

# DRAFT

## MINUTES – 10 NOVEMBER 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 – 10 November 2015, commencing at 5.36pm.

**PRESENT:**

Mayor B MacKenzie, Councillors G. Dingle, C. Doohan, S. Dover, K. Jordan, 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.

<b>335</b>	<b>Councillor Geoff Dingle</b> <b>Councillor Paul Le Mottee</b>  It was resolved that the apology from Cr Peter Kafer be received and noted.
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<b>MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015</b>
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<b>336</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 27 October 2015 be confirmed.
	There were no Declaration of Interests received.

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# MAYORAL MINUTES

**MAYORAL MINUTE****ITEM NO. 1****FILE NO: PSC2015-01000V2/001****TRIM REF NO: PSC2015-03048****WAKASHIO MARATHON 2016**

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**THAT COUNCIL:**

- 1) Provide funding of \$300 to each of the three participants to attend the 36<sup>th</sup> Wakashio Marathon to be held in the City of Tateyama on 31 January 2016 from Mayoral Funds.
  - 2) Place the donation for the three individual participants on public exhibition for a period of 28 days and should no submissions be received, provide financial assistance as requested.
- 

**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
MOTION**

<b>337</b>	<b>Mayor Bruce MacKenzie Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Provide funding of \$300 to each of the three participants to attend the 36<sup>th</sup> Wakashio Marathon to be held in the City of Tateyama on 31 January 2016 from Mayoral Funds.</li><li>2) Place the donation for the three individual participants on public exhibition for a period of 28 days and should no submissions be received, provide financial assistance as requested.</li></ol>
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**BACKGROUND**

The purpose of this report is to advise Council that the Mayor of the City of Tateyama and the President of Tateyama International Exchange Society have extended an invitation for four residents of Port Stephens to participant in a Marathon Exchange in Tateyama.

The City of Tateyama will conduct the 36<sup>th</sup> Wakashio Marathon on Sunday 31 January 2016. The Marathon will include a full marathon race, a 10km marathon race and a 2km family marathon.

It is proposed that the visit would be from 28 January to 2 February 2016.

The program would include:

- Accommodation through the homestay program
- Participants would be collected from Narita airport
- Entry fee for the marathon
- Japanese cultural experience
- Marathon class with Mashahiko Kin

All other costs (airfare costs, etc) associated with the visit would be at the expense of the participants.

# COUNCIL REPORTS

**ITEM NO. 1**

**FILE NO: PSC2015-01000/894  
TRIM REF NO: PSC2013-00406**

**POLICY REVIEW – PLANNING MATTERS TO BE REPORTED TO COUNCIL**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the submission received in relation to the Planning Matters to be Reported to Council Policy shown at **(ATTACHMENT 1)**.
- 2) Endorse the revised Planning Matters to be Reported to Council Policy shown at **(ATTACHMENT 2)**.
- 3) Revoke the Planning Matters to be Reported to Council Policy dated 26 February 2002 Minute number 048 and amended on 13 August 2013 Minute number 217 **(ATTACHMENT 3)**.

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**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
MOTION**

<b>338</b>	<b>Councillor John Morello Councillor Ken Jordan</b>  It was resolved that Council move into Committee of the Whole.
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**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Paul Le Mottee Councillor Sally Dover</b>  That Council:  <ol style="list-style-type: none"><li>1) Note the submission received in relation to the Development Applications to be Reported to Council Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Endorse the revised Development Applications to be Reported to Council Policy shown at <b>(ATTACHMENT 2)</b>.</li><li>3) Revoke the Development Applications to be Reported to Council Policy dated 26 February 2002 Minute number 048 and amended on 13 August 2013 Minute number 217 <b>(ATTACHMENT 3)</b>.</li></ol>
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**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
MOTION**

<b>339</b>	<p><b>Councillor Sally Dover</b> <b>Councillor Paul Le Mottee</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Note the submission received in relation to the Development Applications to be Reported to Council Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Endorse the revised Development Applications to be Reported to Council Policy shown at <b>(ATTACHMENT 2)</b>.</li><li>3) Revoke the Planning Matters to be Reported to Council Policy dated 26 February 2002 Minute number 048 and amended on 13 August 2013 Minute number 217 <b>(ATTACHMENT 3)</b>.</li></ol>
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**BACKGROUND**

The purpose of this report is to present to Council an amended policy for adoption. The policy has been on public exhibition and one (1) submission was received, hence the policy and submission is provided to Council for consideration.

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

The previous policy was adopted on 26 February 2002 and amended on 13 August 2013. The policy was routinely reviewed again in July 2015 and approved for exhibition purposes at the Ordinary Council meeting on 28 July 2015.

The policy is to advise how Councillors can 'call up' Development Applications (DAs) for full elected Council consideration as opposed to staff delegation.

There has been minimal change to the policy, as the current balance of DAs determined under delegation versus elected Council is working effectively.

The percentage of DAs determined under delegation is around 99%. The remaining 1% is determined by elected Council. This is consistent with most other Councils.

The policy is read in conjunction with existing staff delegations, as a DA being called up essentially removes respective staff delegations.

In addition to this policy a number of initiatives have been introduced over the last few years to increase the level of engagement and involvement the community and councillors have with the DA process. This includes:

## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

- Eplanning and the full availability of DA related material online during the exhibition period. This has greatly increased transparency and convenience for a wide range of customers. We are working towards full online lodgement in later stages of this project. We continue to get overwhelming community support/appreciation for this program.
- Tailored DA engagement approaches for specific DAs. For example, with some DAs we develop a formal engagement plan that includes a range of one on one meetings, drop in session and fact sheets, in addition to the 'traditional' advertising and notification format.
- Coordinated meetings with submission makers/objectors to DAs to work through/consider issues of concern.
- Weekly listing of all DAs emailed to Councillors each week for their information.
- Weekly briefings with Councillors upon request for DAs of interest.
- Weekly surveys of DA customers (including applicants and submission makers) to measure customer satisfaction. This is currently trending above 90%.
- Identification of DA reports in the Council Report and Two Way Program so that Councillors have an idea of timing as to when a DA is likely to be reported to Council.
- DA updates in the Councillor weekly newsletter to update Councillors on particular DAs.
- Industry Reference Group (IRG) – Newsletter issued to the industry about all things Planning and Development and twice yearly IRG nights.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Port Stephens is a community where people feel safe.	Use Council's regulatory powers and Government legislation to enhance public safety.

### FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial/resource implications.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are positive legal, policy and risk implications in reviewing existing policies and this policy is considered to assist in facilitating more accurate and robust decision making.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk of making poor decisions as a result of an out dated policy.	Low	Review and update current policy.	Yes
There is a risk that the balance of DAs assessed under delegation as compared to Council alters and impacts on quality results and efficiencies.	Low	Review and update current policy as per recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are minimal direct sustainability implications. The policy enables the effective determination of DAs on a merits basis considering all respective legislation.

**CONSULTATION**

- 1) Internal consultation has been undertaken with the Group Manager of Development Services and staff within the Development Assessment and Compliance Section, including relevant coordinators that directly implement this policy.
- 2) The policy was placed on public exhibition for a period of twenty eight (28) days. One (1) submission was received which is attached as **(ATTACHMENT 1)**.

The key points raised in the submission, followed by a commentary/response are as follows;

**Submission:** Suggests that the internal triggers that are used for peer review of DAs (i.e. certain developments are only to be signed off by the coordinator) be used to require applications to be reported to Council. Request that a trigger for a DA being called to council be a 'more than 10 objections/submissions' or 'significant objection/submission from one or more recognised community representative organisation(s)'.

**Response:** It is not considered this is the most effective manner in determining which applications are reported to Council, as under this approach the numbers of applications would dramatically increase. Councillors are advised weekly of all new DAs lodged and can 'call up' the DAs of interest to them. It is not proposed to make any further changes to the policy in this regard.

**Submission:** Request the policy expressly acknowledge that expressions of interest or concern from the community (either multiple individuals or community groups) can be a relevant factor in the exercise of staff discretion to report. The submission states this means there would be three 'triggers' for reporting to Council:

- Request from one or more Councillor(s)
- Staff discretion based on professional judgement
- Staff discretion based on significant community concern

**Response:** The above mentioned already exists within the capacity and framework of the current policy. The policy enables DAs to be considered by Council at the judgment of the respective Group or Section Manager. This is based on factors as outlined in the submission. It is not proposed to make any further changes to the policy in this regard.

**Submission:** Requests the policy is more explicit about the Councillor request triggers; i.e. confirming if a request from a single Councillor automatically triggers a report or whether more than one Councillor needs to make a request, and whether there is still some discretion for officers in how they respond to a request. The submission further suggests that the policy should also confirm whether or not the Mayor has any involvement either in responding to a Councillor request or in the judgement of staff about reporting a DA to Council. For example, are there circumstances in which staff may have discussions with a requesting Councillor in an attempt to resolve concerns and therefore avoid the need to report? If so, the submission states they would be concerned about the potential for inappropriate pressure to be brought to bear to avoid a matter coming to full Council.

**Response:** The policy is currently very clear in that one Councillor can call a DA before Council and the process to do so is for the respective Councillor to complete the applicable form in full. The DA remains called to Council until it is 'uncalled or rescinded' by the respective Councillor. The matters mentioned in the submission in relation to alleged 'inappropriate pressure' if the situation was to arise, could be handled via a range of other policies and procedures.

**Submission:** The submission submits that the policy will only work effectively if three (3) other related processes provide appropriate support and information, including: adequate descriptions of DAs in the DA Tracker, public notices and weekly report to Councillors. The submission states that while there has been some improvement recently, too many DAs are listed with unhelpful property descriptions.

**Response:** These comments are acknowledged. Council officers are continually improving the current system to ensure the most helpful information can be provided

to the community. In that regard, a recent request through to Council's software provider has been made to ensure DA's are not listed in the DA tracker until they have been checked by internal staff following receipting. This will ensure that all DA's and descriptions have been reviewed by the Coordinator and descriptions updated to assist the public and Councillors. It should also be acknowledged that documentation is now attached to development applications on public exhibition or notification, therefore customers and Councillors will have access to open and review documents to identify if they have an interest in a particular proposal.

**Submission:** The submission suggests further attention to the adequate public advertising of DAs. The submission notes that section A12 of the recently adopted Development Control Plan (DCP) specifies different levels of notification for different types of development. The submission acknowledges that there is some discretion and judgment required in relation to when to place DAs on exhibition and it is suggested that staff should always err on the side of advertising for any obviously significant DA.

**Response:** The respective coordinators review all applications prior to allocation to staff to determine the requirement for advertising and notification. Advertising of development applications will be undertaken in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (NSW). All applications that are of a large scale and considered to be of interest to the wider community will be advertised and notified to directly adjoining neighbours.

**Submission:** The submission tenders suggestions in relation to the development assessment policies and processes. The submission is concerned that the Development Application Assessment Policy and the DA Work Practice Note are somewhat unbalanced. "In our view they place too much emphasis on facilitating DAs, efficiency etc."

**Response:** Council officers are obliged to assess development applications in accordance with the *Environmental Planning and Assessment Act 1979* (NSW) and other relevant legislation.

Our DA assessment processes is very balanced. We survey submission makers/objectors to DAs as opposed to just applicants and their satisfaction is typically very high. Staff focus on considering the interest of both parties and negotiating the best planning, environmental and community outcome.

Internal processes are in place to ensure the quality assessment of all applications, including review of applications by senior staff upon lodgement to identify potential concerns and peer review of all reports relating to planning development applications prior to any determination being issued. It should be acknowledged that these are internal processes that do not relate to the report at hand (which identifies circumstances in which matters will be reported to the elected Council for determination).

**Submission:** The submission also notes the guidance provided by Council on the DA process in the Development Application Guide, is aimed primarily at Applicants.

**Response:** This is the case as the Development Application Guide is specifically designed to help people who are lodging a DA. Submission makers only need to write a letter for their submission to be considered.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Submission - Planning Matters to be Reported to Council Policy - Tomaree Residents and Ratepayers Association.
- 2) Revised Planning Matters to be Reported to Council Policy.
- 3) Development Applications to be Reported to Council Policy.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

**ITEM 1 - ATTACHMENT 1 SUBMISSION - PLANNING MATTERS TO BE REPORTED TO COUNCIL POLICY - TOMAREE RESIDENTS AND RATEPAYERS ASSOCIATION.**

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3 September 2015

The General Manager  
Port Stephens Council

**Submission on Council Policy: Development Applications to be reported to Council**

This is a very important policy in the context of community participation in significant planning decisions. It needs to be considered alongside several other documents, practices and procedures, including:

- Relevant Delegations
- Section A12 of the DCP 2014, which deals with Notification of Development Applications (DAs)
- The new DA Tracker, which has significantly improved functionality and accessibility to the general public
- Council's Development Application Assessment Policy (at <http://www.portstephens.nsw.gov.au/council/policies/1133041-development-application-assessment-policy>) This is undated and may need updating to ensure consistency with other documentation?
- PSC Work Practice Note – DEVELOPMENT ASSESSMENT PROCESS (DAP) (Factsheet, Revised November 2014)
- Internal PSC Development Assessment 'End to End Process' revised September 2014 (version 3.0)
- Part 6.1 of the Development Application Guide (version 1, undated)

TRRA monitors advertised DAs to identify those which raise issues of wider community concern – criteria include:

- DAs of significant scale – particularly in terms of height or bulk
- DAs in sensitive locations – particularly those affecting major view corridors, alongside main access roads, or on the coastline
- DAs which may set precedents
- DAs which may be inconsistent with the LEP, DCP or planning strategies

We expect that Council staff in the Development Assessment section apply similar criteria in deciding whether to take advantage of delegated authority or to use their discretion (explained in this Policy) to report DAs to Council in circumstances where no Councillor has 'called up' or requested reporting of a



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**ITEM 1 - ATTACHMENT 1 SUBMISSION - PLANNING MATTERS TO BE REPORTED TO COUNCIL POLICY - TOMAREE RESIDENTS AND RATEPAYERS ASSOCIATION.**

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particular DA to Council. We note that the **DAP Work Practice Note** does include a set of 'triggers' which partially coincide with our criteria.

We acknowledge that the vast majority of DAs do not need to be reported to Council and can be appropriately determined under delegated authority, on the proviso that neighbours and any other directly affected property owners are notified and have the opportunity to lodge an objection – and/or to lobby Councillors to have a DA 'called up'.

However, we submit that the Policy, and supporting internal documents, should expressly acknowledge that expressions of interest or concern from the community (either multiple individuals **or community groups**) *can be* a relevant factor in the exercise of staff discretion to report. This means there would be three 'triggers' for reporting to Council:

- Request from one or more Councillor(s)
- Staff discretion based on professional judgement
- Staff discretion based on significant community concern

The **DAP Work Practice Note** already includes 'more than 10 objections/submissions' as a trigger. We submit that an alternative trigger should be '*significant objection/submission from one or more recognised community representative organisation(s)*'. While organisations such as TRRA could organise 10 or more submissions from individual members to invoke the existing trigger, they exist primarily to raise concerns *on behalf of* members, and it would be helpful for Council to expressly recognise this.

We have no difficulty with the decision to report on these grounds remaining ultimately remain a matter of staff judgement – subject to the Councillor 'call-up' option as a final safeguard.

We also suggest that the Policy is more explicit about the Councillor request trigger; i.e. confirming if a request from a single Councillor automatically triggers a report or whether more than one Councillor needs to make a request, and whether there is still some discretion for officers in how they respond to a request. The policy should also confirm whether or not the Mayor has any involvement either in responding to a Councillor request or in the judgement of staff about reporting a DA to Council. For example, are there circumstances in which staff may have discussions with a requesting Councillor in an attempt to resolve concerns and therefore avoid the need to report? If so, we would be concerned about the potential for inappropriate pressure to be brought to bear to avoid a matter coming to full Council.

