

DRAFT

MINUTES – 23 FEBRUARY 2016



PORT STEPHENS COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 23 February 2016, commencing at 5.30pm.

PRESENT:

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

Cr Peter Kafer entered the meeting at 5.45pm during debate of Item 2 in Committee of the Whole.

027	Councillor Paul Le Mottee Councillor John Morello It was resolved that the apologies from Cr Ken Jordan and Cr Steve Tucker be received and noted.
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MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016
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028	Councillor John Nell Councillor Sally Dover It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 9 February 2016 be confirmed.
	There were no Declaration of Interest received.

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SUBJECT

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MAYORAL MINUTES

MAYORAL MINUTE**ITEM NO. 1****FILE NO: 16/274946
RM8 REF NO: PSC2014-03240****PSC AND NCC MERGER PROPOSAL SUBMISSION - AUTHORISATION FOR
GENERAL MANAGER TO ACT**

THAT COUNCIL:

- 1) Authorise the General Manager to act to finalise Council's submission to the Boundaries Commission and the appointed Delegate, in consultation with the Mayor and Councillors.
-

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

029	Mayor Bruce MacKenzie It was resolved that Council authorise the General Manager to act to finalise Council's submission to the Boundaries Commission and the appointed Delegate, in consultation with the Mayor and Councillors.
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BACKGROUND

The purpose of this report is to provide to the General Manager authority to act on Council's behalf in the lodgement of its submission related to the Minister's merger proposal for Port Stephens Council and Newcastle City Council.

On 18 December 2015 the Minister for Local Government proposed a merger of Port Stephens Council with Newcastle City Council. In January 2016 invitations were made for submissions on this proposal, with a closing date of 28 February 2016. Council engaged Morrison Low to assist with Council's submission and financial analysis of the proposal and alternative options. Due to the short timeframe consideration of a proposed submission was not possible in Council's meeting cycle.

A workshop to finalise the submission will be held with Councillors on the evening of 23 February 2016.

In summary the submission will be based on the following key aspects:

1. Port Stephens Council strongly believes that the Minister's merger proposal is flawed and founded on inaccurate and erroneous information and that the Port Stephens community is more advantaged and better served by the current local government model.

2. A stand-alone Port Stephens Council remains the best option for the Port Stephens community and is Port Stephens Council's preferred position.
3. Alternative boundary options will be included in the submission.

The key points that the submission will make are:

- The claims of benefits in the merger proposal are based on flawed modelling and in fact the merger will cost \$20 million rather than realise cost savings.
- The costs of a merger with Newcastle City Council far outweigh the benefits.
- The merger proposal has no financial advantages short or long term.
- The merger proposal financial modelling is not reliable for sound decision making.
- There are considerable risks to the Port Stephens community if the merger was to proceed.
- The Port Stephens community is strongly opposed to the merger proposal.
- The communities of Port Stephens and Newcastle do not align and the natural environments are vastly different.
- The Port Stephens community will not be well represented in the merged Council.
- The community of Port Stephens will face increased costs and potentially loss of or decrease in service levels.
- There will be significant impacts on staff and as a result, to the Port Stephens economy.
- There are other alternative boundary options that will benefit communities which have expressed a willingness to be part of the Port Stephens Local Government Area.

It is intended that the submission will be available to the public at the time it is lodged ie before 28 February 2016 via Council's web site.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

The submission will express Council's opposition to the proposed merger. Council's position reflects the opposition of more than 93% of the residents of Port Stephens.

COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016 MOTION

030	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Item 2 be brought forward and dealt with prior to Item 1 to allow the public access presenter to arrive and present to Council.
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ITEM NO. 2

FILE NO: 16/255180
RM8 REF NO: 16-2015-107-2

DEVELOPMENT APPLICATION 16-2015-107-2 FOR S96(1A) MODIFICATION TO LOG PROCESSING WORKS - AMEND SITE LAYOUT AT 30 FERODALE ROAD, MEDOWIE (LOT 1 DP733278)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Section 96(1A) Modification Application 16-2015-107-2 to Amend Site Layout for Approved Log Processing Works at 30 Ferodale Road, Medowie (Lot 1 DP733278) subject to the conditions contained in **(ATTACHMENT 3)**.
-

ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016 MOTION

031	Councillor Chris Doohan Councillor Geoff Dingle It was resolved that Council move into Committee of the Whole.
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MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016 COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Peter Kafer entered the meeting at 5.45pm, during debate of Item 2 in Committee of the Whole.

