15

OPTIONS

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

ATTACHMENTS

- 1) Copy of Each Submission to Public Exhibition (Redacted). (Provided under separate cover)
- 2) Summary of Key Points and Responses to Submissions to Public Exhibition (Redacted). (Provided under separate cover)

COUNCILLORS ROOM

- 1) Soldiers Point Aboriginal Place Plan of Management.

TABLED DOCUMENTS

- 1) Soldiers Point Aboriginal Place Plan of Management.

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ITEM NO. 2

FILE NO: PSC2015-01000/598

TRIM REF NO: PSC2015-01071

PLANNING PROPOSAL - 713 NEWLINE ROAD, EAGLETON

REPORT OF: TIMOTHY CROSDALE - STRATEGY AND ENVIRONMENT
SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at (**ATTACHMENT 1**) to amend Schedule 1 Additional Permitted Uses of *Port Stephens Local Environmental Plan 2013* to include development for the purposes of a dual occupancy on the subject land.
- 2) Forward the Planning Proposal to the NSW Department of Planning and Environment under section 56 in the *Environmental Planning and Assessment Act 1979* with a request for a Gateway Determination.

Cr Paul Le Mottee left the meeting at 5:57pm during Committee of the Whole.

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MOTION

233	Councillor Ken Jordan Councillor John Morello That Council move into Committee of the Whole.
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COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Ken Jordan Councillor John Morello That Council: <ol style="list-style-type: none">1) Adopt the Planning Proposal at (ATTACHMENT 1) to amend Schedule 1 Additional Permitted Uses of <i>Port Stephens Local Environmental Plan 2013</i> to include development for the purposes of a dual occupancy on the subject land.2) Forward the Planning Proposal to the NSW Department of Planning and Environment under section 56 in the <i>Environmental Planning and Assessment Act 1979</i> with a request for a Gateway Determination.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan , Sally Dover, Ken Jordan , Bruce MacKenzie, John Morello and Steve Tucker

Those against the Motion: Nil

Cr Paul Le Mottee returned to the meeting at 5:58pm during Committee of the Whole.

Cr Paul Le Mottee left the meeting at 6:26pm during open Council.

ORDINARY COUNCIL MEETING - 11 AUGUST 2015 MOTION

234	<p>Mayor Bruce MacKenzie Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Adopt the Planning Proposal at (ATTACHMENT 1) to amend Schedule 1 Additional Permitted Uses of <i>Port Stephens Local Environmental Plan 2013</i> to include development for the purposes of a dual occupancy on the subject land.2) Forward the Planning Proposal to the NSW Department of Planning and Environment under section 56 in the <i>Environmental Planning and Assessment Act 1979</i> with a request for a Gateway Determination.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan , Sally Dover, Ken Jordan , Bruce MacKenzie, John Morello and Steve Tucker

Those against the Motion: Nil

Cr Paul Le Mottee returned to the meeting at 6:28pm during open Council.

BACKGROUND

The purpose of this report is to seek Council's endorsement to submit the Planning Proposal at **(ATTACHMENT 1)** to the Department of Planning and Environment, requesting a Gateway Determination.

Subject land: Lot 11 DP881743, 713 Newline Road, Eagleton

Proponent: LeMottee Group

Proposed Changes: Amend Schedule 1 of the Port Stephens Local Environmental Plan 2013 to allow detached dual occupancy development on the subject land.

Zone: RU1 Rural Production

Area of land: Six (6) hectares

The land holder is seeking to change the approved use of a tourist facility and manager's residence to a detached dual occupancy on the subject land. However, under the *Port Stephens Local Environmental Plan 2013 (PSLEP 2013)*, a dual occupancy is not permitted on the subject land as a minimum lot size of 20 hectares is required on land in the RU1 Primary Production Zone. The subject site is six hectares. A Locality Plan **(ATTACHMENT 2)** shows the subject site.

Previously, the proposed dual occupancy was also not permitted under Clause 14 of the *Port Stephens LEP 2000*, which prohibited dwelling houses and dual occupancy on lots, such as this one, that were created for another intended use. Furthermore, as discussed below, there is a covenant on the title of the property restricting its use for dual occupancy.

In order to allow the proposed change of use, an amendment to Schedule 1 Additional Permitted Uses of the PSLEP 2013, to include development for the purposes of a dual occupancy on the subject land, is required.