We also submit that the Policy will only work effectively if three other related processes provide appropriate support and information. These are:



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**Adequate descriptions of DAs** in the DA Tracker, public notices and weekly report to Councillors. While there has been some improvement recently, too many DAs are listed with unhelpful descriptions and even in some cases misleading addresses – and failing to use ‘common names’ (e.g. 155 Salamander Way for the entire land surrounding the Salamander Shopping Centre). There is no reason why staff have to confine the description to the technically correct address or Lot/Plan number – significant development proposals should be described in a way that will be noticeable and meaningful to citizens (e.g. supermarket, hotel, or resort complex). Even the Councillors cannot be expected to ‘spot’ potentially controversial DAs if they are not given an adequate description.

**Adequate public advertising of DAs, where appropriate.** We note that section A12 of the recently adopted DCP specifies different levels of notification for different types of development – e.g. neighbour notification only, or press/website advertising. TRRA was disappointed that Council did not adopt our suggestion, made in our submission on the draft DCP, for ‘threshold’ criteria for requiring press and website advertisement. Nevertheless, there is clearly some discretion and we submit that staff should always err on the side of advertising for any obviously significant DA.

**Appropriate development assessment policies and processes.** In this respect, we are concerned that the (undated) Development Application Assessment Policy and the DA Work Practice Note are somewhat unbalanced. In our view they place too much emphasis on facilitating DAs, efficiency etc. While clearly important objectives, these need to be balanced with the statutory purpose of the planning system and legislative framework. We note that the Objects of the EPA Act include:

- ‘...promoting the social and economic welfare of the community and a better environment. (s5(a)(i))
- ‘the protection of the environment ...’(s5(a)(vi)), and
- ‘ecologically sustainable development’ (s5(a)(vii))

We do not see these objectives adequately reflected in the Port Stephens Council’s current policies and procedures. We submit that the **DAs to be reported to Council Policy**, the **DA Assessment Policy**, and the **DA Work Practice Note** should all be revised to include a more balanced summary of the objectives.

We also note that the **DA End to End Process** document (which includes a business process flowchart) does not fully incorporate the Development Assessment Process (DAP) set out in the **DAP Work Practice Note**. There are no ‘decision points’ in the **End to End Process** that reflect judgements about the criteria in the Work Practice Note, or consequent referral of DAs to a wider team (implicit in the Note’s provision for ‘referred back to DAP prior to determination’ if



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**ITEM 1 - ATTACHMENT 1 SUBMISSION - PLANNING MATTERS TO BE REPORTED TO COUNCIL POLICY - TOMAREE RESIDENTS AND RATEPAYERS ASSOCIATION.**

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one or more of the 'triggers' in the Terms of Reference apply – also referred to elsewhere as 'referral to DAC'). Nor is the automatic requirement for 'peer review' reflected in the **End to End Process** or flowchart. We submit that the **End to End Process** needs to be revised to ensure fully consistency with the **DA Work Practice Note**. The latter Factsheet could also be clearer, particularly in respect of the referral to a wider team and/or supervisors. We assume that this is intended to be public, but note that it does not currently appear in the library of Factsheets at <http://www.portstephens.nsw.gov.au/council/publications-and-information-portstephens/1161539-fact-sheets> and cannot readily be found elsewhere.

We also note the guidance on the DA process given in the Development Application Guide, which is aimed primarily at applicants. <http://www.portstephens.nsw.gov.au/images/documents/portstephens/2015/websites%20docs/e-planning%20docs/DA%20Application%20GuideV3.pdf> Section 6 of this Guide (version 1 - undated) appears to be the most up to date public information about the DA process and is both clear and accurate.

Thank you for your consideration of this submission. Whether or not Council accepts our proposed changes, we would appreciate feedback.

**Nigel Waters**  
**Convenor, Planning Committee**  
**Tomaree Ratepayers & Residents Association Inc.**

 [planning@trra.com.au](mailto:planning@trra.com.au)



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**ITEM 1 - ATTACHMENT 2      REVISED PLANNING MATTERS TO BE REPORTED  
TO COUNCIL POLICY.**

Policy



**FILE NO:** PSC2013-00406

**TITLE:** DEVELOPMENT APPLICATIONS TO BE REPORTED TO COUNCIL

**POLICY OWNER:** MANAGER DEVELOPMENT ASSESSMENT & COMPLIANCE

**PURPOSE:**

To ensure that Councillors are provided with the opportunity for input into the determination of Development Application's (DA's) prior to decisions being finalised and determinations granted.

**CONTEXT/BACKGROUND:**

The majority of DA's are determined by Council's assessment officers, utilising delegated authority and may require review in accordance with Council's Development Assessment Process (DAP). This policy is aimed at ensuring that Councillors are aware of how they can access information on the receipt and determination of DA's.

**SCOPE:**

- 1) The use of delegated authority provides an opportunity for effective and timely decision making; however, it is appropriate that Council is informed of the exercise of delegated authority.
- 2) Given the scope of planning decisions, it is appropriate that delegated assessment staff, are able to use their discretion and judgement for those matters which should be reported to Council.
- 3) The delegations are drafted such that a Councillor may request the staff delegation be withdrawn and a DA be reported to Council for determination. In this instance a Councillor completes the DA Call Up Form.

Policy

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Issue Date: 26/2/2002

Printed: 7/7/2015

Review Date: 28/7/2015

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**ITEM 1 - ATTACHMENT 2      REVISED PLANNING MATTERS TO BE REPORTED  
TO COUNCIL POLICY.**

**Policy**



**DEFINITIONS:**

DA	Development Application
DAP	Development Assessment Process
PR	Peer Review
SOD	Single Officer Determinations

**POLICY STATEMENT:**

Council shall be informed with regard to planning matters in the following way:

- 1) All current DA's lodged are publicly available and listed on the Council website via the DA Tracker.
- 2) A report is generated weekly of all new DA's lodged and circulated weekly via email to all Councillors and other relevant internal staff.
- 3) At any time prior to determination of a DA, a Councillor may request that the application be reported to Council for determination. A report will be forwarded to Council at the completion of the assessment.
- 4) Determination of DA's under delegated authority, are in accordance with set procedures. The procedures for determination include Single Officer Determinations (SOD's), Peer Review (PR), DAP review.
- 5) The Group Manager, Development Services and/or Manager, Development Assessment & Compliance, at their discretion may report any DA to Council for determination.

**POLICY RESPONSIBILITIES:**

- 1) Development Assessment and Compliance section.

**RELATED DOCUMENTS:**

- 1) Sustainability Review – End to End Process.
- 2) Development Control Plan.
- 3) Work Practice Note: Development Assessment Process.
- 4) *Environmental Planning & Assessment Act 1979.*
- 5) Development Application Guide.
- 6) ICAC Corruption Risks in NSW DA process position paper.

**Policy**

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Issue Date: 26/2/2002

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Review Date: 28/7/2015

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**ITEM 1 - ATTACHMENT 2 REVISED PLANNING MATTERS TO BE REPORTED TO COUNCIL POLICY.**

Policy


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<b>TRIM container No</b>	PSC2013-00406 (previously S9100-023)	<b>TRIM record No</b>	
<b>Audience</b>	Elected Council, Public and Development Services		
<b>Process owner</b>	Manager Development Assessment & Compliance		
<b>Author</b>	Coordinator Planning & Developer Relations		
<b>Review timeframe</b>	Biennial	<b>Next review date</b>	30/7/2017
<b>Adoption date</b>	26/02/2002		

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1	26/2/2002	Group Manager Sustainable Planning	Original planning matters to be reported to Council policy.	048
2	23/6/2013	Manager Development Assessment and Compliance	Updated policy to Development applications to be reported to Council.	217
3	###	Planning and Developer Relations Coordinator	Review and minor updates to policy.	###

Policy

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Issue Date: 26/2/2002

Printed: 7/7/2015

Review Date: 28/7/2015

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**ITEM 1 - ATTACHMENT 3  
TO COUNCIL POLICY.**

*Port Stephens*  
**C·O·U·N·C·I·L**

**POLICY**

Adopted: 26/02/2002  
Minute No: 048  
Amended: 13/08/2013  
Minute No: 217

**FILE NO:** PSC2013-00406

**TITLE:** DEVELOPMENT APPLICATIONS TO BE REPORTED TO COUNCIL

**RESPONSIBLE OFFICER:** MANAGER DEVELOPMENT ASSESSMENT & COMPLIANCE

**BACKGROUND**

The majority of development applications (DA's) are determined by Council's assessment officers, utilising delegated authority and may require review or concurrence from the Development Assessment Panel (DAP). This policy is aimed at ensuring that Councillors are aware of how they can access information on the receipt and determination of DA's.

**OBJECTIVE**

- 1) To ensure that Councillors are provided with the opportunity for input into the determination of DA's prior to decisions being finalised and determinations granted.

**PRINCIPLES**

- 1) The use of delegated authority provides an opportunity for effective and timely decision making; however, it is appropriate that Council is informed of the exercise of delegated authority.
- 2) Given the scope of planning decisions, it is appropriate that delegated assessment staff, are able to use their discretion and judgement for those matters which should be reported to Council.
- 3) The delegations are drafted such that a Councillor may request the staff delegation be withdrawn and a DA be reported to Council for determination. In this instance a Councillor completes the DA Call Up Form.

**ITEM 1 - ATTACHMENT 3 DEVELOPMENT APPLICATIONS TO BE REPORTED TO COUNCIL POLICY.****POLICY STATEMENT**

Council shall be informed with regard to planning matters in the following way:-

- 1) All current DA's lodged are publicly available and listed on the Council website via the DA Tracker.
- 2) A report is generated weekly of all new DA's lodged and circulated weekly via email to all Councillors and other relevant internal staff.
- 3) At any time prior to determination of a DA, a Councillor may request that the application be reported to Council for determination. A report will be forwarded to Council once all the required information is submitted and once a full assessment has been completed pursuant to section 79C *Environmental Planning and Assessment Act 1979*. However, the Applicant has the ability to advise they are not providing any further information and request Council make a determination.
- 4) Determination of DA's under delegated authority, are in accordance with set procedures. The procedures for determination include Single Officer Determinations (SODs), DAP review or DAP concurrence.
- 5) The Group Manager, Development Services and/or Manager, Development Assessment & Compliance, at their discretion may report any DA to Council for determination.

**RELATED POLICIES**

The relevant planning matters referred to above are as follows:-

- 1) Sustainability Review – End to End Process
- 2) Application Determination Policy
- 3) Development Control Plan

**SUSTAINABILITY IMPLICATIONS****SOCIAL IMPLICATIONS**

Positive social implications are likely through providing a clear policy framework for reporting development applications to Council.

**ECONOMIC IMPLICATIONS**

Nil

**ENVIRONMENTAL IMPLICATIONS**

Nil

**ITEM 1 - ATTACHMENT 3**

**DEVELOPMENT APPLICATIONS TO BE REPORTED  
TO COUNCIL POLICY.**

**RELEVANT LEGISLATIVE PROVISIONS**

- 1) Environmental Planning & Assessment Act 1979
- 2) Environmental Planning & Assessment Regulations 2000
- 3) Port Stephens Local Environmental Plan

**IMPLEMENTATION RESPONSIBILITY**

- 1) Development Assessment & Compliance

**PROCESS OWNER**

- 1) Development Services Group

**REVIEW DATE**

- 1) Bi-Annually



**ITEM NO. 2**

**FILE NO: PSC2015-01000/814  
TRIM REF NO: PSC2014-02649**

**POLICY - PUBLIC ART**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft Public Art Policy shown at **(ATTACHMENT 1)**.
- 2) Note the draft Public Art Guidelines shown at **(ATTACHMENT 2)**.
- 3) Place the draft Public Art Policy and Guidelines on public exhibition for a period of 28 days and should no submissions be received, adopt the policy and guidelines.
- 4) Endorse the prescribed consultation program outlined within this report.

---

**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
MOTION**

<b>340</b>	<b>Councillor Chris Doohan Councillor Steve Tucker</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Endorse the draft Public Art Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Note the draft Public Art Guidelines shown at <b>(ATTACHMENT 2)</b>.</li><li>3) Place the draft Public Art Policy and Guidelines on public exhibition for a period of 28 days and should no submissions be received, adopt the policy and guidelines.</li><li>4) Endorse the prescribed consultation program outlined within this report.</li></ol>
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**BACKGROUND**

The purpose of this report is to recommend to Council the adoption of the draft Public Art Policy, to assist Council better manage public art acquisition, installation and maintenance.

Public art is designed to enhance the physical, social and economic environment of a place through the installation of artworks in public areas. Public art may be temporary or permanent, large or small, and may be cast, carved, built, assembled, or painted. Examples of public art include (but is not limited to) murals, sculpture, specific streetscape design, or the implementation of artistic elements in landscape design.

The draft Public Art Policy is in line with actions outlined in Council's Cultural Plan 2014-2018, which identifies the need to develop a public art program, guided by a clear policy and guidelines and community consultation on public art themes.

Draft guidelines are also included at **(ATTACHMENT 2)** for Council's reference.

The installation of public art contributes to a community's identity through its ability to strengthen sense of place. It is recognised as an integral factor enhancing the physical, social and economic environment of communities. It benefits locals and visitors to the region, with creative projects helping to build stronger, more connected communities.

The policy, if adopted, will assist in future planning, particularly in urban design. It also has the potential to further Council's ambition of supporting a vibrant cultural life, while the guidelines ensure that suitable public art is located in appropriate places.

There is a growing awareness in Port Stephens of public art, driven in part by programs in neighbouring regions and also through the potential to incorporate public art installations within proposed developments. To support this interest, it is important that Council has a consistent process through which to manage it.

In the past, public art in Port Stephens has been managed on a case by case basis. With a growing interest in place making, and improvement of our urban areas to help drive economic growth, it is timely that a policy and associated guidelines be developed.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2014-2019</b>
Port Stephens has a vibrant cultural life.	Plan for and promote multiculturalism and Port Stephens' heritage, arts and culture.

**FINANCIAL/RESOURCE IMPLICATIONS**

There is no direct financial implication for Council in relation to the adoption of the draft policy and the noting of the associated guidelines.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Council requires processes in place to ensure public art is appropriately designed and constructed to suitable standards with minimal risk to the public. It is also critical that the social and economic benefits generated through public art are maximised

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that, without a consistent approach to public art, inappropriate and unsafe public art will be approved and installed.	Medium	Implement Public Art Guidelines.	Yes
There is a risk that, without a policy, opportunities to improve the amenity and attraction of our community will be unrealised.	Low	Implement policy.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Public art can enhance the physical, social and economic wellbeing of a community. If public art is encouraged in a strategic manner, in keeping with relevant planning controls, it can provide an important point of distinction that helps define a community or place and promote health, enjoyment and general wellbeing. People are attracted to vibrant public areas, the increased community ownership and use also making places safer.

Currently, Council has a number of place based planning strategies and master plans that are either being implemented over a staged period, such as the Raymond Terrace and Heatherbrae Strategy, as well as place specific plans such as the Apex Park Master Plan. Consideration of the benefits of public art can add value to outcomes achieved through these and similar planning processes.

In the past, Council's Cultural Project Fund has supported projects that have delivered public art outcomes, including a work currently installed on the Nelson Bay waterfront and the painting on the pump house located in Boomerang Park, Raymond Terrace. This later work is an example of how public art can provide a sense of ownership and connection to place for the young people from local primary and secondary schools who were involved in its production.

Currently, the new supermarket development in the Nelson Bay CBD is proposed to include a piece of public art that will bring a sense of enjoyment and history to the locality.

It is anticipated that, over the next two years, Council staff will identify a number of locations that may be suitable for public art commissions and seek grant and sponsorship funds to undertake these projects.

## **CONSULTATION**

### **Prior to public exhibition:**

#### **Internal**

- 1) Initial consultation was conducted with staff across Council in late 2013 by the then Social Planning Team.
- 2) Recent consultation on the final drafts to all section managers.