	Mayor Bruce MacKenzie Councillor Chris Doohan That the recommendation be adopted.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

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

The Mayor adjourned the meeting at 5.54pm to allow public access to proceed.

The meeting resumed at 6.08pm with all present at the time of the adjournment.

ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016 MOTION

032	Councillor Chris Doohan Councillor Paul Le Mottee It was resolved that Council approve Section 96(1A) Modification Application 16-2015-107-2 to Amend Site Layout for Approved Log Processing Works at 30 Ferodale Road, Medowie (Lot 1 DP733278) subject to the conditions contained in (ATTACHMENT 3) .
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

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

BACKGROUND

The purpose of this report is to present to Council for determination, modification application 16-2015-107-2. The application has been called to Council by Councillor

Dingle due to compliance issues and site safety. A copy of the call up form is included as **(ATTACHMENT 4)**.

Council previously considered Development Application 16-2015-107-1 at the ordinary meeting of 28 July 2015. This application proposed a log processing works on an existing rural residential lot, using the provisions of clause 5.3 of the *Port Stephens Local Environmental Plan 2013* (PSLEP) to extend the permissible uses of the adjacent IN2 Light Industrial zoned land onto the subject lot. As a result of the consideration by Council, the application was approved subject to conditions.

The applicant has determined post approval that the nominated site layout does not allow for the most efficient use of the site. The current modification application proposes an amended site layout to allow greater flexibility on the site. This will be achieved by consolidating separate areas within the existing footprint to allow for approved uses to occur across the entire operational area (as opposed to nominating individual areas for each specific activity).

Proposed development

The modification application proposes to combine the current separately defined log storage area, driveway, truck manoeuvring area, splitting area and finished product storage area into a single operational area. The applicant has proposed the modification will achieve a more efficient and safe operation on the site.

The applicant has not proposed to modify the activities carried out on the site, the volume of materials permitted to be stored on the site, or the operational details of the business, except to allow materials and machinery to be manoeuvred within the operational area.

Site History

Prior to approval of the original application in July 2015 the applicant had operated the development on the site without consent. The original application was lodged following compliance action undertaken by Council staff. Council's compliance staff continue to follow up outstanding compliance matters on the site.

The original application involved log processing works for producing split firewood, timber straining posts and bagged sawdust, which is sold by commercial distributors. The development included storage of raw timber in designated storage areas, mechanical chopping and splitting by a mobile plant, as well as the storage of bagged firewood, strainer posts and sawdust products for their distribution. No buildings were proposed. The approved operating hours were Monday to Friday 8.00am to 6.00pm and Saturday to Sunday from 9.00am to 2.00pm. The business proposed to employ 2 to 3 full time people at any one time as well as casual staff during peak times. Access to the site is from Abundance Road.

Key Issues

Issues relating to Original Development Application, Compliance Matters and Workers Safety

During the notification of the current modification proposal a number of submissions raised concerns relating to vermin harbourage, sawdust build-up, noise, dust, vehicle movements, driveway and access arrangements, site security, poor worker safety, devaluing of surrounding properties and water contamination. The issues raised generally relate to:

- The original development (not the proposed modification being considered);
- Matters over which Council is not an authority (such as Work Health Safety); or
- Compliance with the existing conditions of consent.

These issues are outside of the scope of the modification application and therefore are not considerations in the assessment of the proposal. It is acknowledged that Council officers continue to follow up outstanding compliance issues on the site as a separate process to this application. Development applications and compliance matters are considered as two separate issues. A development proposal cannot be refused on the basis of a compliance matter and must be considered on its merits.

Aesthetic Issues

A number of submissions objected on the grounds that the development presented a significant aesthetic impact to the locality. This impact was assessed under the original development application and determined to not present a significant negative impact. None of the submissions objected on the grounds that the impact would be significantly negative as a result of the modified proposal. Regardless, it is considered that the modified proposal will continue to result in the same elements being in place on the subject land as approved under the original application. In addition, existing conditions of consent requiring future landscaping are proposed to be retained. It is considered that the modified development will not be discernibly different from the existing approved development and will not alter the aesthetic impact on the locality as compared to the impact already assessed for the original application.

Fire Hazard

The fire hazard of the development was assessed for the initial application and noted that the development did not present an unacceptable risk of spread of fire to surrounding buildings. The elements presented to the surrounding buildings will not change and accordingly, there are no additional impacts in terms of fire hazard as a result of the proposed modification.