In November 1998, approval was granted on the subject land for a tourist facility, manager's residence and subsequent subdivision, pursuant to Clause 12(b) of the *Port Stephens LEP 1987*, which, at the time, allowed for the subdivision of rural land for an approved use other than dwellings. As such, the subdivision did not result in an additional dwelling entitlement. The development consent required the land to be burdened by an 88B instrument restriction under the *Conveyancing Act 1919*, prohibiting a dwelling or duplex (Condition 6 of L1055/98).

The tourist facility included a water-ski school and associated tourist lodge. However, the business became unviable in 2003 due to changes made by the Department of Land and Water Conservation, Waters Authority and Council regarding the use of waterways.

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A Mayoral Minute dated 28 July 2009 resolved to initiate an amendment to Clause 14 of the Port Stephens LEP 2000 to enable the permissibility of dwellings on allotments created for approved uses prior to the appointed date (being 29 December 2000). Clause 14 dealt with dwelling houses and dual occupancies in Rural Zones. This amendment sought to allow the proposed change of use however it did not proceed. The matter was considered through the preparation of the principal LEP, but was not included because the LEP sought to transition the existing provisions into the standard instrument template, without any significant policy change. As such, a standard minimum lot size for dual occupancy development was applied.

Since this time, the land holder has lodged numerous development applications seeking a change of use from tourist facility and manager's residence to dual occupancy. These applications have been refused as dual occupancy is prohibited under previous and current LEPs.

At its meeting on 10 March 2015, Council refused a development application for a change of use from tourist facility to dual occupancy due to the proposed development being prohibited under the LEP 2013. However, at this time, Council recommended that Council Officers write to the applicant, encouraging them to lodge a planning proposal seeking an amendment to Schedule 1 to allow the use of the existing buildings for dual occupancy. Council also resolved to waive any fees associated with the planning proposal.

Should the planning proposal be supported, a new Development Application seeking a change of use to a dual occupancy will need to be lodged. Further, as there is an operational consent over the land which prohibits dual-occupancy/dwellings on the subject lot (condition 6 of L1055/98), a Section 96 application must also be lodged (concurrently) seeking the removal of this condition. The 88B instrument restriction will also need to be removed from the title of the property.

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.

FINANCIAL/RESOURCE IMPLICATIONS

Council Officers determined that the planning proposal is a Category A Local Environmental Plan under Council's current Fees & Charges 2015-2016, attracting a total fee of \$8,696. However, at its meeting held on 10 March 2015, Council resolved to waive the planning proposal fees.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The planning proposal will be progressed under existing budget allocation.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Port Stephens Local Environmental Plan 2013

Under the provisions of the PSLEP 2013, a dual occupancy is only permissible on the subject land where it has a minimum size of 20ha. The subject site is approximately six hectares.

In order for the proposed dual occupancy to be permitted, an amendment to Schedule 1 Additional Permitted Uses of the PSLEP 2013 is required as follows:

The proposal will be implemented by an amendment of the *Port Stephens Local Environmental Plan 2013* by adding the following to Schedule 1 – Additional Permitted Uses:

X Use of certain land at Newline Road, Eagleton

- 1) This clause applies to land at Newline Road, Eagleton, being Lot 11 DP881743
- 2) Development for the purpose of a detached dual occupancy is permitted with consent.

Development in Rural Zones

The dual occupancy is a prohibited use, and the subdivision and existing buildings were specifically approved for a tourist facility, with a covenant restricting their use as a dwelling / dual occupancy. Furthermore, additional residents in rural areas increases the potential for land use conflict between the rural residential use of the land and agricultural pursuits and increases demand for services in remote areas. For these reasons, it is considered that the proposal has limited strategic justification, despite the minimal environmental impacts of the change of use.

Port Stephens Planning Strategy 2011

The Port Stephens Planning Strategy 2011 aims to ensure that current and future agriculture is not compromised by the fragmentation of rural land. It further aims to ensure that prime agricultural land and important rural landscapes are protected from undesirable development.

The planning proposal is consistent with the aims of the PSPS as it will not compromise agricultural land or provide provisions that will allow for its further fragmentation. Given that no further development potential will be created as it is proposed to change the use of the existing buildings, the proposal will have no impact on the rural vista in the area.