#### **External**

- 3) In late 2013, Council's 355c Strategic Arts and Culture Committee reviewed draft guidelines and identified need for a policy and guidelines to be formalised as part of the Cultural Plan 2014-2018.
- 4) Consultation workshop conducted as part of the Port Stephens Cultural Interagency in early 2014.
- 5) Further consultation with the members of the Cultural Interagency on 8 October 2015 on the final draft documents.

### **During public exhibition:**

If the draft documents are endorsed by Council, they will go on public exhibition from Wednesday 18 November to 16 December 2015 for 28 days.

**External**

- 1) Public Notice in the Port Stephens Examiner (Wednesday 18 November 2015).
- 2) Documents will be available on line on Council's web page under "What's on exhibition".
- 3) Item in **informe** electronic newsletter.
- 4) Hard copies available at the Tomaree Library and Council's Administration Building.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Public Art policy.
- 2) Draft Public Art guideline.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

## Policy



**FILE NO:** PSC2014-02649  
**TITLE:** PUBLIC ART  
**POLICY OWNER:** COMMUNICATIONS SECTION MANAGER

### **PURPOSE:**

The purpose of the Public Art Policy and related guidelines is to provide Council with a framework to manage public art placement, procurement and management to maximise the social and economic benefits of public art as it relates to place making and contributing to a vibrant cultural and economic life (Port Stephens Community Strategic Plan).

### **CONTEXT/BACKGROUND:**

Public art is an integral factor in enhancing the physical, social and economic environment of Port Stephens. This is achieved by developing a sense of place using visual artworks in public areas.

In Port Stephens, interest in public art is growing driven in part by a wider awareness and expectation of the benefits of public art, including enhancing infrastructure and the environment. The opportunity to enrich commercial developments is also recognised.

Public art is also closely aligned to tourism and related economic strategies that aim to build on the natural appeal of the Port Stephens and attract visitors to the region.

A consistent approach to the management of public art provides clear processes to assist Council and the community develop suitable public art projects for the region.

### **SCOPE:**

The Public Art Policy and Guidelines refer to the placement, procurement and management of art works (temporary or permanent) and complementing urban design.

Public art can be integrated into, but not limited to:

- New developments proposed by commercial developers;
- Existing areas as part of a master plan or upgrade being developed by Council; and
- Proposals submitted by community groups and or individual artists, for both permanent works and temporary display as part of a festival.

## Policy

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## Policy



Council's Development Control Plan also provides for inclusion of public art into commercial and mixed use development as part of the development consent process, depending on the scale of works proposed.

### **DEFINITIONS:**

**Public Art** Artworks and one-off designs created for, or located in, a public space and readily accessible to members of the public.

### **POLICY STATEMENT:**

The key objectives of this policy are:

- Enhance the natural and built assets of Port Stephens by enlivening public spaces;
- Create a sense of identity about Port Stephens heritage, culture and lifestyle;
- Facilitate the integration public art into relevant facilities and infrastructure projects;
- Develop and enhance opportunities and promotion of local artists; and
- Provide a policy foundation to Council's Development Control Plan for the inclusion of public art into commercial and mixed use development.

It is expected that the implementation of this policy will lead to:

- The planning of public art in Council's urban designs to improve the quality of community spaces and to enhance the pedestrian streetscape experience;
- Identification of sites/zones for future public art works, appropriate asset management, including safety and maintenance; and
- Effective community engagement and consultation to ensure the art work will have meaning and relevance to the site in which it is located.

The accompanying guidelines provide a process through which Council can address public art procurement and planning, including identifying sites/zones for future public art works, appropriate asset management, including safety and maintenance

### **POLICY RESPONSIBILITIES:**

- 1) The Community Development and Engagement Unit manages and reports on public art as part of cultural development. It is the responsibility of other units across Council for implementing the policy and related public art guidelines.

### **RELATED DOCUMENTS:**

Policy

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The logo for Port Stephens Council, featuring a stylized graphic of three curved lines representing a bay or waves, followed by the text "PORT STEPHENS COUNCIL" in a sans-serif font.

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## Policy



- 1) Cultural Plan 2015-2018
- 2) Port Stephens Development Control Plan 2014
- 3) Port Stephens Section 94 Contributions Plan
- 4) Asset Management Policy
- 5) Graffiti Management Policy

### CONTROLLED DOCUMENT INFORMATION:

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<b>TRIM container No</b>		<b>TRIM record No</b>	
<b>Audience</b>	Councillors, Council staff, community		
<b>Process owner</b>	Communication Section Manager		
<b>Author</b>	Community Development and Engagement Coordinator		
<b>Review timeframe</b>	Two years	<b>Next review date</b>	
<b>Adoption date</b>			

### VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	10/11/15	Communication Section Manager	Draft tabled at Council	

## Policy

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## Guidelines



**FILE NO:** PSC2014-02649

**TITLE:** GUIDELINES FOR THE APPROVAL AND INSTALLATION OF PUBLIC ART IN PORT STEPHENS

**RELATED POLICY:** PUBLIC ART POLICY

**OWNER:** COMMUNICATIONS SECTION MANAGER

### 1.0 INTRODUCTION

The Public Art guidelines are intended to assist the process in guiding artists, community groups, Council and private developers in the provision of public art projects in Port Stephens.

The guidelines have been developed with input from staff across relevant sections of Port Stephens Council and members of the 355c Strategic Arts Committee of Council. The guidelines should be read in conjunction with Council's Public Art Policy.

### 2.0 PURPOSE

The purpose of the development of public art guidelines is as follows:

- to ensure public artwork projects are fabricated and installed in accordance with Council policy and consents;
- to develop a greater understanding of public art, including street and urban art, and how it can enrich the lives of local communities and contribute to their cultural identity and sense of place and belonging;
- to ensure high quality public art is included in accessible public spaces in large scale developments;
- to assist owners and developers in the commissioning, procurement and installation of public art; and
- to ensure public art is compatible with the character and identity of Port Stephens localities and in harmony with community sentiment.

The Public Art Policy and guidelines are drawn from Council's Community Strategic Plan 2013-2023, under art and culture (7.1) and the *Port Stephens Cultural Plan 2015-2018* with the purpose of enriching the lives of current and future Port Stephen's residents and making it an attractive place to live, work and visit.

### 3.0 WHAT IS PUBLIC ART?

Public art is the term used to describe creative work or activities which are located in the public realm and readily accessible to the broader community. Public art may be temporary or permanent in design. Public art contributes to the overall feeling of the community well being, engagement and enrichment of community life.

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## Guidelines



"Public artworks are usually site specific and may celebrate the distinctiveness of the environment, local heritage, cultural identity, the energy of urban spaces and other themes relevant to people and place" (p 6, *Public Art Guidelines*, Landcom, 2008)

Public art may include:

- building features, street scaping and enhancements such as bicycle racks, gates, benches, fountains, playground structures or shade structures which are unique to the locality;
- landscape art enhancements such as walkways, bridges or art features within a reserve or park;
- murals, tiles, mosaics or projects covering walls, floors and walkways;
- sculpture which can be freestanding or wall-supported;
- fibre works, neon or glass art works, photographs, prints and any combination of media including sound, film and video systems;
- community arts projects resulting in tangible art work such as murals or sculptures;
- projects which involve the public and the incorporation of a cultural space that comprises a visual or performing arts space; and
- the conceptual contribution of an artist to the design of a public space or facility.

Public art projects do not consist of:

- business logos;
- directional elements such as super graphics, signage or colour coding;
- "art objects" which are mass produced such as fountains, statues or playground equipment;
- "off-the-shelf" art and/or reproductions; and
- landscaping or architectural components associated with the project.

### **3.1 What are the benefits of public art in the community?**

Public art is a way of expressing ourselves and telling a story. It can express our aspirations for the past, present and the future. In the community, public art can be seen as a talking point and an opportunity for wonder, reflection and enjoyment.

The benefits of public art to local communities are as follows:

- the acknowledgement of the importance of cultural and Aboriginal heritage and identity;
- the opportunity to explore historical events, local heritage and meanings and facilitate links with the past;
- to create special environments that can contribute to community sense of wellbeing and bring benefits of social interaction and involvement;
- encourage opportunities for community involvement and expression of creativity and engage people of different ages;
- to create a landscape that is interesting, stimulating and surprising with vibrant spaces to enhance the experience of the community and visitors;

## Guidelines



- provide a focal point for community areas, creating a sense of place that complements thematic planning schemes; and
- to enhance employment and training opportunities for local and regional artists.

### **3.2 Public art principles**

In the process of planning and receiving applications from the public and the community, Council will adopt the following principles in considering a public artwork. The work:

- contribute to an area's cultural identity of the location and contribute to the sense of place;
- improve the amenity of the area in which it is located and contribute to social interaction and sense of community;
- be mindful of environmental issues such as construction with sustainable materials with sustainable design and fabrication;
- be able to be enjoyed and experienced by people of different ages and backgrounds;
- showcase local design and the engagement of local artists with the integrity of the artists acknowledged;
- water features should be designed to use only recycled or rainwater;
- consider public safety and be easily maintained;
- be designed to be durable, structurally sound and able to be maintained at minimum cost; and
- community involvement and engagement should be encouraged in the development of projects;

The selection of sites should be consistent with Council plans of management and land use planning documents.

### **4.0 PROVISION OF PUBLIC ART**

Public art projects can be provided in three ways:

Community projects - For community initiated projects on community or Council managed land or for 355c committees.

Private projects/developments - For development applications of projects over \$1 million in accordance with Port Stephens Development Control Plan 2014.

Council projects - For Council initiated projects such as infrastructure, public domain improvements and public art on Council managed/ owned land and Crown land.

### **5.0 INVOLVEMENT OF PORT STEPHENS COUNCIL**

The consideration and planning for public art involves a range of sections within Port Stephens Council. Consultation with these internal stakeholders will be coordinated by the relevant Council section involved with the public art project. This will be dependent upon the type of project involved - community, Council or private.

## Guidelines



The internal stakeholders will also create awareness and support for public art projects within Council. They will provide comments and related to the development of a specific public art project. Advice may relate to fabrication, location, funding, legislative requirements, policy requirements, installation and maintenance etc.

### **6.0 PUBLIC ART APPROVAL PROCESS**

The applicant is required to complete the public art project application (Appendix 1). Initial applications would be considered according to the assessment criteria (Appendix 2) which includes consultation with relevant Council staff, members of Council's Strategic Arts Committee and other public authorities.

The assessment and approval of projects will be in accordance with Council's policy and these guidelines. At the application stage, the proposal will be referred to the Strategic Arts Committee for comment. Further consultation with relevant sections within Council would be conducted as required.

For private projects, consideration will be undertaken by the relevant section of Council through the standard Council approval process (such as development applications) with reference to plans of management, design and construction specifications and public domain plans.

### **7.0 CONSTRUCTION AND INSTALLATION**

As public art is located in the public realm, there are potential risks associated with its fabrication and installation. This is applicable for temporary and permanent pieces.

For this reason, an approved work may be constructed off site by the artist. If the work is being installed on Council owned or managed land, it must be installed by Council approved contractors.

It is also Council's responsibility to ensure that risk assessments are conducted on all concepts and final artworks both at concept stage and upon installation in line with Australian Standards.

### **8.0 MAINTENANCE**

To ensure that the public art work is maintained as an asset, the following will be considered when assessing public art applications:

- who is responsible for the regular maintenance of the artwork?
- what is the intended life of the artwork?
- how durable is the material/s?
- what is the environmental impact on the location?
- who is responsible for repair works and is this manageable?
- when is the work beyond repair?
- what happens if there are future changes to the site?
- Is the proposed work safe?

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## Guidelines



- have funds been allocated for ongoing maintenance?

### **8.1 Removal, modification or de-commissioning**

The decision for removal, modification or de-commissioning of public art is to be considered in consultation with the artist, the Strategic Arts Committee, Council, another relevant public authority or individual.

The following would be reasons for consideration of removal, modification or de-construction:

- deteriorated to a point where public safety is at risk;
- design faults in workmanship or material used;
- unsustainable burden on Council resources;
- irreparably damaged or its condition has deteriorated to such an extent that it can no longer be considered the original artwork; and
- the artwork is no longer compatible with the character of locality and or is no longer in line with community sentiment or Council's strategic plans.

### **9.0 DONATIONS OF PUBLIC ARTWORKS**

From time to time, community groups, businesses or members of the public may seek to donate items of public art to Council for ongoing display. Acceptance (or otherwise) of such donations is at Council's absolute discretion.

#### **Contact**

Port Stephens Council  
Tel 02 4980 0255  
council@portstephens.nsw.gov.au

#### **References**

*Public Art Guidelines*, Landcom, NSW State Government, 2008.

## Guidelines



### APPENDIX 1: PUBLIC ART PROJECT APPLICATION

**Project Name:**

**Applicant/Group:**

**Contact name:**

**Phone:**

**Mobile:**

**Email address:**

**Mailing address:**

Please complete the details related to your public art project:

	Details
<b>Project description</b> How has your project evolved and what is the overall vision behind the project?	
<b>Proposed site for public art works</b> What is the proposed site for the artwork?  Include a site plan and identify the suitability of site for proposed purpose.  Why has this site been chosen for your project? What is the relevance and appropriateness of the work to the context of its site?  Do you have landowner's approval?  Consistency with current planning, heritage and environmental policies and plans?	
<b>Concept design</b> Identify concept designs and image. Include an explanation of proposed design, including scale of the work.  Provide details of artist/s.  Integrity of the artwork/non-duplication of similar artwork for same application?	

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## Guidelines



<p><b>Materials and construction</b> What materials are being used for the project? Identify that the materials are appropriate for purpose; durable and able to withstand the elements (consider aging and lifespan). How will the works be fabricated and are the materials sustainable/ renewable?</p>	
<p><b>Maintenance requirements</b> Outline required on-going durability and maintenance requirements.</p>	
<p><b>Community involvement and consultation</b> For private projects, what level of community consultation has informed concept design?</p> <p>For other projects, are you working in partnership with any community group(s) and if so, what feedback have they provided in terms of concept designs and what will be their broader role in the proposed project?</p>	
<p><b>Timing of works</b> Outline the proposed timeline for the project: proposed commencement date, construction schedule and date for installation and completion.</p>	
<p><b>Budget</b> Are there adequate funds available to undertake the project? Are there any requirements for these funds (e.g. grant acknowledgement)?</p> <p>Attach detailed proposed budget.</p> <p>Monet allocated for ongoing maintenance?</p>	
<p><b>Construction and installation</b> The work may be constructed off site by the artist but must be installed by Council approved contractors on Council owned or managed land.</p>	

## Guidelines



### Additional information

Are there any additional issues attached to this proposal that would support your proposal?

Please note if the proposed works relate to formal conditions associated with a development application (DA) lodged with Council and list the DA number. Outline what the conditions are and how you have addressed them.

Please note that it is imperative you consider risk management issues during construction, ongoing site safety aspects and management of the work into the future.

Integrity of the work to be considered to ensure there is no duplication for similar use.



Guidelines



**APPENDIX 2: PUBLIC ART ASSESSMENT CHECKLIST**

**Council Officer/s:**

**Section / Unit:**

<b>Project details</b>	<b>Project considerations</b>	<b>Comments</b>	<b>Further feedback required? Yes/No Comments</b>
<b>Project description</b>	Adequate detail provided? How and why was the project developed? What is the vision for the concept? Type and scope of work		
<b>Site details public art works</b>	Ownership of site? Why has the site been chosen for the project? Suitable land zoning? Plan of Management approval? Will the site be accessible to community members? Is site part of another community facility? Will the work enhance sense of place and belonging? Relevance and appropriateness of the work and the context of its site? Are there any site restrictions?		