Public Submissions

Five submissions were received in relation to the proposed modification. The key issues raised in the submissions include aesthetic impacts, fire hazards, vermin harbourage, sawdust build-up, noise, dust, vehicle movements, driveway and access arrangements, site security, poor worker safety, devaluing of surrounding properties and water contamination. As outlined above the issues raised do not warrant refusal of the application and are discussed in detail within the assessment report in **(ATTACHMENT 2)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no anticipated financial or resource implications as a result of the proposed development.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Council's Policy.

An assessment of the impacts of the modification has been carried out and is included as **(ATTACHMENT 2)** to this report. The assessment concludes that the proposed modification meets the requirements of the *Environmental Planning and Assessment Act 1979* (NSW), the Port Stephens Local Environmental Plan 2013 and relevant chapters of the Port Stephens Development Control Plan 2014, and that (subject to conditions) there are no significant adverse impacts as a result of the proposal.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination may be challenged in the Land and Environment Court.	Medium	Support the recommendation and approve the development application subject to conditions of consent.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed modification does not seek to amend the use of the site approved under the initial application. Rather the application seeks to combine the current separately defined log storage area, driveway, truck manoeuvring area, splitting area and finished product storage area into a single operational area. The proposed development does not have any significant social, economic or environmental impacts. Concerns have been raised over environmental impacts are discussed within the planning report (**ATTACHMENT 2**).

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

The proposed merger is not anticipated to have any implications on the development application.

CONSULTATION

The application was exhibited in accordance with Council policy and five submissions were received. The objections raised are discussed in the assessment included as (**ATTACHMENT 2**) to this report. It is concluded that the matters raised are not of a significance to warrant refusal of the modification application.

OPTIONS

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

ATTACHMENTS

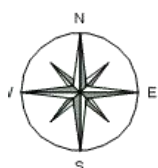
- 1) Locality Plan.
- 2) Planners Assessment Report.
- 3) Conditions of Consent.
- 4) Call to Council application form.

COUNCILLORS ROOM

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

TABLED DOCUMENTS

Nil.



DISCLAIMER

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ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.**ATTACHMENT 2 – ASSESSMENT REPORT****ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

The application has been assessed pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979* and the following is a summary of those matters considered relevant in this instance.

THE PROPOSAL

The modification application proposes to combine the current separately defined log storage area, driveway, truck manoeuvring area, splitting area and finished product storage area into a single operational area.

The applicant has proposed the modification to achieve a more efficient and safe operation on the site.

The applicant has not proposed to modify the activities carried out on the site, the volume of materials permitted to be stored on the site, or the operational details of the business, except to allow materials and machinery to be manoeuvred within the operational area of the site.

THE APPLICATION

Owner	Jorjia Pty Ltd
Applicant	Mr P A Arnts
Detail Submitted	<ul style="list-style-type: none">• Statement of Environmental Effects; and• Site Plan.

THE LAND

Property Description	Lot 1 DP733278
Address	30 Ferodale Road, Medowie
Area	The site has an area of 1.069ha
Characteristics	Bushfire Prone Land (Buffer), Acid Sulfate Soils (ASS) Class 5, Koala Habitat (Preferred Habitat Linking Area over Cleared Land), Hunter Water Corporation Drinking Water Catchment

**THE ASSESSMENT
PLANNING PROVISIONS**

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

<i>Environmental Assessment Act 1979</i>	<i>Planning and</i>	<i>s.96(1A) Modification of Consents</i>
		<i>s.79BA Bushfire Prone Land</i>
State Environmental Planning Policies	Nil	
Port Stephens Local Environmental Plan 2013 (PSLEP)	Cl2.1 Zone R5 Large Lot Residential	Cl5.3 Development near zone boundaries
Port Stephens Development Control Plan 2013 (PSDCP)	Nil	

STATUTORY ACTS AND REGULATIONS

Environmental Planning and Assessment (EP&A) Act 1979

Section 79BA – Consideration of Bushfire Prone Land

The bushfire hazard assessment submitted with the initial application was prepared with raw timber storage on the site being located at the closest point on the subject land to the nearby bushfire threat. The proposal includes the potential for split timber and a mobile splitting plant to be located in this location which will not increase the opportunity for spread of fire as compared to the storage of raw timber logs. Sufficient separation remains available within the development site to allow suitable defence of surrounding buildings by firefighting services. The proposed development meets the requirements of section 79BA of the *Environmental Planning and Assessment Act 1979*.

Section 96(1A) – Modifications Involving Minimal Environmental Impact

This section of the Act sets out the assessment requirements for modification applications and contains four criteria as discussed below.