Lower Hunter Regional Strategy

The planning proposal is inconsistent with the objectives of the Lower Hunter Regional Strategy, which seeks to limit new dwelling entitlements in Rural Zones. However, it is consistent with the applicable Sustainability Criteria. An assessment of the planning proposal against the Sustainability Criteria is contained in the Planning Proposal at **(ATTACHMENT 1)**.

Environmental Planning and Assessment Act 1979

Part 3 of the Act requires Council to endorse the plan in order for it to be submitted to the Department of Planning for a Gateway Determination.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that precedent is created.	Low	The circumstances on the subject land are unique and provide sufficient justification for the proposal. It is unlikely that similar circumstances exist and as such precedent is unlikely.	Yes
There is a risk that the planning proposal will be rejected by the Department of Planning and Infrastructure due to an inconsistency with the Lower Hunter Regional Strategy.	Low	Provide a detailed assessment of the planning proposal against the Sustainability Criteria - see Attachment 3 to planning proposal at (ATTACHMENT 1) .	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposal will have minimal social or economic benefit to the community.

However, it will provide a mechanism for the viable use of existing buildings on the site and will have a significant positive economic benefit for the land owner.

The planning proposal is unlikely to have any environmental implications as the buildings already exist on the land and no further development is proposed.

Acid Sulfate Soils

The subject site is identified as containing Acid Sulfate Soils. However, the planning proposal seeks to allow a change of use of existing buildings. As such, no works are proposed and ASS will not be impacted.

Flooding

The subject land is partially flood prone. However, the existing buildings are located above the 1:100 year floodplain and no further development will be permitted on flood prone land.

Rural Vista

The buildings already exist and therefore the proposal will have no impact on the surrounding rural vista.

CONSULTATION

The planning proposal will be exhibited in accordance with the gateway determination. Given the minor nature of the proposal, it is likely that a 14 day exhibition period will suffice.

The gateway determination will detail government agency consultation requirements.

OPTIONS

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

ATTACHMENTS

- 1) Planning Proposal - 713 Newline Road, Eagleton. (Provided under separate cover)
- 2) Locality Plan. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

FILE NO: PSC2015-01000/465

TRIM REF NO: T11-2015

T11-2015: SUPPLY OF HAULAGE SERVICES

REPORT OF: TIM 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 3 on the Ordinary Council agenda namely T11-2015: Supply of Haulage Services.
 - 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 T11-2015: Supply of Haulage Services.
 - 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 from Flynn Haulage and Earthmoving Pty Ltd and Edser Plant and Civil Pty Ltd for the provision of haulage services.
 - 6) That the contract will commence on 1 September 2015 for a period of two years terminating 30 August 2017 with an option to extend for a further two plus two years.
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COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Steve Tucker Councillor Chris Doohan</p> <p>That Council:</p> <ol style="list-style-type: none">1) Accept the tender submitted from Flynn Haulage and Earthmoving Pty Ltd and Edser Plant and Civil Pty Ltd for the provision of haulage services.2) That the contract will commence on 1 September 2015 for a period of two years terminating 30 August 2017 with an option to extend for a further two plus two years.
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MOTION**

235	<p>Councillor Chris Doohan Councillor Ken Jordan</p> <p>It was resolved that:</p> <ol style="list-style-type: none">1) Accept the tender submitted from Flynn Haulage and Earthmoving Pty Ltd and Edser Plant and Civil Pty Ltd for the provision of haulage services.2) That the contract will commence on 1 September 2015 for a period of two years terminating 30 August 2017 with an option to extend for a further two plus two years.
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BACKGROUND

The purpose of this report is to recommend the acceptance of tenders received from Flynn Haulage and Earthmoving Pty Ltd and Edser Plant and Civil Pty Ltd for the provision of haulage services.

The tender was advertised and closed on 5 June 2015 with a total of nine submissions received at the close of the tender period, a summary of which is included as **(ATTACHMENT 1)**.

The weightings agreed for this tender were:

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Criteria	Weighting (%)
Price	50
Management Systems	20
Resources	20
Experience	5
Referees	5
Total	100

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

Program is within existing budget allocations.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no significant legal or policy implications. The risk is defined in the table below.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the resources may not be available when required without the tender process.	Medium	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant sustainability implications.