## Guidelines



<b>Concept design</b>	<p>Does project link with the community</p> <p>Does the design compliment surrounding community facilities</p> <p>Will the work improve the visual amenity of the area</p> <p>Are any concept drawings provided?</p>		
<b>Community involvement and benefit</b>	<p>What community groups are involved in development?</p> <p>Who will support the project?</p> <p>Who will give input on the project?</p> <p>Will consultation take place?</p> <p>Will it will increase opportunity for social interaction and working cooperatively</p> <p>How does the project contribute to the benefit of the community?</p>		
<b>Materials and construction</b>	<p>How will the work be constructed?</p> <p>What are the proposed materials?</p> <p>Are there any safety risks involved with the materials?</p> <p>How will the work be fabricated?</p> <p>Where will it be fabricated?</p> <p>Has the project considered renewal or sustainable materials?</p> <p>What will be the ongoing maintenance of the works?</p>		

# Guidelines



<b>Project timeline</b>	<p>Are project timeframes included?</p> <p>Is timeline realistic?</p> <p>Has an installation date been incorporated?</p>		
<b>Budget</b>	<p>Realistic funding available?</p> <p>Evidence of funding source/s?</p>		
<b>Artist's details</b>	<p>Have details of artist/s been provided?</p> <p>Has the artist/s been previously involved in a similar project?</p> <p>Have appropriate copyright releases been provided?</p>		
<b>Insurance</b>	Insurance value of work		
<b>Maintenance</b>	<p>What are the maintenance and durability requirements?</p> <p>What are the predicted ongoing costs?</p>		
<b>Additional information</b>	<p>Please consider any additional details that have been incorporated into the application.eg.</p> <ul style="list-style-type: none"> <li>• Maintenance</li> <li>• Risk hazard identification</li> <li>• Public safety</li> <li>• Vandalism issues</li> </ul>		

**ITEM NO. 3**

**FILE NO: PSC2015-01000/990**  
**TRIM REF NO: PSC2009-02408V4**

**SUBDIVISION DEVELOPMENT APPLICATION AND GRANTING OF AN  
AGREEMENT FOR LEASE & OPTIONS TO PURCHASE OVER PART OF 155  
SALAMANDER WAY, SALAMANDER BAY**

REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve the lodgement of a development application to subdivide Lot 284 DP 806310 (155 Salamander Way, Salamander Bay).
  - 2) Enter into an Agreement for Lease incorporating a draft Lease over Proposed Lot 1.
  - 3) Enter into an Option to Purchase incorporating a draft Contract of Sale over Proposed Lot 2.
  - 4) Enter into an Option to Purchase incorporating a draft Contract of Sale over Proposed Lot 3.
  - 5) Authorise the Mayor and General Manager to sign and affix the Seal of Council to all relevant documents.
- 

**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Paul Le Mottee</b> <b>Councillor Ken Jordan</b>  That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015**  
**MOTION**

<b>341</b>	<b>Councillor Chris Doohan</b> <b>Councillor Steve Tucker</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Approve the lodgement of a development application to subdivide Lot 284 DP 806310 (155 Salamander Way, Salamander Bay).</li><li>2) Enter into an Agreement for Lease incorporating a draft Lease over Proposed Lot 1.</li><li>3) Enter into an Option to Purchase incorporating a draft Contract of</li></ol>
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## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

	Sale over Proposed Lot 2.
4)	Enter into an Option to Purchase incorporating a draft Contract of Sale over Proposed Lot 3.
5)	Authorise the Mayor and General Manager to sign and affix the Seal of Council to all relevant documents.

### BACKGROUND

The purpose of this report is to obtain Council resolution to lodge a development application to subdivide 155 Salamander Way, Salamander Bay into seven lots and for Council to enter into an Agreement for Lease and two separate Options to Purchase over three lots in the proposed seven lot subdivision. The terms of agreement for the two sales and one lease are included in the confidential attachment **(ATTACHMENT 2)**.

A Request for Proposals campaign in November 2014 identified a number of potential end users and discussions with these parties resulted in Concept Plans being developed.

A Two Way Conversation with Councillors on 12 May 2015 nominated four potential end users and the revenue streams capable of being generated via sale and lease arrangements to these four parties. During August 2015, one of the end users advised Council it would not be proceeding with its intent to enter an Agreement for Lease.

The loss of this business rendered the proposed development as presented to Council in May 2015 financially unviable. A revised development is proposed that locates all current end users within the eastern section of the site **(ATTACHMENT 1)**.

The proposed subdivision as per the attached plan will provide the following:

- Proposed Lots 1, 2 and 3 for the three confirmed end users;
- Proposed Lot 4, either for sale/lease and development "As Is" or for further subdivision by Council to meet market demand;
- Residual Lot 5 for future subdivision/development as required;
- Residual Lot 6 being the land improved with the Tomaree Library, the Community Centre and the Child Care Centre;
- Infrastructure Lot 7 which will accommodate the proposed bus interchange;
- Infrastructure with capacity to further subdivide and develop residual lots 5 and 6.

Upon securing Development and Construction Consent for the subdivision, a tender process for the civil construction works will be run and Council resolution will be sought to appoint a preferred tenderer to undertake the works.

## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

It is important to note that civil works for the subdivision will include the following components that will serve to improve the existing traffic environment of the site and immediate surrounds:

- Upgrades to Bagnall Beach Road;
- Signalisation of the intersection of Bagnall Beach Road and Town Centre Circuit;
- Widening (additional lanes) and straightening of Town Centre Circuit to provide for additional traffic queuing capacity;
- Dedicated bus interchange and pedestrian links.

Upon obtaining the resolution of Council to proceed with the proposed subdivision, and to enter into the three identified Option to Purchase or Lease, Council will instruct its solicitors to proceed with the required legal documentation. Some of the terms may require refinement and negotiation during this documentation process which is standard procedure for these types of developments.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
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 fee proposal from EPS Nelson Bay for the preparation and lodgement of the development application for the seven lot subdivision is \$48,000 including all sub-consultants. Additional costs, circa \$30,000, will be incurred in the preparation of documentation to obtain a construction certificate for the seven lot subdivision.

Legal costs will be incurred to have the Agreement for Lease and Lease documentation reviewed by Council's solicitors and the draft Option Agreements and Contracts of Sale prepared by Council's solicitors.

A Quantity Surveyor's current cost estimate to subdivide the land in accordance with the current Concept Plan has been obtained.

In addition to the three identified end users, the subdivision will produce circa 12,480 sqm of serviced commercial land being Proposed Lot 4, which will be ready for sale

**MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015**

or lease by Council to meet market demands. Its end value will depend on future demand and the lot sizes required by future end users.

In addition, Council will have in reserve residual Lot 5 that can be readied for subdivision/development once a substantial amount of Proposed Lot 4 has been developed.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes		Property Reserve Fund will provide for the development application and construction certificate to reach consent stage.
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are legal implications with entering into the Agreement for Lease and Options to Purchase for which Council's external solicitors will be preparing and reviewing appropriate documentation. There is no known policy implication. There is a risk that if Options to Purchase and an Agreement for Lease are not in place and Council proceeds to undertake the subdivision and the civil works, the intending end users are not bound to proceed with the purchases or the lease, leaving Council exposed to a higher level of debt.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without an Option to Purchase or an Agreement for Lease, the intending end users could withdraw from the deals preventing the development from occurring or placing Council in a poor financial position on this development.	Medium	Accept the recommendation to enter into the Options to Purchase and the Agreement for Lease.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The subdivision by Council will provide opportunities for:

- both existing and new businesses to locate adjacent the major shopping centre on the Tomaree Peninsula;
- additional retail competition, to the benefit of both residents and visitors;
- an improved public transport network via the proposed bus interchange;
- improved vehicular access to and from the shopping centre via a new access road off Bagnall Beach Road (Central Avenue), improvements to Bagnall Beach Road including traffic lights and vehicle storage lanes;
- employment during and after construction;
- a future development lot being Proposed Lot 4 owned by Council, ready to be sold or subdivided to meet market demands for commercial development;
- further commercial land being Residual Lot 5.
- Further addition and diversification of Council's property portfolio, and increased non rates revenue.

Various site and environmental issues (flora, fauna, geotechnical, stormwater, traffic) were addressed during the initial three lot subdivision approval and will be reconsidered during the new development application process. A recent high level traffic report indicates no adverse impacts on current traffic conditions with the approved traffic lights at the intersection at Bagnall Beach Road and Town Centre Circuit to improve vehicular access and provide better pedestrian access. The traffic report for the new development application will consider traffic impacts including along Bagnall Beach Road between Salamander Way and Sandy Point Road.

## **CONSULTATION**

- 1) Two Way Conversations with Councillors on 12 May 2015 and 20 October 2015.
- 2) Financial Services Manager.
- 3) Land Acquisition & Development Manager.
- 4) Land Development Coordinator.
- 5) Development Assessment & Compliance Section Manager.
- 6) Planning & Developer Relations Coordinator.
- 7) Traffic Engineer.
- 8) Community Development & Engagement Coordinator.

## **OPTIONS**

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



**ATTACHMENTS**

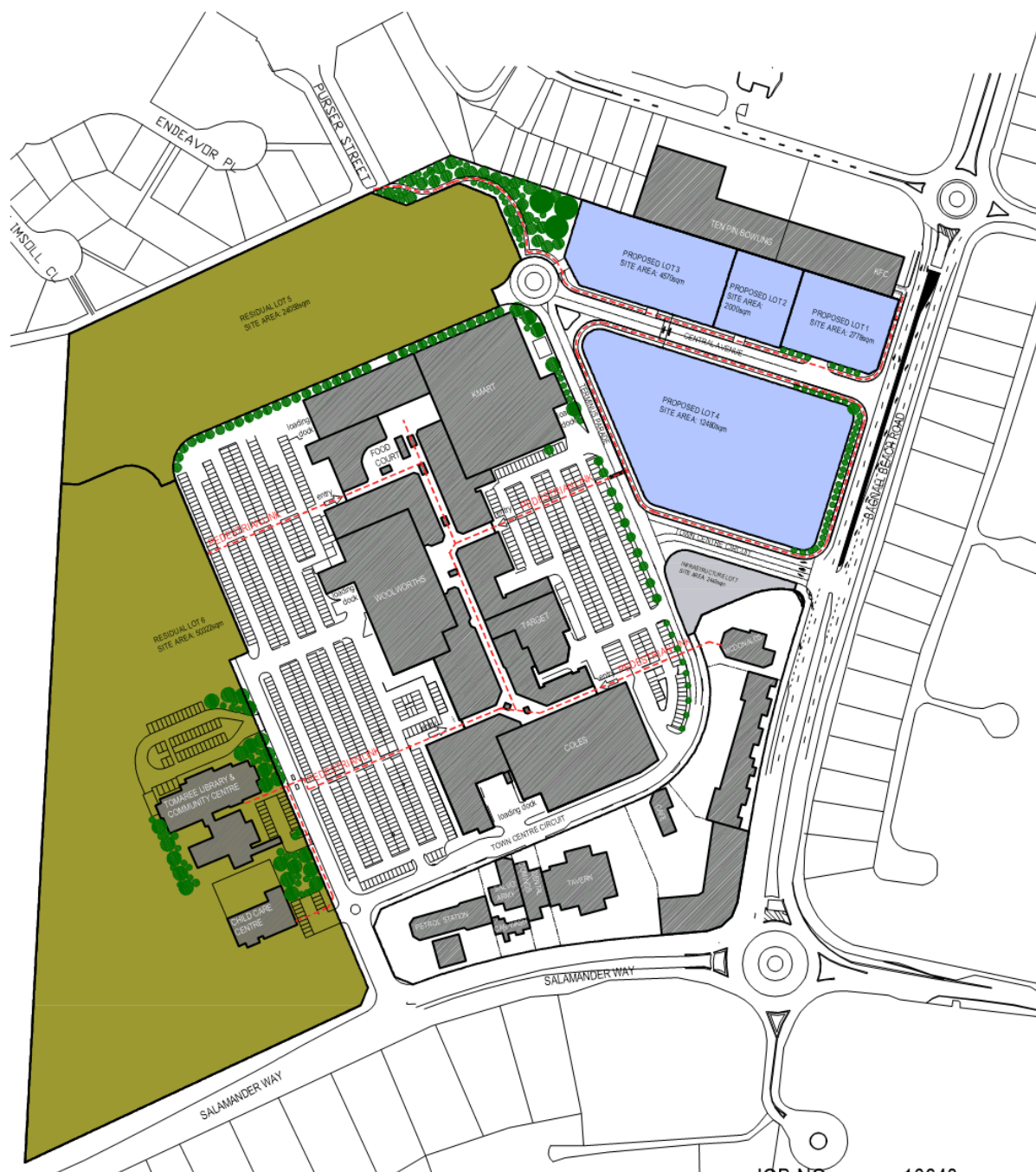
- 1) Concept Plan.
- 2) CONFIDENTIAL Commercial Lease & Sale Information.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

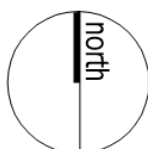
Nil.



## SALAMANDER BAY

### SALAMANDER CENTRAL PRECINCT

PROPOSED OVERALL  
SITE PLAN



JOB NO: 10648  
DRAWING No: A100  
REVISION: D  
DATE: JUNE 2015  
SCALE: 1:3000@A4



## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

ITEM NO. 4

FILE NO: PSC2015-01000/885

TRIM REF NO: PSC2015-01929

### POLICY REVIEW - COMMERCIAL OPERATORS POLICY

REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES SECTION  
MANAGER

GROUP: FACILITIES & SERVICES

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#### RECOMMENDATION IS THAT COUNCIL:

- 1) Note the summary of submissions to the public exhibition of the draft Commercial Operators policy and staff responses (**ATTACHMENT 1**).
  - 2) Adopt the draft Commercial Operators policy shown with amendment made post public exhibition period (**ATTACHMENT 2**).
  - 3) Revoke the Commercial Operators Policy dated 28 August 2007 (Min No. 236) shown as (**ATTACHMENT 3**).
  - 4) Revoke the Use of Council Reserves for Commercial Fitness Groups and Personal Trainers policy dated 26 March 2013 (Min No. 73) shown as (**ATTACHMENT 4**).
- 

### ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor Paul Le Mottee</b> <b>Councillor Sally Dover</b>  That the recommendation be adopted.
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### ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015 MOTION

<b>342</b>	<b>Councillor Chris Doohan</b> <b>Councillor Steve Tucker</b>  It was resolved that Council: <ol style="list-style-type: none"><li>1) Note the summary of submissions to the public exhibition of the draft Commercial Operators policy and staff responses (<b>ATTACHMENT 1</b>).</li><li>2) Adopt the draft Commercial Operators policy shown with amendment made post public exhibition period (<b>ATTACHMENT 2</b>).</li><li>3) Revoke the Commercial Operators Policy dated 28 August 2007 (Min No. 236) shown as (<b>ATTACHMENT 3</b>).</li><li>4) Revoke the Use of Council Reserves for Commercial Fitness Groups</li></ol>
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## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

	and Personal Trainers policy dated 26 March 2013 (Min No. 73) shown as <b>(ATTACHMENT 4)</b> .
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### BACKGROUND

The Commercial Operators policy adopted by Council on 28 August 2007 and the Commercial Fitness Groups and Personal Trainers policy adopted by Council on 26 March 2013 have been reviewed and incorporated into one revised draft Commercial Operators policy. This draft policy was submitted to Council on 28 July 2015 for endorsement to be placed on public exhibition.

The public exhibition period concluded on 2 September 2015 and two submissions were received and focused on amendments to the draft policy to include:

- 1) More areas for surfing schools at all Council managed surf beaches.

This is not supported based on the small areas of beach actually managed by Council and the potential for beach user and operator conflict with flagged swimming areas, and other surf craft using these areas.

- 2) The first right of refusal for existing licensees.