Section 96(1A)(a) – Minimal Environmental Impact

The subject land is zoned R5 Large Lot Residential and is adjoined by land zoned IN2 Light Industrial. The initial application utilised clause 5.3 of the PSLEP to permit the development to be carried out within 20metres of the southern property boundary. The proposed modification will continue to be carried out within the same footprint as the approved development, however will not restrict activities to specific parts of the footprint. The ability to distribute the individual approved activities throughout the approved footprint does not impact the ability of the development to comply with clause 5.3 of the PSLEP. In addition as the resulting use of the land will remain consistent with that already approved, no further assessment of the development against the objectives of the zone is required. There are no other relevant parts of the PSLEP that will be subject to altered impacts as a result of the proposal.

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

There are no anticipated altered impacts on any considerations already undertaken for the initial application assessment that relate to the PSDCP. As a result, no conditions are proposed to be amended excepting condition 1 which lists the approved documents, and conditions 12 and 13 which specifies that specific activities are to be carried out within the areas nominated for that purpose on the site plan.

The proposed modification does not change the use of the site or the constitution of elements of which the use is comprised. As a result of the modification, the same activities will continue to be carried out within the bounds of the site and the same volume of materials will be permitted on the site. There are no anticipated changes to the environmental impact of the development as previously assessed under the initial application and accordingly, the development meets the requirements of section 96(1A)(a).

Section 96(1A)(b) – Substantially The Same Development

As mentioned elsewhere in this assessment, the proposed modification does not change the activities that will be carried out on the site, the footprint of the development site or the materials used and produced. The proposed modification will allow individual activities already approved on the site, to be carried out across the majority of the approved footprint, rather than be restricted to specific portions of the land. As the approved activities (storage and splitting) and part of a single land use, the development as modified is substantially the same as that already approved.

Section 96(1A)(c) – Notification

The application was notified from 17 November 2015 to 30 November 2015, in accordance with the requirements of the PSDCP.

Section 96(1A)(d) – Submissions

As a result of the notification of the application, five submissions were received that objected to the application. The key items raised within the objections are addressed as follows:

Matter raised	Response
Aesthetic Impact	A number of submissions objected on the grounds that the development presented a significant aesthetic impact to the locality. This impact was assessed previously for the initial application and determined to not present a significant negative impact. None of the submissions objected on the grounds that the impact would be significantly negative as a result of the modified proposal. Regardless, it is considered that the modified proposal will continue to result in the same elements being in place on the subject land. In addition, existing conditions of consent requiring future landscaping are proposed to be retained. It is considered that the modified development will not be discernibly different from the existing approved development and will not alter the aesthetic impact on the locality as compared to the impact already assessed for

ITEM 2 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

	the original application.
Fire Hazard	The fire hazard of the development was assessed for the initial application and noted that the development did not present an unacceptable risk of spread of fire to surrounding buildings. The elements presented to the surrounding buildings will not change and accordingly, there are no additional impacts in terms of fire hazard as a result of the proposed modification.

In addition to the above matters, a number of other issues were raised in relation to the use of the land including:

- Vermin harbourage;
- Sawdust build-up;
- Noise;
- Dust;
- High vehicle movements;
- Lack of formed driveway and access;
- Lack of site security;
- Poor worker safety;
- Devaluing of surrounding properties; and
- Water contamination.

However, the above issues do not address or relate to the proposed modification. Rather they relate to either:

- Matters considered under the initial application that are not proposed to be modified;
- Matters over which Council is not an authority (such as Work Health Safety); or
- Compliance with the existing conditions of consent.

Therefore these issues cannot be considered under the current modification application.

RECOMMENDATION

The modification application is recommended for approval, with amendment to the conditions as follows:

- Condition 1 – amend to reflect the updated site plan;
- Condition 12 – amend to remove the requirement to only store raw logs within the log storage area shown on the approved plan; and
- Condition 13 – delete the condition which currently requires finished products to only be stored in the so-nominated log storage area.

REPORT AUTHOR

Brett Gardiner
Senior Development Planner

ITEM 2 - ATTACHMENT 3 CONDITIONS OF CONSENT.**ATTACHMENT 3 – CONDITIONS OF CONSENT****CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT**

1. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan Title	PSC Plan Ref. No.	Drawn By
Site Plan, as amended in red	2015/107/2-1	Applicant

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.

2. The approved site plan described in condition 1 is to be modified in the following manner:
- The existing shipping container is to be setback into the site to allow the proposed car parking to be located between the site boundary and the shipping container;
 - The access driveway is to be realigned in accordance with condition 3 below; and
 - A vehicle manoeuvring area is to be provided for cars reversing out of the onsite car parks, to allow a standard B85 vehicle to enter and exit the site in a forward direction.