CONSULTATION

- 1) F&S Officer – Civil Works.
- 2) Project Manager – Construction.
- 3) Construction Supervisor.
- 4) Procurement and Tender Officer.
- 5) Project Manager – Procurement and Contracts.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Weighted criteria methodology summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

**FILE NO: PSC2015-01000/597
TRIM REF NO: T18-2015**

**T18-2015: PROVISION AND MANAGEMENT OF COUNCIL'S ANIMAL
IMPOUNDMENT FACILITIES**

REPORT OF: TIM 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 4 on the Ordinary Council agenda namely T18-2015: Provision and management of Council's animal impoundment facilities.
 - 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 T18-2015: Provision and management of Council's animal impoundment facilities.
 - 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 from Belmont Park Williamtown Pty Ltd for \$192,000 per annum for the provision and management of Council's animal impoundment facilities.
 - 6) That the contract will commence on 1 October 2015 for a period of five years terminating 30 September 2020.
-

**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>That Council</p> <ol style="list-style-type: none">1) Accept the tender submitted from Belmont Park Williamtown Pty Ltd for \$192,000 per annum for the provision and management of Council's animal impoundment facilities.2) That the contract will commence on 1 October 2015 for a period of five years terminating 30 September 2020.
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**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
MOTION**

236	<p>Councillor Chris Doohan Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Accept the tender submitted from Belmont Park Williamtown Pty Ltd for \$192,000 per annum for the provision and management of Council's animal impoundment facilities.2) That the contract will commence on 1 October 2015 for a period of five years terminating 30 September 2020.
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BACKGROUND

The purpose of this report is to recommend the acceptance of a tender received from Belmont Park Williamtown Pty Ltd for the provision and management of Council's animal impoundment facilities.

Port Stephens Council requires the services of a reliable contractor with a suitable facility to manage Council's animal impoundment operation. There is currently a contract in effect between Mr Jim P Hickie, Director of Belmont Park (Williamtown) and Council to provide such service. The contract commenced on 1 October 2009 and is due to conclude on 1 October 2015.

The tender was advertised and closed on 3 July 2015 with one submission received at the close of the tender period, a summary of which is included as **(ATTACHMENT 1)**.

MINUTES ORDINARY COUNCIL - 11 AUGUST 2015

The updated contract contains new metrics of which the successful operators' performance can be reported and measured against.

While it is recognised that only one submission was received, the evaluation team in carrying out their evaluation of the current contractor's performance was satisfied that the contract terms; that the contract price provided good value to Council and conditions were satisfactorily being met.

The weightings agreed for this tender were:

Criteria	Weighting (%)
Central location	20
Price	35
Extensive skills and experience, and facilities that meet RSPCA standards	20
Availability	15
Capacity to accommodate livestock	10
Total	100

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens Council is recognised as a leading local government organisation across the State.	Strengthen Council's brand and reputation.

FINANCIAL/RESOURCE IMPLICATIONS

Funding for the animal impoundment service is secured through Council's approved annual operating budget.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no significant legal and policy implications. The risk is defined in the table below.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if we don't accept the tender community expectations will not be met.	Medium	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The awarding of the pound contract has been done in an effort to maximise a balanced outcome as it relates to social, economic and environmental factors.

The preferred contractor is expected to provide an appropriate level of service which represents good value for money and it is not anticipated to have any significant impact on the natural environment.

CONSULTATION

- 1) Procurement and Tender Officer.
- 3) Project Manager – Procurement and Contracts.
- 4) Acting Environmental Health and Compliance Co-ordinator.
- 5) Building and Developer Relations Co-ordinator.
- 6) Team Leader Rangers and Compliance.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Weighted criteria methodology summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: PSC2015-01000/602

TRIM REF NO: T20-2015

**T20-2015: CONSTRUCTION OF TANILBA BAY FORESHORE PROTECTION
REVTMENT STAGE TWO**

REPORT OF: TIM 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 T20-2015: Construction of Tanilba Bay foreshore protection revetment stage two.
 - 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 T20-2015: Construction of Tanilba Bay foreshore protection revetment stage two.
 - 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 from Eco Projects for \$284,150 for the construction of Tanilba Bay foreshore protection revetment stage two.
-

**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Steve Tucker Councillor Ken Jordan</p> <p>That Council</p> <p>1) Accept the tender submitted from Eco Projects for \$284,150 for the construction of Tanilba Bay foreshore protection revetment stage two.</p>
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**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
MOTION**

237	<p>Councillor Chris Doohan Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <p>1) Accept the tender submitted from Eco Projects for \$284,150 for the construction of Tanilba Bay foreshore protection revetment stage two.</p>
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BACKGROUND

The purpose of this report is to recommend the acceptance of a tender received from Eco Projects for the construction of Tanilba Bay foreshore protection revetment stage two.