The first right of refusal statement has been deleted and the draft policy now offers approved commercial operator an increase from two to a total licence term of five years. Offering a five year licence will provide greater security for approved commercial operators to grow their business and to add value to the local economy and the community. This approach will also reduce the administrative burden to commercial operators and Council by way of undertaking less frequently the requirements of the *Local Government Act 1993* and the *Crown Lands Act 1989*.

The draft Policy Scope has also been amended to clearly state that the policy does not negate the need for, nor is intended as a substitute, for development consent under the *Environmental Planning and Assessment Act 1979*, where required. The draft Commercial Operators policy has now been changed to reflect the above amendments **(ATTACHMENT 2)**. The changes are designed to firstly give all licensees a fair period of uninterrupted time to establish a small business, and secondly to not disadvantage any existing licensees with major change as a result of this new policy by putting sites to competitive tender immediately. The underlying principle that drives this change is the desire to see small business succeed and add value to the local economy and community with less administrative burden.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2014-2019
Port Stephens has a sustainable and diversified economy.	Provide processes and services that deliver benefit to tourism in Port

**MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015**

	Stephens. Provide Economic Development services to local business.
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**FINANCIAL/RESOURCE IMPLICATIONS**

The leasing and licensing of Council land for commercial operators raises approximately \$90,000 in external income. This income is used to offset the cost of maintaining public open space and the subsequent cost to ratepayers. The implementation of this policy falls to the Community Services Section with the support of the Property Services Section.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	90,000	Income from commercial operator leases and licences.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

Any activity on Crown land or Council owned community land requires formal approval under either the *Local Government Act 1993* or the *Crown Lands Act 1989*.

This policy has similar objectives to the Events policy and draft Markets policy in that it aims to create diverse economic opportunities through the equitable distribution of Council land and the clear understanding of the rights and responsibilities of all stakeholders.

This policy differs from the Community Leasing and Tenancy policy in that this policy focuses on commercial activities whereas the draft Community Leasing and Tenancy policy focus is on commercial lease reductions for community based groups and sporting clubs.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that not having a Commercial Operators policy may result in commercial operators conducting	Medium	Adopt the recommendations.	Yes

**MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015**

unapproved and unsuitable business on Council managed land resulting in safety, legal, financial, environment and reputation damage.			
There is a risk that not having a Commercial Operators policy may result in conflict between prospective operators and the general community resulting in safety and reputation damage.	Low	Adopt the recommendations.	Yes
There is a risk that not having a Commercial Operators policy may result in lengthy decision making processes when assessing requests for use of Council land resulting in added costs to small business and reputation damage to Council.	Low	Adopt the recommendations.	Yes
There is a risk that adopting the policy may be interpreted by some that Council is privatising community land for financial gain, resulting in reputation damage.	Low	A communication plan shall be developed to deploy the policy and shall include key facts relating to the policy and the requirements of the Local Government Act 1993 and Crown Lands Act 1989.	Yes
There is a risk that adopting the policy may be interpreted that Council is unreasonably charging small business and the fitness industry for use of community land, resulting in reputation damage.	Low	A communication plan shall be developed to deploy the policy and shall include key facts relating to the policy and the requirements of the Local Government Act 1993 and Crown Lands Act 1989.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Adopting the recommendations creates opportunities for people to participate in fun, healthy and educational activities on Council owned and managed land. Managing the allocation of foreshores and park areas needs to be carefully considered through this policy as these areas attract large numbers of people at peak times and the interaction between passive users and commercial operators has the potential to create conflict.

The local economy benefits from this policy because small to medium enterprises are able to access Council owned and managed land and conduct their businesses at reasonable rates and terms which results in affordable services for their customers.

This policy and the conditions contained in standard leases and licenses ensure that environmental constraints at any given site are fully considered and managed.

## **CONSULTATION**

Consultation has been undertaken by the Community Services Section.

### **Prior to public exhibition**

- 1) Internal – Community Development and Engagement Co-ordinator, Tourism and Events Co-ordinator, Parks Co-ordinator, Community and Recreation Assets Co-ordinator, Investment and Asset Manager, Property Officer – Community Leasing, Contracts & Services Coordinator, Community Services Manager.
- 2) External – Informal discussions with existing and prospective commercial operators relating to how the draft policy may impact their businesses. Life Guard Coordinator, Surf Life Saving Services Pty Ltd. Crown Lands NSW, Marine Parks, Roads and Maritime Services.

### **During public exhibition**

The recommendation was adopted by Council on the 28 July, the draft Commercial Operators Policy went on public exhibition from Wednesday 5 August 2015 to Friday 2 September 2015 for 28 days.

The following activities have been undertaken:

#### **External**

- 1) Public Notice in the Port Stephens Examiner on Wednesday 5 August 2015.
- 2) 28 days public exhibition period concluded 2 September 2015.
- 3) Document was available on Council's website under "What's on Exhibition".

## **MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015**

- 4) Hard copies of the draft Policy were available for viewing at Council's Administration Building and Tomaree Library.

### **Internal**

- 1) Review of two submissions to the draft policy.
- 2) Submission report to Executive Leadership Team on 16 October 2015.
- 3) Submission report to Council 10 November 2015.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Summary of submissions and responses.
- 2) Draft Commercial Operators Policy.
- 3) Commercial Operators Policy dated 28 August 2007.
- 4) Use of Council Reserves for Commercial Fitness Groups and Personal Trainers Policy dated 26 March 2013.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

- 1) Two submissions to public exhibition of draft Commercial Operators policy.



# MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

## ITEM 4 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS AND RESPONSES.

Draft Commercial Operators policy – summary of submissions and responses to public exhibition

Submission Number	Submitted By	Participants to the Submission	Key Points	PSC Response
1	Newcastle Surf School, Unit 1, 50 Merewether Street, Merewether NSW 2291	Mr Daniel Frodsham, Owner/Operator	<b>Objection:</b>	
			1.1 Objects to incumbent operators being given the benefit of "first right of refusal" for any license renewal. Claims that this policy position restricts new businesses from establishing in the area and could be seen as lacking process transparency.	Delete the statement relating to "first right of refusal" and replace: 1. with a statement that increases the total licence term from two years to five years; 2. with a statement that allocates a new five year licence to all existing licencees at the time of adoption of this policy.  These changes are designed to firstly give all licencees a fair period of uninterrupted time to establish a small business and secondly to not disadvantage any existing licencees with major change as a result of this new policy by putting sites to competitive tender immediately. The underlying principle that drives this change is the desire to see small business succeed and add value to the local economy and community with less administrative burden.
			1.2 Objects to the reduction of water based activity sites from two to one at One Mile Beach.	Council manages approximately 460 metres of One Mile Beach. The remainder of the beach is managed by National Parks and Wildlife NSW. This length of beach at One Mile includes a flagged swimming area and predictable surfing sand banks for free surfers. In the 2014/15 financial year One Mile Beach had almost double the beach visitations of both Fingal and Birubi Beach with a total of 474,128 attendances for the September 2014 to April 2015 season. Although the current Commercial Operators policy does permit more than one water based activity at One Mile Beach, there has never been more than one water based operation conducted from the One Mile Beach site due largely to the limited area from which to operate.  For all of these reasons and to manage beach user demand at One Mile Beach, the recommendation is to retain the recommended draft policy with no change in this area.
			<b>Recommendation:</b>	
			1.3 Retain the annual licensing arrangements that are currently in place through the Commercial Operators policy of 2007	Not agreed.  The draft Commercial Operators policy is designed to align two existing policies into one streamlined policy. Doing this removes an annual administrative burden from commercial operators and Council, and gives operators greater security of tenure at a site which in turn enables them to create successful small to medium businesses.  Amendments to the draft policy to include a standard five year term for all licences after which a licenced site is open to competitive tendering, is seen as an equitable and transparent approach to managing Council and Crown land whilst enabling success in small to medium businesses.

# MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

## ITEM 4 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS AND RESPONSES.

Draft Commercial Operators policy – summary of submissions and responses to public exhibition

Submission Number	Submitted By	Participants to the Submission	Key Points	PSC Response
2	Mojosurf Pty Ltd 1 Skinners Shoot Road, Byron Bay NSW 2481	Mr Nathan Folkes, Director;  Ms Vanessa Thompson, Compliance Officer.	<b>Objection:</b>	
			2.1 Objects to incumbent operators being given the benefit of "first right of refusal" for any license renewal. Claims that this policy position restricts new businesses from establishing in the area and could be seen as lacking process transparency.	Delete the statement relating to "first right of refusal" and replace: 3. with a statement that increases the total licence term from two years to five years; 4. with a statement that allocates a new five year licence to all existing licencees at the time of adoption of this policy.  These changes are designed to firstly give all licencees a fair period of uninterrupted time to establish a small business and secondly to not disadvantage any existing licencees with major change as a result of this new policy by putting sites to competitive tender immediately. The underlying principle that drives this change is the desire to see small business succeed and add value to the local economy and community with less administrative burden.
			2.2 Objects to only permitting one water based activity site at each of the three surf beaches. Claims that there is in excess of 1km of beach available per surf beach and thus sufficient space to allow for additional operators in each area.	Council manages relatively small portions of beach at three surf beaches. These beaches are Fingal Beach (800 metres), One Mile Beach (460 metres) and Birubi Beach (480 metres). The remainder of these three beaches and all other surf beaches in Port Stephens Council area are managed by National Parks and Wildlife NSW.  Each of Council's surf beaches contain flagged swimming areas, reasonably predictable surfing sand banks, occasional large crowd events (e.g. nippers on Sundays, surfing carnivals, lifesaving carnivals and triathlons) and at peak times are host to thousands of casual beach users. The draft policy is retaining the limit of one water based activity at One Mile Beach and Birubi Beach and two water based activity sites at Fingal Beach. This allocation is deemed to give the highest level of safety and access to all competing interests at each beach.  Commercial Operators that wish to conduct business on National Parks and Wildlife NSW areas need to make those arrangements with National Parks and Wildlife NSW.
			<b>Recommendation:</b>	
			2.3 Open up licenses to multiple users to an acceptable level to provide council and local businesses with additional revenue.	Not agreed.  The draft Commercial Operators policy is designed to ensure equitable use of Council managed land that balances the desires of small to medium business as well as the needs of other community users of the land. The draft policy has opened up more sites for commercial operators across the local government area, thus increasing the potential for small to medium businesses whilst not crowding single sites with multiple operators and the general community.

## Policy



**FILE NO:** PSC2015-01929  
**TITLE:** COMMERCIAL OPERATORS POLICY  
**POLICY OWNER:** COMMUNITY SERVICES SECTION MANAGER

### **PURPOSE:**

The purpose of the Commercial Operators Policy ('Policy') is to establish a streamlined approach to the approval of Commercial Operators on Council owned and managed land. It aims to achieve well managed commercial operations that complement the other uses of the locations, adds value to the local tourism and fitness sector and minimises negative impacts on neighbouring property owners and other site users.

### **CONTEXT/BACKGROUND:**

Port Stephens has a diverse range of open space including parks, sports fields, foreshores, beaches, and bushland reserves. These open spaces are well suited to a wide range of passive and active recreation activities. As these open spaces have become more popular, a demand has arisen for the use of Council owned and managed land to conduct commercial operations specifically activities centred on tourism, education and healthy lifestyles. The total open space deemed suitable for these activities is 367 hectares or approximately 28% of Port Stephens Council's total open space provision (refer to Table 1).

### **SCOPE:**

The Commercial Operators Policy applies to the management of Commercial Operators on Council owned and managed land within the Port Stephens Council local government area.

Approval to issue a license or lease under the Commercial Operators Policy does not negate the need for nor is intended as a substitute for development consent under the *Environmental Planning and Assessment Act 1979*, where required.

The Commercial Operators Policy does not apply to commercial operations on land that is not owned or managed by Council. Commercial operations on land that is not owned or managed by Council may require other development approvals.

The Policy applies to land based activities and water based activities.

## Policy

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## Policy



The Policy does not apply to the following activities that may be subject to separate approval processes:

- Commercial activities deemed to be an event;
- Commercial activities subject to a lease arrangement;
- Commercial use of community halls;
- Commercial use of sporting facility buildings;
- Markets on Council owned and managed land; and
- Activities not considered to be a commercial activity.

### DEFINITIONS:

Commercial operator	A person or entity that intends to conduct an activity for profit or personal gain on Council owned and managed land.
Commercial operators licence	A contract to operate across and or on Council owned and managed land.
Council owned and managed land	Land that is owned or managed by Port Stephens Council, including Crown Land that Council is the corporate trust manager.
Event	An activity on Council owned and managed land that is defined in the Events Policy or any related policy.
Land based activity	Activities that are conducted on Council owned and managed land. Examples of land based activities include but are not limited to: personal fitness trainers, group fitness, hiring of bicycles and tricycles, dog obedience schools.
Licensing terms and conditions	This includes guidelines, processes and other internal documents used by Council staff in the assessment and approval of Commercial Operator licence applications.
Market	An activity on Council owned and managed land that is defined in the Community and Cultural Markets Policy or any related policy.
Water based activity	Activities that are conducted mostly in waterways but require access to the waterway from Council owned and managed land. Examples of water based activities include but are not limited to: dive sites, learn to surf schools, hire of water craft, lessons in water craft use, sport adventure activities.

## Policy

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## Policy



### POLICY STATEMENT:

Council is committed to:

- 1) Permitting the use of Council owned and managed land for commercial operations that meet the purpose of the land as defined in the Local Environment Plan, any Plan of Management for the land, the *Crown Lands Act 1989*, the *Local Government Act 1993* and the licensing terms and conditions of any specific site;
- 2) Encouraging commercial operations on Council owned and managed land that encourages tourism, healthy lifestyles and education;
- 3) Ensuring Council owned and managed land is used in a safe manner;
- 4) Permitting 5 year licences for the use of Council owned and managed land by approved commercial operators;
- 5) Ensuring security of tenure for approved Commercial Operators. Accordingly, those Commercial Operators shall be offered a 5 year licence term for any new licence subject to all requirements of the *Local Government Act 1993* and the *Crown Lands Act 1989*;
- 6) Council is committed to implementing and keeping current terms and conditions that ensure that occupiers of licenced sites do not cause nuisance to neighbours and other stakeholders;
- 7) The assessment and apportioning of licence fees that are determined by market demand and the Setting of Fees and Charges Management Directive;
- 8) Providing the locations listed in Table 1 as locations that may be licensed for commercial operations.