This project will implement the second stage of the Tanilba Bay foreshore erosion management plan. Stage two of the project comprises the installation of rock headlands, revetment wall, saltmarsh environment and pocket beaches along the remainder of Peace Park in Tanilba Bay. This will support the successful outcome of stage one and result in longer term foreshore stability whilst providing intertidal habitat.

The tender was advertised and closed on 3 July 2015 with a total of four submissions received at the close of the tender period, a summary of which is included as **(ATTACHMENT 1)**.

The weightings agreed for this tender were:

Criteria	Weighting (%)
Price	40
Experience	25
Capability	15
Referees	10
Environmental management plan	10
Total	100

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens Council is recognised as a leading local government organisation across the State.	Strengthen Council's brand and reputation.

FINANCIAL/RESOURCE IMPLICATIONS

Program is within current budget estimates.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		General Revenue.
Reserve Funds	No		
Section 94	No		
External Grants	Yes	190,200	Office of Environment and Heritage.
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no significant legal and policy implications. The risk is defined in the table below.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if we don't accept the tender the work will not be completed and community expectations will not be met.	Medium	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This project will provide protection against foreshore erosion and contribute towards the long term preservation of the Tanilba Bay foreshore.

CONSULTATION

- 1) Procurement and Tender Officer.
- 2) Project Manager – Procurement and Contracts.
- 3) Parks and Waterways Officer.
- 4) Coast and Estuary Officer.
- 5) Civil and Landscape Projects Co-ordinator.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Weighted criteria methodology summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

**FILE NO: PSC2015-01000/636
TRIM REF NO: T10-2015**

T10-2015 - MANAGEMENT OF AQUATIC AND LEISURE CENTRES

REPORT OF: TIM 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 6 on the Ordinary Council agenda namely T10-2015 - Management of aquatic and leisure centres.
 - 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 T10-2015 - Management of aquatic and leisure centres.
 - 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 from Belgravia Leisure Pty Ltd for a guaranteed subsidy for three years of \$2,586,833 for the management of aquatic and leisure centres.
 - 6) That the contract will commence on 14 September 2015 for a period of five years terminating 13 September 2015 with the option to extend for a further five year period at Council's absolute discretion.
-

MINUTES ORDINARY COUNCIL - 11 AUGUST 2015

**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Councillor Sally Dover</p> <p>That Council:</p> <p>1) Accept the recommendation with the amendment as noted in the Supplementary Information received on 11 August 2015 as noted below.</p> <p>Amend the recommendation number six of item number six to read "That the contract will commence on 14 September 2015 for a period of five years terminating 13 September 2020 with the option to extend for a further five year period at Council's absolute discretion.</p>
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**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
MOTION**

238	<p>Councillor Chris Doohan Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <p>1) Accept the tender submitted from Belgravia Leisure Pty Ltd for a guaranteed subsidy for three years of \$2,586,833 for the management of aquatic and leisure centres.</p> <p>2) That the contract will commence on 14 September 2015 for a period of five years terminating 13 September 2020 with the option to extend for a further five year period at Council's absolute discretion.</p>
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BACKGROUND

The purpose of this report is to recommend the acceptance of a tender received from Belgravia Leisure Pty Ltd for a guaranteed subsidy for three years of \$2,586,833 for the management of aquatic and leisure centre services. The tender is to be a five year contract with the option to extend for a further five year period at Council's absolute discretion. The methodology for determining the price for years 4 and 5 is based on previous year's actual expenditure and management fees not exceeding CPI or industry indices.

MINUTES ORDINARY COUNCIL - 11 AUGUST 2015

The current aquatic and leisure centre contract was due to expire on 30 June 2015. It is currently operating on a month by month variation to the contract until 13 September 2015.