**Table 1: Council owned and managed land that may be licensed for commercial operations.**

SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Anna Bay	Birubi Beach	Lot 7325, DP 1156724	2	1
Anna Bay	Robinson Reserve	Lot 7325, DP 1156724	1	0
Boat Harbour	Boat Harbour Beach Reserve	Lot 7324, DP 1205289	0	1

## Policy

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Issue Date: xx/xx/xxxx

Printed: 29/05/2015

Review Date: 30/06/2019

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## Policy



SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Corlette	Bagnall Beach Reserve, corner of Sandy Point Road and Pantawarra Street (A)	Lot 540, DP 823768	1	0
Corlette	Bagnall Beach Foreshore Reserve, adjacent corner of Pantawarra Street (B)	Lot 540, DP 823768	0	1
Corlette	Conroy Park	Lot 256, DP 27048	1	0
Fingal Bay	Fingal Bay Foreshore Reserve	Lot 475, DP 728127	2	0
Fingal Bay	Fingal Bay Oval	Lot 418, DP 257378	2	0
Fingal Bay	Fingal Beach (A)	Lot 475, DP 728127	1	1
Fingal Bay	Fingal Beach Boat ramp end(B)	Lot 475, DP 728127	1	1
Fingal Bay	Tom O Dwyer Oval	Lot 402, DP 753204	1	0
Fisherman's Bay	Fisherman's Bay Park	Lot 278, DP 753204	1	0
Hinton	Hinton Foreshore Reserve	Lot 26, DP 109540	1	0
Hinton	Stuart Park	Lot 1, DP 915417	2	0
Karuah	Aliceton Reserve	Lot 61, DP 24364	2	0
Karuah	Lionel Morton Oval	Lot 153, DP 753196	1	0
Lemon Tree Passage	Kooindah Park	LOT:PT 93 DP 217567	3	0
Mallabula	Caswell Reserve	Lot 93, DP 11392	0	1

## Policy

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## Policy



SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Mallabula	Mallabula Sports Complex	Lot 398, DP 1142139	4	0
Medowie	Boyd Oval	Lot 1, DP 408155	2	0
Medowie	Coachwood Drive Reserve	Lot 37, DP 807956	1	0
Medowie	Ferodale Sports Park	Lot 22, DP 1021843	2	0
Medowie	Kindlebark Oval	Lot 59 DP 730472 LOT:129 DP 710216	2	0
Medowie	Yulong Oval	Lot 49, DP 249781	2	0
Nelson Bay	Bill Strong Oval,	Lot 101, DP 1175980	2	0
Nelson Bay	Dutchman's Beach Reserve	Lot 7318, DP1138620	3	0
Nelson Bay	Dutchman's Beach Foreshore	Lot 7318, DP1138620	0	2
Nelson Bay	Fly Point Reserve	Lot 101, DP 1175980	3	0
Nelson Bay	Little Beach Reserve	Lot 101, DP 1175980	1	0
Nelson Bay	Neil Carroll Park	Lot 101, DP 1175980	2	0
Nelson Bay	Nelson Bay Foreshore adjacent to the Nelson Bay public wharf amenities (A)	Lot 550,559, DP 1033413	1	0
Nelson Bay	Nelson Bay Foreshore adjacent Nelson Bay Kiosk and carpark (B)	Lot 550 559, DP 1033413	0	1

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## Policy



SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Nelson Bay	Nelson Bay Foreshore, Victoria Parade adjacent Fly Point amenities (C)	Lot 550,559 DP 1033413	0	1
Nelson Bay	Tomaree Sports Complex	Lot 1, DP 1136350	4	0
One Mile	One Mile Beach	Lot 7311, DP 1120641	1	1
Raymond Terrace	Alton Park Reserve	Lot 61, DP 24364	1	0
Raymond Terrace	Boomerang Park	Lot 1, DP 1018979	3	0
Raymond Terrace	Fitzgerald Bridge Boat Ramp area	Lot 131, DP 1120122	0	1
Raymond Terrace	King Park Sports Complex	Lot 1, DP 733011 Lot 131, DP 1120122	3	0
Raymond Terrace	Lakeside Reserve 2	Lot 261, DP 263821	1	0
Raymond Terrace	Lakeside Reserve 3	Lot 116, DP 262378	1	0
Raymond Terrace	Lakeside Sports Complex	Lot PT2, DP 502401	2	0
Raymond Terrace	Ross Walbridge Reserve	Lot 1, DP 115898	2	0
Raymond Terrace	Vi Barnett Oval	Lot 131, DP 1120122	1	0
Salamander Bay	Bagnall Beach Road Detention Basin	Lot 5072, DP 841259	1	0
Salamander Bay	George's Reserve	Lot 1, DP 852661	0	1

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SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Salamander Bay	Joe Redman Reserve	Lot 356, DP 27845	1	0
Salamander Bay	Korora Oval	Lot 541, DP 27274	3	0
Salamander Bay	Roy Wood Reserve	Lot 356, DP 27946	0	1
Salamander Bay	Salamander Sports Complex	Lot 1, DP 1117732	2	0
Seaham	Brandon Park	Lot 11, DP 26452	2	0
Seaham	Seaham Park	Lot 1, DP 758899	3	0
Shoal Bay	Shoal Bay Foreshore - Boat Ramp (A)	Lot 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore Adjacent public wharf (B)	Lot; 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore Beach Road adjacent to Harbourside Haven (C)	Lot; 7022,7023 DP 1126832	0	1
Shoal Bay	Shoal Bay Foreshore intersection of Harwood Avenue and Beach Road (D)	Lot: 7022,7023 DP 1126832	0	1
Soldiers Point	Everitt Park	Lot 322, DP 636840	1	0
Tanilba Bay	Forster Park	Lot: 7322 DP 1154060	0	1
Tanilba Bay	Peace Park	Lot 1, DP 265326	0	1
Taylors Beach	Taylors Beach Foreshore	Lot 637, DP 27626	0	1

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SUBURB	LOCATION	Lot/DP	NUMBER OF SITES	
			Land based activities	Water based activities
Wallalong	Bowthorne Park	Lot 1, DP 703382	1	0

### POLICY RESPONSIBILITIES:

Overall review and evaluation of this policy lies with the Community Services Section Manager.

Key areas for implementation are delegated to the following positions:

- 1) Contracts and Services Coordinator – implement the policy, review and update the Licensing Terms and Conditions and supporting documents relating to this policy; issuing of licence approvals under delegation; internal and external relationship management;
- 2) Property Officer Community Leasing – prepare and administer licence documentation;
- 3) Community and Recreation Assets Coordinator and the Parks and Programs Coordinator – provide advice on the implementation of the policy, asset planning and scheduled improvements, liaison with Sports Councils;
- 4) Events and Tourism Coordinator – liaison relating to coordination of events and markets bookings on Council owned and managed land.

### RELATED DOCUMENTS:

- 1) Setting of Fees and Charges Management Directive (PSC)
- 2) Events Policy (PSC)
- 3) Event Guidelines (PSC)
- 4) Advertising signs Policy (PSC)
- 5) Alcohol in Parks and Reserves Policy (PSC)
- 6) Temporary Structures on Footways Policy (PSC)
- 7) Port Stephens Council Plans of Management for community land (PSC)
- 8) *Local Government Act 1993 (NSW)*
- 9) *Crown Lands Act 1989 (NSW)*

## Policy

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<b>TRIM container No</b>	PSC2015-01929	<b>TRIM record No</b>	001
<b>Audience</b>	Existing and potential commercial operators, Sports Councils; Parks and Reserves 355c Committees; local business associations and their members; Destination Port Stephens and their members.		
<b>Process owner</b>	Contracts and Services Coordinator		
<b>Author</b>	Contracts and Services Coordinator		
<b>Review timeframe</b>	Every 4 years	<b>Next review date</b>	June 2019
<b>Adoption date</b>			

### VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	28/8/07	Recreation Services Manager	Commercial Operators Policy	236
2	26/3/13	Community & Recreation Services Section Manager	Policy for the Use of Council Reserves for Commercial Fitness Groups and Personal Trainers.	73
3.1	28/7/15	Community Services Section Manager	Draft Commercial Operators Policy for Public Exhibition	221

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3.2	27/10/15	Community Services Section Manager	<p>Draft Commercial Operators Policy – Post Exhibition Period.</p> <p>Two submissions were received and focused on amendments to the draft policy to include:</p> <ol style="list-style-type: none"> <li>1. More areas for surfing schools at all Council managed surf beaches.</li> </ol> <p>This is not supported based on the small areas of beach actually managed by Council and the potential for beach user and operator conflict with flagged swimming areas, and other surf craft using these areas.</p> <ol style="list-style-type: none"> <li>2. The first right of refusal for existing licencees.</li> </ol> <p>The first right of refusal statement has now been deleted and the draft policy now offers the approved commercial operator an increase from 2 to a total licence term of 5 years.</p> <p>The Scope was amended to clarify the that the Policy does not negate the need for nor is intended as a substitute for development consent under the <i>Environmental Planning and Assessment Act 1979</i>, where required.</p>	
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**ITEM 4 - ATTACHMENT 3      COMMERCIAL OPERATORS POLICY DATED 28 AUGUST 2007.**

**ATTACHMENT 1**

*Port Stephens*  
**C·O·U·N·C·I·L**  
**POLICY**

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO:      PSC2005-3687**

**TITLE:          COMMERCIAL OPERATORS POLICY**

**REPORT OF RECREATION SERVICES MANAGER**

**BACKGROUND**

There is currently no Commercial Operator Policy that has been adopted by Council to date.

A review of this current system is required in order to ensure that fair, equitable and consistent processes are in place and that commercial activities on our reserves are managed effectively whilst increasing income to contribute to the costs of maintenance and improvements of these assets.

The Commercial Operators Licensing system has been based on a process that Recreation Services have administered over the years and this process has been the unwritten policy for approving licenses.

This process requires applicants to submit a written management plan outlining:-

- Proposed Activity
- Proposed Location
- References/Past experience in the industry
- Risk Management Plans/Safety Plans
- Rubbish Control Methods
- Insurance
- First Aid
- Other Authority Approval eg NSW Maritime

The criteria used to assess the applications and consider approval is based on:

- Availability of a vacant site
- Plans of Management for the site

**ITEM 4 - ATTACHMENT 3      COMMERCIAL OPERATORS POLICY DATED 28 AUGUST 2007.**

- Is the activity appropriate for the proposed site,
- Any Environmental impacts
- Any similar activities within the same area
- Any implications of small local business in the same area
- Restrictions to other public recreation users
- Provision of service to local community and visitors
- Correct insurances
- Reference checks

Licences are currently issued for a 12 month term starting from 1 October and terminating on 30 September of each year.

**OBJECTIVE**

- To allow for commercial activities on reserves to support tourism and provide recreational activities for our visitors whilst ensuring use of public reserves is not compromised for other recreational users.
- To ensure a safe and controlled system for both commercial and recreational users.
- To ensure that activities on our beaches comply with insurances and safety standards to minimise accidents/liability to users of Council Reserves.
- To ensure a minimal impact on existing business throughout Port Stephens.

Policy will be achieved if:

- Both Commercial & Recreational Users are educated on requirements of the policy and licensing system.
- The Policy is enforced.
- Administration of the Policy is managed effectively.
- Policy is equitable with clear guidelines.(Criteria for Assessment).
- ***To ensure that commercial operators pay a fair and reasonable commercial rent for use of public land.***

**PRINCIPLES**

- Controlled Management of Commercial Activities
- Licensed Operators will ensure safe & more attractive Recreational space.

**ITEM 4 - ATTACHMENT 3      COMMERCIAL OPERATORS POLICY DATED 28 AUGUST 2007.**

- Revenue from License Fees will assist in:
  - Foreshore Maintenance and Asset Management
  - Provision of Environmental Management Strategies

**POLICY STATEMENT**

- All Commercial users of reserves will hold a License with Council.
- Holders must have insurance of a minimum of \$10 million public liability, other authority approvals eg Waterways Aquatic License, Management Plans.
- Payments of fees on commencement of license.
- No reduction in fees or payment plans unless otherwise approved by Council.
- State and Federal Government bodies exempt from requirements of Policy.
- Holders must comply with park rules eg driving of vehicles on reserves, parking, rubbish, dogs and as agreed by Parks Co-ordinator.
- Term of the licence will be 2 years with an annual review after the first 12 months.
- Prior to termination date of licences, all sites will go out to an Expression of Interest or similar \*\*\*process. Current holders will have the opportunity to resubmit a tender for the existing site. All sites will be tendered at the same time to ensure consistency.
- There will be no means for pre existing rights for previous licence holders.
- Essential Criteria will be:
  - a) Management Plan (proposed activity, location, safety management plan, proposed licence fee, benefits to Port Stephens community and tourism, rubbish control methods etc).
  - b) Public Liability Insurance of not less than \$10million noting Port Stephens Council as an interested Party as well as the Minister for Lands where it is crown land.
  - c) Other Authority approvals
  - d) Current First Aid Certificates.

**ITEM 4 - ATTACHMENT 3      COMMERCIAL OPERATORS POLICY DATED 28 AUGUST 2007.**

e) Suitability/Viability of proposed operation. A detailed business plan showing expected income and expenditure to be included.

f) Impact on existing businesses

g) References (professional and personal)

h) Signage must comply with Port Stephens Council Signs Policy

- Annual License fees will be subject to CPI increases.
- Park Rules signs will include requirement to hold license with Council for commercial activities on reserves.
- Failure to comply with Policy will result in enforcement action. (Failure to Comply with Public Notice \$110 Fine).
- Licenses are not transferable. Should an operator wish to sell their equipment & revoke their license before termination date, the license does not go with the sale of the equipment. The purchaser will be required to submit their application following Expressions of Interest being advertised for the vacant site.
- Licenses must have the consent of the Minister for Lands where appropriate.
- At its meeting of 28 November 1995, Council resolved to delegate to the General Manager the execution and approval of Licenses and Temporary Licenses.
- Holders must provide a surety in the form of a performance bond and/or directors guarantee (if a company) to ensure the ongoing performance of the terms and conditions of the licence including payment of licence fees and any clean up/remediation expenses on termination of the licence.

**RELATED POLICIES**

**Crown Lands Act 1989**  
**Local Government Act 1993**

**SUSTAINABILITY IMPLICATIONS**

All future applications for commercial licences will be assessed using defined criteria which will ensure sustainability on social, economic and environmental grounds.

**SOCIAL IMPLICATIONS**



**ITEM 4 - ATTACHMENT 3      COMMERCIAL OPERATORS POLICY DATED 28 AUGUST 2007.**

The interaction/balance between the general public recreation use of public land and commercial activities needs to be managed. This draft policy recognises and allows for this.

**ECONOMIC IMPLICATIONS**

The optimisation of Commercial Operator activities should contribute positively to the general economic health of the municipality.

**ENVIRONMENTAL IMPLICATIONS**

Nil. All commercial activities will be managed to ensure there is no environmental impacts.

**RELEVANT LEGISLATIVE PROVISIONS**

Local Government Act 1993

**IMPLEMENTATION RESPONSIBILITY**

Recreation Services Manager

**REVIEW DATE**

Annual

**ITEM 4 - ATTACHMENT 4      USE OF COUNCIL RESERVES FOR COMMERCIAL FITNESS GROUPS AND PERSONAL TRAINERS POLICY DATED 26 MARCH 2013.****POLICY - USE OF COUNCIL RESERVES FOR COMMERCIAL FITNESS GROUPS AND PERSONAL TRAINERS POLICY****FILE NO: PSC2005-3687****TITLE: USE OF COUNCIL RESERVES FOR COMMERCIAL FITNESS GROUPS AND PERSONAL TRAINERS POLICY.****RESPONSIBLE OFFICER: COMMUNITY SERVICES MANAGER****BACKGROUND**

Personal fitness training is a growth segment in the fitness industry. Increasing numbers of commercial fitness trainers using Council reserves have raised a number of issues including:

- Equity of access issues, eg, potential conflict with displaced users, management of demand, noise, domination and monopolisation of areas and unpaid use of Council land by commercial operators.
- Impact on the asset, eg, trainers, especially of large groups, are causing wear and tear.
- Public liability concerns, eg, trainers with insufficient insurance.

**OBJECTIVE**

- 1) Ensure equity of access to Council parks and reserves;
- 2) Manage the impact of commercial fitness activities on reserves asset condition and maintenance; and
- 3) Manage public liability and risk exposure to Council in relation to commercial operations on Council owned community land and Crown land which is under Councils care and control.

**PRINCIPLES**

The following principles guide the application of this policy.

- 1) Council has a responsibility to its ratepayers to manage its risk exposure.
- 2) Council has a responsibility to manage the use of open spaces in an equitable way.
- 3) Council must consider the potential impacts of the use of public open space by commercial operators on other users, neighbouring property owners and residents and those with vicarious interests.
- 4) Council must endeavour to reduce the cost of open space management to ratepayers through partial cost recovery.
- 5) Council must endeavour to encourage small business development and public health.

**POLICY STATEMENT**

**ITEM 4 - ATTACHMENT 4      USE OF COUNCIL RESERVES FOR COMMERCIAL FITNESS GROUPS AND PERSONAL TRAINERS POLICY DATED 26 MARCH 2013.**

- 1) Commercial fitness groups and personal fitness trainers must have a permit to operate at any public reserves.
- 2) Fitness Instructors are restricted to 20hrs per week of use on PSC public reserves under the licence arrangements.
- 3) No commercial fitness training will be permitted in high activity areas and/or areas of cultural, environmental or natural significance.
- 4) Specific areas where these activities are prohibited include, but are not limited to, the following:
  - Watercourses and wetland areas
  - High conservation bushland (eg, supporting threatened species)
  - 20 metres from memorials
  - 20 metres from any playground or park furniture
  - 20 metres from any public change room, toilet or kiosk areas
  - 50 metres from any neighbouring residential property
  - 50 metres from any flagged area of beaches and/or as directed by the duty lifeguard
  - Any designated sport ground/reserve when occupied by an approved hirer or allocated user
  - Any beach/foreshore when occupied by an approved hirer
- 5) Council may exclude other public areas at its discretion in the interests of meeting legislative responsibilities for the management of community land.
- 6) Council does not warrant that any public reserve is suitable for the conduct of personal training or any other purpose. The permit holder must take steps to ensure that the area to be used is suitable for the intended purpose and use.
- 7) Permissible fitness activities under the policy (subject to Council approval)
  - Resistance training
  - Boxing and pad training
  - Organised aerobic activity
  - Yoga, Tai Chi and Pilates classes and like activities
  - Circuit training
  - A combination of any of the above
  - Other industry endorsed fitness activities having been submitted and approved by Council.
- 8) Excluded activities include:

**ITEM 4 - ATTACHMENT 4      USE OF COUNCIL RESERVES FOR COMMERCIAL FITNESS GROUPS AND PERSONAL TRAINERS POLICY DATED 26 MARCH 2013.**

- Any activity that is deemed to be aggressive or intimidating in nature whether real or perceived by participants or the general public.
  - Any activity that involves amplified music or amplified audio (voice) equipment and loud shouting
- 9) To be eligible for a permit applicants must provide evidence of the following at the time of application:
- Current Senior First Aid Certificate
  - Current public liability insurance which indemnifies Port Stephens Council to a minimum of \$20,000,000.
  - Recognised qualifications (Certificate III or IV in Fitness) and/or registration with Fitness Australia.
- 10) Applications for permits and the number of permits to be issued will be determined by the Reserves Booking Officer taking into account the following factors:
- Usage demand, intensity of use of the area and times requested.
  - Number of approved trainers already using the area.
  - Other activities (passive and active) being undertaken in the area.
  - Type of activities being undertaken and the potential impact on other users and neighbouring residents during the times requested.
  - Whether the activities will contribute to increasing congestion or user conflict in the area requested.
- 11) In considering the above factors, the Reserves Booking Officer may decide to:
- Approve an application and issue a permit.
  - Issue a limited permit with restrictions on the number and type of activities, group size and time and location of the activities.
  - Not approve the application.
- 12) One trainer only will be authorised by Council to operate at any one time under the permit issued. Other trainers providing assistance will be included as part of the training group number. In the event that the nominated trainer is unable to operate under the approved permit a replacement may be approved subject to meeting the eligibility requirements of this policy.
- 13) All trainers must be insured and eligible to operate under the permit in accordance with the policy.
- 14) Applicants can choose from a "one-off" annual permit fee or alternatively seasonal quarterly permit of 12 week duration. The fees for these permits are set out in the Council adopted Fees and Charges and are available on the Council website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

**ITEM 4 - ATTACHMENT 4      USE OF COUNCIL RESERVES FOR COMMERCIAL FITNESS GROUPS AND PERSONAL TRAINERS POLICY DATED 26 MARCH 2013.**

**RELATED POLICIES**

- 1) Crown Lands Act 1989
- 2) Local Government Act 1993

**SUSTAINABILITY IMPLICATIONS**

**SOCIAL IMPLICATIONS**

The interaction/balance between the general public recreation use of public land and commercial activities needs to be managed. This Policy recognises and allows for this.

**ECONOMIC IMPLICATIONS**

The optimisation of Commercial Group Fitness activities should contribute positively to the general economic health of the municipality.

**ENVIRONMENTAL IMPLICATIONS**

Nil. Group fitness activities will be managed to ensure there is no environmental impacts.

**RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government Act 1993
- 2) Local Government (General) Regulations 2005

**IMPLEMENTATION RESPONSIBILITY**

- 1) Community and Recreation Services Manager

**REVIEW DATE**

Within one year of first being adopted and then once every Council term.

**ITEM NO. 5****FILE NO: PSC2015-01000/979  
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. Central ward funds – Cr Geoff Dingle – Fern Bay Public School – Donation towards upgrading the school signage - \$500.
  - b. Central ward funds – Cr Geoff Dingle – Fund the connection of footpath cycleway between Coolabah Reserve and Cassuarina, Medowie - \$5,000.
  - c. East ward funds – Cr Sally Dover – All Saints Church Nelson Bay – Donation to community carol night at Fly Point in December 2015 - \$3,000.
  - d. East ward funds – Cr Sally Dover – Boat Harbour 355c Committee – Donation to construct pathway from Noamunga St to the headland Morna Shoals, Boat Harbour - \$1,000.
  - e. Mayoral funds – Mayor Bruce MacKenzie – Donation to PRD charity golf day to assist with Hugh's Pink Tractor Trek for the Glenn McGrath Foundation - \$500.

**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell Councillor Sally Dover</b>  That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
MOTION**

<b>343</b>	<b>Councillor Chris Doohan Councillor Steve Tucker</b>  It was resolved that Council: <ol style="list-style-type: none"><li>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:-</li></ol>
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## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

	<p>a. Central ward funds – Cr Geoff Dingle – Fern Bay Public School – Donation towards upgrading the school signage - \$500.</p> <p>b. Central ward funds – Cr Geoff Dingle – Fund the connection of footpath cycleway between Coolabah Reserve and Cassuarina, Medowie - \$5,000.</p> <p>c. East ward funds – Cr Sally Dover – All Saints Church Nelson Bay – Donation to community carol night at Fly Point in December 2015 - \$3,000.</p> <p>d. East ward funds – Cr Sally Dover – Boat Harbour 355c Committee – Donation to construct pathway from Noamunga St to the headland Morna Shoals, Boat Harbour - \$1,000.</p> <p>e. Mayoral funds – Mayor Bruce MacKenzie – Donation to PRD charity golf day to assist with Hugh's Pink Tractor Trek for the Glenn McGrath Foundation - \$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 and Tucker

Fern Bay Public School	Donation towards upgrading school signage.	\$500
Footpath and cycleway	Fund the connection of footpath cycleway between Coolabah Reserve and Cassuarina	\$5,000

**MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015****EAST WARD – Councillors Morello, Nell and Dover**

All Saints Church Nelson Bay	Community carol night at Fly Point December 2015	\$3,000
Boat Harbour 355c Committee	Construction of pathway from Noamunga St to the headland Morna Shoals	\$1,000

**MAYORAL FUNDS – Mayor Bruce MacKenzie**

PRD charity golf day	Donation towards Hugh's Pink Tractor Trek	\$500
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**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2014-2019</b>
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.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	10,000	Within existing budget.
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;



## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
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.

**ITEM NO. 6****FILE NO: PSC2015-01000V2/004  
TRIM REF NO: PSC2015-01404****LGNSW MAYORS WEEKEND SEMINAR 2015****REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the attendance of Mayor Bruce MacKenzie at the Local Government NSW Mayors Weekend Seminar 2015 to be held in Sydney, 14 – 15 November 2015.
- 2) Allow a "one-off" increase of the Conference allowances under the Policy for Councillors nominated to attend this Conference.

---

**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
MOTION**

<b>344</b>	<b>Councillor Chris Doohan Councillor Steve Tucker</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Endorse the attendance of Mayor Bruce MacKenzie at the Local Government NSW Mayors Weekend Seminar 2015 to be held in Sydney, 14 – 15 November 2015.</li><li>2) Allow a "one-off" increase of the Conference allowances under the Policy for Councillors nominated to attend this Conference.</li></ol>
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## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

### BACKGROUND

The purpose of this report is to inform Council of the Local Government NSW Mayors Weekend Seminar 2015 to be held in Sydney, 14 – 15 November 2015.

The Conference Programme is shown at **(ATTACHMENT 1)**.

The Conference is open to all Councillors.

As Councillors would be aware the Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2014-2019
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 costs associated with registration, travel and accommodation would be covered from the existing budget, subject to an individual Councillor not exceeding the conference budget limits in the Policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	1,320	\$1,320 registration costs. Travel & accommodation will be additional to this cost.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

The Payment of Expenses and Provision of Facilities to Councillors Policy requires Council to approve all Councillor conference attendances outside the Hunter Region. Councillors' conference costs are limited to \$3,500 per year under the Policy.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Port Stephens Council will not be represented on matters at the conference.	Low	That Mayor MacKenzie attends the seminar and represents Port Stephens Council.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Ensuring the local government area is well represented in all matters at the conference will benefit the Port Stephens community. Information received will be disseminated to the appropriate members of the community and relevant Council staff.

**CONSULTATION**

Nil.

**OPTIONS**

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

**ATTACHMENTS**

- 1) LGNSW Mayors Seminar Brochure 2015.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



# MAYORS' WEEKEND SEMINAR

14-15 November 2015, LGNSW Board Room, Sydney



A two-day program of specialised professional development for mayors, deputy mayors and aspiring mayors.

**LOCAL GOVERNMENT NSW**  
GPO BOX 7003 SYDNEY NSW, 2001  
L8, 28 MARGARET ST SYDNEY NSW 2000  
T 02 9242 4000 F 02 9242 4111  
LGNSW.ORG.AU LGNSW@LGNSW.ORG.AU

**LGNSW.GOV.AU**

## **MAYORS' WEEKEND SEMINAR**

### **Overview**

Mayors are the face of local government. The role is an important and demanding one. People expect mayors to provide the leadership required for councils to work effectively and address community priorities. The 2013 report of the Independent Local Government Review Panel highlighted the need to clarify the responsibilities of mayors and to ensure they have the skills and support required.

Local government in NSW now faces the prospect of sweeping reforms: amalgamations, new arrangements for strategic planning and regional cooperation, plus a far-reaching review of the *Local Government Act (1993)*. At the same time, communities are experiencing the impact of quickening economic and social change, as well as intense development pressures in our major towns and cities.

These challenges require fresh thinking and sound local leadership. The pressures on mayors can only increase.

### **Program**

The Mayors' Weekend Seminar offers practical assistance for NSW mayors, deputy mayors and aspiring mayors to work through the particular demands of the mayoral role.

The program will explore some of the key challenges facing councils and communities, and will cover three broad aspects of the work of mayors in today's local government environment:

- The mayor as community leader
- The mayor as council leader
- The mayor and general manager.

The seminar will focus on a Toolkit designed to help mayors achieve their objectives. All the content is based on real-world experiences. It draws on recent reviews of local government in NSW, South Australia and New Zealand, interviews with mayors carried out by the Australian Centre of Excellence for Local Government, and lessons emerging through the LGNSW Mayoral Mentoring Program.

The program will include short presentations, expert panelists and ample time for roundtable discussion.

### **Presenters**

Presenters and panelists will include:

- Genia McCaffery: LGNSW Mayoral Mentor and former Mayor of North Sydney
- Graham Sansom: Former Director, UTS Centre for Local Government and former ALGA CEO
- Glenn Inglis: Former General Manager of Tamworth Regional Council and Panel Member, ILGRP
- Tim Rogers: Former Deputy Director-General, NSW Office of Local Government
- Maire Sheehan, Senior Research Officer: TAFE Transformation, Former Mayor Leichhardt Council
- Sarah Artist: Manager, LGNSW Learning Solutions and former Deputy Director, UTS Centre for Local Government
- Narayan van de Graaff: LGNSW Learning Solutions Presenter – Governance and Leadership.

## PROGRAM OUTLINE

### Day One: Saturday 14 November

10am	<b>Welcome and introductions</b>
Session 1	<b>Emerging challenges for NSW councils and communities</b> What critical issues will mayors need to address in coming years, and what will communities expect of them?
Session 2	<b>The mayors' toolkit</b> What are mayors' key responsibilities and what legislative measures and tricks of the trade can they use to get the job done?
Session 3	<b>The mayor as community leader</b> What are the essential elements of community leadership? How can mayors put new thinking about place shaping, place-based leadership and strategic partnerships into practice? What role should they play in regional cooperation and working relations with state and federal governments?
Pre-dinner debate	<b>How does local government need to change?</b> A panel discussion that will tackle tricky issues and provoke fresh thinking

### Day Two: Sunday 15 November

Session 1	<b>The mayor as council leader</b> How should mayors go about ensuring good governance and the effective performance of the political arm of their council?
Session 2	<b>The mayor and general manager</b> What are the essential ingredients in making this important relationship a successful one?
Session 3	<b>Take-home messages</b> What are the most important elements of the role and what additional knowledge, skills and support are needed to do the mayors' job effectively?
4:15 pm	<b>Conclusion</b>

### Registration and Payment

The cost of this program is \$1320. This includes all meals and pre-dinner drinks. Participants should book accommodation close to Wynyard Station.

More information and the registration form can be found online at: [lgnsw.org.au/learning](http://lgnsw.org.au/learning). If you have any questions, contact the LGNSW Learning Solutions team on:

02 9242 4181 or

02 9242 4081

[learning@lgnsw.org.au](mailto:learning@lgnsw.org.au)

## OTHER MAYOR AND COUNCILLOR PROFESSIONAL DEVELOPMENT PROGRAMS

### Workshops for Elected Members

LGNSW Learning Solutions offers a range of programs for Councillors. These are available as public workshops and can also be delivered in-house at your council. Consult the LGNSW Learning Solutions Calendar at [lgnsw.org.au/Events-Training](http://lgnsw.org.au/Events-Training) for dates of the following workshops:

- Advanced Media Skills
- Asset Management
- Chairing and Effective Meeting Procedures
- Code of Conduct
- Community and Stakeholder Engagement
- Community Leadership
- Dynamic Presentation Skills
- Financial Issues in Local Government
- Good Governance
- Handling Difficult People for Councillors
- Introduction to Local Government
- Know your Planning
- Lobbying for Success
- Long Term Strategic and Financial Planning
- Managing Time and Stress
- Preventing Bullying and Harassment for Councillors
- Social Media
- Understanding Sustainability
- Writing Skills for Councillors

Mayors and general managers should note that the above programs can also be arranged in-house at your council, with significant savings. If you want a training proposal on any of the above topics or even one not mentioned in the above list, please call LGNSW Learning Solutions. Our team of training consultants is experienced in all aspects of local government and will work with you to satisfy your training needs.

Contact LGNSW Learning Solutions for a quote on 02 9242 4004 or [learning@lgnsw.org.au](mailto:learning@lgnsw.org.au)

### Executive Certificate for Elected Members

This five-day accredited program gives elected members a pathway to a Graduate Certificate in Local Government Leadership or a Master of Local Government.

The program was developed by LGNSW in partnership with the UTS Centre for Local Government, and TAFE NSW. Conducted over three stages, the five-day course includes:

- A focus on good governance, local democracy and credibility for NSW elected members
- Access to high level and well respected local government practitioners and researchers sharing their insights and experiences
- High level theory and analysis regarding leadership, governance and the role of the councillor
- Information regarding common practice and good practice on a diverse range of topics
- Common issues being faced by mayors

### Mayoral Mentoring

LGNSW's mayoral mentoring service is available to mayors of all NSW member councils, chairs of member county councils and the chairperson of the NSWALC.

The service is free and confidential. Mentors are Genia McCaffery, former LGA President, ALGA President and Mayor of North Sydney; and Mike Montgomery AM, former Shires Association President, ALGA President and Mayor of Moree Shire Council.

For further information please email: [mayoral.mentor@lgnsw.org.au](mailto:mayoral.mentor@lgnsw.org.au)

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**ITEM NO. 7****FILE NO: PSC2015-01000/988  
TRIM REF NO: PSC2015-01022****INFORMATION PAPERS****REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 10 November 2015.