A request for tender for the management of Council's three aquatic and leisure centres was called in March 2015 and closed on 29 April 2015 with four conforming submissions received at the close of the tender period.

The tender called for three core options being:

- Option 1 – management contract - five year (plus five year option) with a guaranteed subsidy;
- Option 2 – management lease (up to 20 years) with Council capital investment; and
- Option 3 – management lease (up to 20 years) with contractor capital investment.

A summary of the responses to the tender from an independent third party engaged by Council to provide industry advice and financial assessment of the submissions is shown as **(ATTACHMENT 1)**.

The tender evaluation report inclusive of the value selection methodology and final evaluation scores is shown as **(ATTACHMENT 2)**.

The recommendation is to accept the management contract (Option 1) and to not pursue Option 2 or 3 at this stage. The reasoning here is that the response from the market to the capital investment options (Option 2 and 3) showed a poor return on investment over a twenty year lease for Option 2 and limited financial betterment and range of services to Option 3.

It is recognised that the recommended tender does not offer the lowest price and it should be noted that the lowest priced tender was rejected on non-price related issues. The recommended tender is preferred on the basis that it offers best value on price and non-price attributes. Specifically the recommended tender was superior in the:

- Logic of the financial model;
- Depth of experience;
- Governance systems;
- Corporate support structure; and
- Established safety and compliance systems relating to the management of public aquatic centres.

Whilst the weighted scores for non-price attributes of the recommended tender (60.20) and the next best tender (61.45) were close, it was the price scores that separated the two submissions.

The weightings agreed for this tender were:

MINUTES ORDINARY COUNCIL - 11 AUGUST 2015

Criteria	Weighting (%)
Price	30
Company details	5
Experience and capacity	25
Delivery program	25
Systems	15
Total	100

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

Adopting the recommendation has no change to the current funding model for the management of aquatic and leisure centres.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Three year guaranteed subsidy with 50% profit share arrangement.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no significant legal or policy implications. The risks are defined in the table below.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that accepting the recommended tender may result in the current contractor withdrawing services before the new contract commences resulting in Council	High	The current contractor has agreed on a month by month non-guaranteed variation to the current contract until 13 September 2015. This period of time is sufficient for the recommended contractor to	Yes

MINUTES ORDINARY COUNCIL - 11 AUGUST 2015

having no management of its pools for a period of time.		transition.	
There is a risk that the new contract does not align with the industrial arrangements of the current contract resulting in industrial dispute.	Medium	Adopt the recommendations. The industrial arrangements of the recommended contractor were confirmed during the assessment process as being the same as the current provider. The current contractor and the recommended contractor both engage staff under the Fitness Industry Award 2010. The recommended contractor has confirmed that there will be a 'no disadvantage test' to staff who choose to gain employment with the recommended contractor.	Yes
There is a financial risk of rejecting the recommendations and negotiating with another contractor resulting in greater cost to the ratepayer.	Low	Adopt the recommendations.	Yes
There is a risk that Council's reputation could be damaged if the transition to the new contract is not well delivered.	Low	Adopt the recommendations and develop a contract management plan that includes a "transition in" plan as well as a communication plan that ensures customers receive the correct advice during the contract change over.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendations ensures affordable access to the health, safety and lifestyle benefits of aquatic and leisure centres.

CONSULTATION

- 1) Group Manager Facilities and Services.
- 2) Community Services Section Manager.
- 3) Community and Recreation Assets Coordinator.
- 4) Mr Martin Ball, Solicitor, Local Government Legal – preparation of contract documentation.
- 5) Mr Martin Sheppard, Managing Director, Smart Connection Consultancy Pty Ltd – preparation of tender specification and procurement documents;
- 6) Mr Tony Hood, Director, William Buck (Vic) Pty Ltd (Chartered accountants and advisors) – Financial assessment and industry advice.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Assessment Criteria Summary - William Buck (VIC) Pty Ltd.
- 2) CONFIDENTIAL Weighted Criteria Methodology Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 11 AUGUST 2015

ITEM NO. 7

**FILE NO: PSC2015-01000/626
TRIM REF NO: PSC2011-02657**

SIX MONTHLY REPORT JANUARY - JUNE 2015 AGAINST DELIVERY PROGRAM 2012-2016

REPORT OF: FRAN FLAVEL - CORPORATE STRATEGY & PLANNING
MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Six Monthly Report January - June 2015 Against the Delivery Program 2012-2016.

**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Sally Dover Councillor Steve Tucker</p> <p>That Council:</p> <ol style="list-style-type: none">1) Adopt the Six Monthly Report January - June 2015 Against the Delivery Program 2012-2016. <p>.</p>
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**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
MOTION**

239	<p>Councillor Chris Doohan Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Adopt the Six Monthly Report January - June 2015 Against the Delivery Program 2012-2016.
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BACKGROUND

The purpose of this report is to provide to Council and the Port Stephens community an update on progress in achieving the outcomes of the Delivery Program 2012-2016. The Six Monthly Report January - June 2015 focuses on the key result areas

MINUTES ORDINARY COUNCIL - 11 AUGUST 2015

that were agreed between the Council and the General Manager to be priorities in order to achieve the overall objectives of the Delivery Program.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2012-2016
The Port Stephens community is informed and involved in decisions that affect them.	Engage our community in conversation and provide timely and accurate information.

FINANCIAL/RESOURCE IMPLICATIONS

The Corporate Strategy & Planning unit produced the Six Monthly Report January – June 2015 in-house with production facilitated through recurrent funding.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Section 404(5) of the *Local Government Act 1993* requires the General Manager to report to Council and the community on progress in achieving the objectives of the Delivery Program. This report complies with this legislative requirement.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not adopt the Six Monthly Report January-June 2015 leading to a breach of legislation.	Low	General Manager provides a Six Monthly Report for the period January - June 2015 within the stipulated timeframe - August 2015.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Delivery Program 2012-2016 and the Operational Plan 2014-2015 include objectives and actions that address social, economic and environmental aspects of Council's operations. The key result area shown in the Six Monthly Report January –

MINUTES ORDINARY COUNCIL - 11 AUGUST 2015

June 2015 indicates that Council has met and/or is meeting 97.5% of the requirements through completion of associated actions, and therefore there are no adverse sustainability implications.

CONSULTATION

The Six Monthly Report January - June 2015 was compiled from data derived from across all Council's operations.

OPTIONS

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

ATTACHMENTS

- 1) Six Monthly Report January - June 2015. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8

**FILE NO: PSC2015-01000/660
TRIM REF NO: PSC2014-03298**

PROPOSED FEE SCHEDULE AMENDMENTS

REPORT OF: FRAN FLAVEL - CORPORATE STRATEGY & PLANNING
MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the proposed Amendments (**ATTACHMENT 1**) to the Schedule of Fees and Charges 2015-2016 on public exhibition for a period of 28 days and invite written submissions from the community;
- 2) If no submissions are received after the exhibition period, the amendments documented in (**ATTACHMENT 1**) be incorporated into the Schedule of Fees and Charges 2015-2016 and be deemed to be adopted.

**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Steve Tucker Councillor Sally Dover</p> <p>That Council:</p> <ol style="list-style-type: none">1) Place the proposed Amendments (ATTACHMENT 1) to the Schedule of Fees and Charges 2015-2016 on public exhibition for a period of 28 days and invite written submissions from the community;2) If no submissions are received after the exhibition period, the amendments documented in (ATTACHMENT 1) be incorporated into the Schedule of Fees and Charges 2015-2016 and be deemed to be adopted.
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**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
MOTION**

240	<p>Councillor Chris Doohan Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Place the proposed Amendments (ATTACHMENT 1) to the Schedule of Fees and Charges 2015-2016 on public exhibition for a period of 28 days and invite written submissions from the community; 2) If no submissions are received after the exhibition period, the amendments documented in (ATTACHMENT 1) be incorporated into the Schedule of Fees and Charges 2015-2016 and be deemed to be adopted.
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BACKGROUND

The purpose of this report is to seek Council's approval to place on exhibition proposed amendments to the Fees and Charges 2015-2016:

- Commercial Operators Fees;
- Thou Walla Sunset Retreat Fees;
- Soldiers Point Hall Fees.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
The Port Stephens community is informed and involved in decisions that affect them.	Engage the community in conversations and provide timely and accurate information.