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<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	NSW Government Fit for the Future Program - Submission on IPART Finding for Port Stephens Council	92
2	Holistic Community Safety Conference - Sydney September 2015 – feedback.	94

**General Managers Information Papers**

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	General Managers Annual Performance Review	101

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**ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Morello Councillor Steve Tucker</b>  That the recommendation be adopted.
<b>345</b>	<b>Councillor Paul Le Mottee Councillor Chris Doohan</b>  It was resolved that Council move out of Committee of the Whole.

## MINUTES ORDINARY COUNCIL - 10 NOVEMBER 2015

### ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015 MOTION

346	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>	
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 10 November 2015.	
	<hr/>	
	<b>No:</b>	<b>Report Title</b>
	1	Holistic Community Safety Conference - Sydney September 2015 - feedback

### ORDINARY COUNCIL MEETING - 10 NOVEMBER 2015 MOTION

347	<b>Councillor Chris Doohan</b> <b>Councillor Steve Tucker</b>	
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 10 November 2015.	
	<hr/>	
	<b>No:</b>	<b>Report Title</b>
	1	NSW Government Fit for the Future Program - Submission on IPART Finding for Port Stephens Council
	<b>General Managers Information Papers</b>	
	<b>No:</b>	<b>Report Title</b>
	1	General Managers Annual Performance Review

# INFORMATION PAPERS

**ITEM NO. 1**

**FILE NO: PSC2015-01000V2/031  
TRIM REF NO: PSC2014-03240**

**NSW GOVERNMENT FIT FOR THE FUTURE PROGRAM - SUBMISSION ON  
IPART FINDING FOR PORT STEPHENS COUNCIL**

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

**BACKGROUND**

The purpose of this report is to present to Council the submission in relation to the NSW government's requirement for all councils to provide a response to IPART's determination as to their fitness or otherwise for the future.

Port Stephens Council has been determined to be 'fit' for the future with response to its financial sustainability and ability to provide services to its community; and to have sufficient scale and capacity to be a partner with regional organisations and State agencies. The Council's submission is **(ATTACHMENT 1)**.

**ATTACHMENTS**

- 1) Port Stephens Council Submission.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM 1 - ATTACHMENT 1 PORT STEPHENS COUNCIL SUBMISSION.**

**Response to Department of Premier & Cabinet: Assessment of Port Stephens Council Due 18 November 2015**

Question: What is your Council's feedback on IPART's assessment of your Council's Fit for the Future Submission?

PSC Response:

IPART assessed Port Stephens Council as having scale and capacity, and meeting the benchmark criteria – in essence, Fit for the Future. This aligns with the findings of the Independent Local Government Review Panel and NSW Treasury Corporation. There were no submissions received in response to our submission to IPART which we believe indicates that in general terms our community – as the principal stakeholder – was in agreement with our response to the Fit for the Future findings.

There is no requirement for this Council to merge with any of its neighbours. At the time of making the initial submission Port Stephens Council documented the discussions it had had with all its neighbours. There was at that time no appetite for any merger or boundary changes and the costs associated with the latter were prohibitive as no funding was to be obtained to make representations regarding boundary changes. It was also difficult to identify or quantify any potential benefits to the community of Port Stephens. The risk to the financial sustainability of Port Stephens Council was also a factor that led to the decision not to pursue matters when not required to do so.

As a member of the pilot Hunter Councils Joint Organisation model Port Stephens Council has access to a wide array of shared resources and services in addition to its own financially sustainable operations and delivery of services.

In summary we concur with IPART's findings on Port Stephens Council.

\*\*\*\*\*

The submission options go on to include three chances to nominate merger partners, which we will leave blank.

.....

Question: Do you have any comments on the above preferences?

Response: As Port Stephens Council has been found 'fit' to stand alone no options for mergers have been selected.

**ITEM NO. 2**

**FILE NO: PSC2015-01000/834  
TRIM REF NO: PSC2015-02594**

**HOLISTIC COMMUNITY SAFETY CONFERENCE - SYDNEY SEPTEMBER 2015 -  
FEEDBACK**

REPORT OF: KEN JORDAN - COUNCILLOR  
SALLY DOVER - COUNCILLOR  
GROUP: GENERAL MANAGER'S OFFICE

**BACKGROUND**

The purpose of this report is to provide feedback from the Holistic Community Safety Conference attended by Cr Ken Jordan and Cr Sally Dover on 29 September 2015 at Sydney.

**Sydney "One of the Safest Cities in the World"**

Jenny Green, Councillor, City of Sydney

Jenny spoke about the large amount of work that has gone into making the City of Sydney a safer place to live. They have introduced Alcohol Free Zones, Safer Taxi Areas, CCTV, "Watch Out Car About", Later retail hours, events at night, midnight basketball, White Ribbon Day and many more things to improve safety.

**Strengthening community engagement in remote and vulnerable communities**

Ingrid Stonhill, Chief Executive Officer, Neighbourhood Watch Australasia

This was an interesting presentation to discover what is happening with Neighbourhood Watch in Australia today. A lot is happening in Western Australia and the Northern Territory. They provided those at the conference 3 books that have been working with Neighbourhood Watch in Aboriginal Communities. Ingrid told all delegates the importance of clear and visible street numbering for emergency services.

**What data can tell you about community safety?**

Fiona Dowsley, Chief Statistician, Crime Statistics Agency, Department of Justice & Regulation, Victoria, Australia

Fiona discussed how data can show emerging trends and it also shows the effectiveness of actions. She discussed that people are concerned about Risk of harm, fear of crime and quality of life. With the use of data Councils can decide where to spend money.

**The role of local government in crime prevention: Strengths and limits**

Peter Homel, Principal Criminologist, Crime Prevention, Australian Institute of Criminology

Peter spoke about how crime gets downloaded to Councils and this should not happen it should be a partnership with State Government. Problems we have in Australia are all around the world.

**Interactive panel discussion**

**Are early lockouts proving to be effective?**

Suzie Matthews, Director, Customer & Engagement, NSW Trade and Investment Office of Liquor, Gaming & Racing

Nathaniel Bavinton, Safety and Strategic Manager, City of Newcastle

John Green, Director of Liquor and Policing, Australian Hotels Association

This was a really informative debate by the panel. It was very interesting to listen to Nathaniels' experience with the Newcastle Lockouts. The panel discussed that lockouts did cause problems in other areas as people went to areas that were not lockout. It is very important to have trained and informed security guards.

**Tackling domestic violence and substance use issues**

**Multi-agency response to complex issues**

Charles Allen, Superintendent, Priority Communities Division, Victoria Police

The message was very clear we are not going to arrest our way out of problems. Charles spoke about the Manchester Example and it was truly amazing. He spoke about the importance of friendly and positive community relationships. He also spoke about gangs and the importance of early intervention.

**The Newcastle 'Intervention' and the night time economy**

**The 'Internet of Things' and smart city opportunities for community safety**

**Beyond CCTV to smart surveillance and sensor-based technology**

**Integrating a smart crime prevention platform into a holistic strategy for the city at night**

Dr Nathaniel Bavinton, Community Safety Facilitator, The City of Newcastle

Nathaniel is doing great work making Newcastle a SMART City.

Citywide Wi-Fi

Smart Parking Management

Interactive Environments

Smart Lighting

Interactive Signage

**Case study**

**Generating equality and respect: Preventing violence against women**

Julie Salomon, Director, Community Development and Services, Monash City Council

Julie Salomon and Laura Wood spoke preventing violence against woman. Both ladies were very impressive.

**Taking drug prevention seriously**

Geoff Munro, National Policy Manager, Australian Drug Foundation

Geoff had interesting views and statistics that were controversial at the conference.

**Panel discussion**

**How do we address the growing 'ice epidemic'?**

Geoff Munro, National Policy Manager, Australian Drug Foundation

Edwina Marks, Chief Executive Officer, Barkly Regional Council

Peter Homel, Principal Criminologist, Crime Prevention, Australian Institute of Criminology

**Promoting safety through community collaboration**

Community intelligence: Harnessing community participation in crime prevention

Sam Hunter, Chief Executive Officer, Crime Stoppers Victoria

Sam is a driven person with great ideas. She is really kicking goals with Crimestoppers. It now supplies Police with 35 to 42% of Police intelligence.

Council recently partnered with Crimestoppers and erected signs in the community offering \$1,000 reward for persons giving information leading to the apprehension of graffiti vandals. Through excellent persistence our Nelson Bay police recently arrested and charged a major graffiti vandal on the Tomaree. Port Stephens Graffiti Action Team volunteers and local residents were able to offer evidence which led to this arrest. Working together achieved wonderful results.

**Planning a community safety strategy via collaboration with other stakeholders**

Teresa Mok, Manager Community Development, Randwick City Council

Good presentation.

**Building safe and secure communities**

Liz Campbell, Mayor, Kempsey Shire Council

Liz is the Mayor of Kempsey and very passionate about making her community safe.

The Council has developed "The Kempsey Plan". They invited Father Chris Riley to speak to the community to help break the cycle of crime. Kempsey is a town recently bypassed and is really trying to make its town a safe place to live.



**A community approach to community safety: Harnessing the potential of strategic collaboration**

Alastair Leighton, Chair of the Valley Safety Group, Fortitude Valley Chamber of Commerce

Fortitude Valley is close to Brisbane CBD and has zero green space. The community is working hard to change perception of this entertainment area. They see better lighting and signage as very important. The community are looking at eliminating dark space in the main CBD of Fortitude Valley. They said they have lots more to do.

**Panel discussion**

**How to build capacity within your organisation for safer streets?**

Panellists:

Edwina Marks, Chief Executive Officer, Barkly Regional Council

Gary Eddiehausen, Councillor, Townsville City Council

Liz Campbell, Mayor, Kempsey Shire Council

Michael McMahon, General Manager, Burwood Council

The panel discussed train safety, getting the community to work together, designing and modifying parks to have good visibility, street art, public art and the importance of working with the youth.

**Developing a Community Safety Strategic Plan 2014 - 2017: Principles for integrated practice**

Cr Des Hudson, South Ward Councillor, People and Communities Portfolio, City of Ballarat

Des started by saying safety influences all aspects of daily life. Ballarat are working to have no entrapment points, good lines of site, safer by design, place making, road safety, 40km limit in the CBD. He spoke about taking the safety committee out on the streets, into pubs and clubs.

His council uses garbage trucks to promote community safety. They installed CCTV in the Taxi areas. The council have run a program "Get to know your neighbour" on the 27th of March. The council provides a sausage sizzle for street parties.

**A holistic approach to building safe and inclusive communities**

Alan Blackshaw, Community Development Coordinator, Shoalhaven City Council

Alan gave a detailed presentation on how his council turned Nowra around with the revitalisation "NowraAlive". The council built on current strengths and evolved everyone in community safety.

They introduced "Keys in the Streets" which is a public piano, promote good news stories and have done huge professional street art.

**Exploring innovative uses of technology**

**Innovative methods to protect public property and infrastructure**

Tony Eid, Director Operations, Sydney Trains

“AWESOME” Tony was one of the best presentations I have seen at any Conference. He spoke about his passion to remove Graffiti from NSW Trains. He is clearly the right man for the job. He spoke about new technology that he is using that he is now sharing with the rest of the world.

**Role of social media in crime prevention**

Inspector Adam Janco, Manager, Eyewatch Unit, NSW Police Force

Daniel Sheehy, Marketing Communications and Digital Media Executive, NSW Police Force

**Case study**

**Making CCTV infrastructure a realistic tool to assist in crime prevention and detection**

Cr Gary Eddiehausen APM, Chair, Healthy & Safe a City Committee, Division 7 representative, Townsville City Council

Bernadette Waghorn, Operational Services Coordinator, Property Management, Townsville City Council

The police discussed the role of social media in crime prevention. They also discussed how Councils and communities can use ‘Eye watch’. They discussed “Coffee with a Cop”.

**Privacy matters in NSW**

Dr Elizabeth Coombs, NSW Privacy Commissioner, Information and Privacy Commission

This speaker spoke about the fear people have for losing their privacy. She discussed how most people don’t trust different organisations because they share people’s private information.

**Interactive problem solving**

**Creating safer streets**

Facilitated by: Sarah Edwards, Team Leader Health Promotion and Planning, Melton City Council

Facilitated by: Rodger Watson, Deputy Director, Designing Out Crime

Facilitated by: Bernadette Waghorn, Operational Services Coordinator, Property Management, Townsville City Council

This presentation was about the importance of safe design in Greenfield areas. Don’t make the same mistakes from the past.

**Crime prevention through environmental design**

**The role of Wayfinding and Location Identification in reducing fear and enhancing emergency response**

Rick Draper, Director, International CPTED Association

This presentation was on the importance of good signage and street numbering for building community safety.

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

# **GENERAL MANAGERS INFORMATION PAPERS**

**ITEM NO. 1**

**FILE NO: PSC2015-01000/987  
TRIM REF NO: PSC2005-1318**

**GENERAL MANAGER'S ANNUAL 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 Annual Performance Review 1 January – 30 June 2015 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 Annual Performance Review Summary is noted as **(ATTACHMENT 1)**.

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



**GENERAL MANAGER PERFORMANCE REVIEW**

GENERAL MANAGER PERFORMANCE REVIEW			
TYPE: <input type="checkbox"/> INITIAL <input type="checkbox"/> SIX MONTHLY <input type="checkbox"/> ANNUAL			
<b>GENERAL MANAGER:</b>	Wayne Wallis	<b>COUNCILLOR/ REVIEW PANEL:</b>	Cr Bruce Mackenzie Cr Steve Tucker Cr Chris Doohan Cr Sally Dover
<b>DATE COMPLETED:</b>			
<b>SUMMARY OF OVERALL RATINGS</b>			
<b>KEY PERFORMANCE AREAS</b>			<b>RATING</b>
<b>MAJOR PROJECTS</b>			Good
<b>RELATIONSHIPS WITH COUNCILLORS</b>			Excellent
<b>RELATIONSHIPS WITH KEY STAKEHOLDERS</b>			Excellent
<b>LEADERSHIP</b>			Excellent
<b>OVERALL RATING</b>			<b>Excellent</b>
<b>KEY ACCOUNTABILITIES</b>			
<ul style="list-style-type: none"> <li>To foster and promote a culture of continuous improvement by utilising the Australian Business Excellence philosophy to ensure effective service delivery</li> <li>To provide overall accountability for the output, responsiveness and achievements of the organisation, within the confines of applicable legislation, direction and resources.</li> <li>To build the capacity, engagement and accountability of the Executive Team in alignment with the current and future directions of the organisation.</li> <li>To address and manage risks encountered by the organisation while fulfilling its activities, including incident management and business continuity.</li> </ul>			

**DIMENSIONS AND CHARACTERISTICS OF PERFORMANCE**

Using the following definitions of levels of performance, indicate your perceptions and evaluations of the General Manager's performance. Mark only those categories in which you feel able to evaluate performance. Additional written comments can be made.

Level	Definition
<b>EXCELLENT</b>	<ul style="list-style-type: none"> <li>Performance is clearly outstanding.</li> <li>Performance is superior - it far exceeds standards or expectations.</li> <li>Performance is exceptional on a continuous basis.</li> </ul>
<b>GOOD</b>	<ul style="list-style-type: none"> <li>Performance generally meets or exceeds standards or expectations.</li> <li>Attains all or nearly all of position objectives.</li> </ul>
<b>ACCEPTABLE</b>	<ul style="list-style-type: none"> <li>Performance is adequate – it meets standards or expectations, and is developing within the position.</li> </ul>
<b>NEEDS IMPROVEMENT</b>	<ul style="list-style-type: none"> <li>Fails to meet one or a few expectations.</li> </ul>
<b>UNACCEPTABLE</b>	<ul style="list-style-type: none"> <li>Performance is below accepted levels.</li> <li>Fails to meet most job expectations.</li> </ul>

There being no further business the meeting closed at 6.01pm.