FINANCIAL/RESOURCE IMPLICATIONS

Exhibition of the amendments will be funded from recurrent funding.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within existing 2015-2016 budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Exhibition of fees and charges is required under Section 610F of the *Local Government Act 1993*:

- 1) A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice;
- 2) Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft operational plan for the year in which the fee is to be made;
- 3) However, if, after the date on which the operational plan commences:
 - a) a new service is provided, or the nature or extent of an existing service is changed; or
 - b) the regulations in accordance with which the fee is determined are amended; the Council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that failure to exhibit the proposed amendments will result in loss of revenue to Council.	Low	Council agrees to place the proposed Amendments to the Schedule of Fees and Charges 2015-2016 on public exhibition and invite submissions.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Commercial Operators proposed fees and charges support the draft Commercial Operators policy considered by Council on 28 July 2015. The proposed Thou Walla schedule of fees and charges facilitates the operation of the facility after initial approval in November 2014. The proposed schedule of fees and charges for Soldiers Point Hall facilitates the re-opening for use of these premises after closure to the community for removal of asbestos.

CONSULTATION

Within Council, consultation across all three proposed amendments to the schedule **(ATTACHMENT 1)** was conducted with:

- 1) Executive Leadership Team.
- 2) Contracts and Services Coordinator.
- 3) Tourism and Events Coordinator.
- 4) Parks Coordinator.
- 5) Community and Recreation Assets Coordinator.
- 6) Investment and Asset Manager.
- 7) Property Officer - Community Leasing
- 8) Property Services Section Manager.

The Contracts and Services Coordinator held meetings with current and prospective commercial operators to develop both the policy and these amendments to the current fee structure.

In addition, Group Manager Corporate Services and Property Services Manager conducted consultation with potential community hirers of facilities; and benchmarked other hall charges within and outside the LGA; and had conversations with Councillors on the re-opening of the Hall.

Placing this proposed Amendment to the Schedule of Fees and Charges 2015-2016 will allow the public the opportunity to have input to the process.

OPTIONS

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

ATTACHMENTS

- 1) Proposed Fee Schedule Amendments. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9

**FILE NO: PSC2015-01000/646
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 1993* from the respective Mayor and Ward Funds to the following:-
 - a. Medowie Community Centre –Donation for purchase of portable electric generator - Central Ward Funds – Cr Dingle - \$500.
 - b. Miss Kathryn Bruton of Corlette – Donation for assistance with tour costs for state hockey tournament in New Zealand – East Ward Funds – Cr Dover - \$500.

**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor John Morello</p> <p>That Council:</p> <ol style="list-style-type: none">1) Approves provision of financial assistance under Section 356 of the <i>Local Government Act 1993</i> from the respective Mayor and Ward Funds to the following:-<ol style="list-style-type: none">a. Medowie Community Centre –Donation for purchase of portable electric generator - Central Ward Funds – Cr Dingle - \$500.b. Miss Kathryn Bruton of Corlette – Donation for assistance with tour costs for state hockey tournament in New Zealand – East Ward Funds – Cr Dover - \$500.
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241	<p>Councillor Chris Doohan Councillor Paul Le Mottee</p> <p>That Council move out of Committee of the Whole.</p>
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**ORDINARY COUNCIL MEETING - 11 AUGUST 2015
MOTION**

242	<p>Councillor Chris Doohan Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <p>1) Approves provision of financial assistance under Section 356 of the <i>Local Government Act 1993</i> from the respective Mayor and Ward Funds to the following:-</p> <p>a. Medowie Community Centre –Donation for purchase of portable electric generator - Central Ward Funds – Cr Dingle - \$500.</p> <p>b. Miss Kathryn Bruton of Corlette – Donation for assistance with tour costs for state hockey tournament in New Zealand – East Ward Funds – Cr Dover - \$500.</p>
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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 either to 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 1993*. 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:-

CENTRAL WARD – Councillors Dingle, Doohan & Tucker

Medowie Community Centre	Donation for purchase of portable electric generator	\$500
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MINUTES ORDINARY COUNCIL - 11 AUGUST 2015**EAST WARD – Councillors Dover, Morello & Nell**

Miss Kathryn Bruton of Corlette	Donation for assistance with tour costs for state hockey tournament in New Zealand	\$500
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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.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	1,000	\$500 Central Ward funds \$500 East Ward funds
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those 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) Accept 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.

There being no further business the meeting closed at 6.29pm.