CONDITIONS TO BE SATISFIED WITHIN SIX MONTHS

3. The existing access driveway is to be realigned so as to be perpendicular to the road edge in Abundance Road within six months of the date of consent. The realigned driveway access is to be constructed in accordance with Council's standard drawing S123 and suitable for heavy vehicle traffic. The realigned driveway access shall give regard to existing street furniture and signage and redundant kerb laybacks are to be reinstated where no longer required. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the *Roads Act 1993*.
4. Landscaping is to be installed in accordance with the approved plan and is to provide a continuous landscape screen in the nominated locations within six months of the date of consent. Plant species should be native screening species and are to be maintained and replaced as necessary for the duration of the operation on the site.

CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF OPERATIONS

5. The proposed development is to be separated from the remainder of the property using a rural style fence such as post and wire, hedging type landscaping, a physical barrier, or the like. Details of the separating feature are to be submitted and agreed to

ITEM 2 - ATTACHMENT 3 CONDITIONS OF CONSENT.

by Council. The separating measure is to be maintained for the duration of the operation. Any landscaping used for the purpose of this condition is to compliment other landscaping on the property.

CONDITIONS TO BE SATISFIED AT ALL TIMES

6. Operations on the site are permitted only for the purpose of commercially producing:
- Firewood;
 - Bagged Sawdust;
 - Strainer Posts; and
 - Other Related Timber Products.

No other products are permitted to be produced in commercial quantities.

7. The approved operational hours and all activities associated with the operation, including deliveries of materials, are to be undertaken during these times:
- Monday to Friday, 8.30am to 5pm; and
 - Saturday, 9am to 2pm.

The operation may not be carried out on a Sunday or a Public Holiday.

8. Active dust suppression measures are to be undertaken where possible/practical during operational hours to prevent nuisance dust affecting neighbouring properties and public spaces. The measures shall include:
- Vacuum capture of sawdust during timber cutting and splitting operations;
 - Maintenance of the internal roads and manoeuvring areas to ensure a low dust emission surface is achieved; and
 - Ongoing maintenance of the site to prevent a build-up of sawdust, woodchips and the like.
9. A sediment barrier is to be installed and maintained for the life of the development along the downstream property boundaries to detain any sawdust, woodchips or the like in rain events. The barrier is to be cleared of any materials following a rain event and is to be incorporated into the regular maintenance of the site.
10. A Vermin Management Plan is to be prepared for the site that details standard work practices to reduce the opportunity for harbourage by vermin, in addition to targeted campaigns of vermin reduction when required. The Vermin Management Plan is to be actively incorporated into the operations of the site at all times. A copy of the plan is to be provided to Council prior to the commencement of operations.
11. Mitigation measures should be incorporated into the operations of the site to reduce noise impacts where practicable. In addition, the development shall be managed so as not to cause offensive noise, as defined under the *Protection of the Environment Operations Act 1994* and the NSW Industrial Noise Policy. Evidence of compliance with the Act and policy is to be provided to Council within 4 weeks upon request.

ITEM 2 - ATTACHMENT 3 CONDITIONS OF CONSENT.

12. A maximum of 200 tonnes of raw logs is to be stored on the site at any one time and is to be contained within the operational area shown on the approved plan. Log piles are to be neatly stacked to a maximum height of 3 metres above ground level with appropriate upright posts to ensure logs do not collapse.
13. THIS CONDITION DELETED UNDER DA16-2015-107-2
14. All vehicle manoeuvring areas shall be kept clear to allow all vehicles to enter and leave the property in a forward direction.
15. A waste storage and containment facility shall be provided on the site for storage of any sawdust, woodchips and the like or other waste materials. Waste materials shall be disposed of in accordance with legislative requirements on a regular basis to prevent any build-up on the site.

ADVICES

- A. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- B. WorkCover NSW requirements apply to the stacking of heavy materials and should be reviewed with regard to the processes being carried out on the site.

ITEM 2 - ATTACHMENT 4 CALL TO COUNCIL APPLICATION FORM.

PORT STEPHENS
COUNCIL

CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION

I, Councillor Geoff Dingle.....

require Development Application Number: 16-2015-107-2

for Section 96 amendment to approved log processing works – amend site layout
(including areas for storage and splitting)
.....

at 30 Ferodale Road, Medowie.....
.....

to be subject of a report to Council for determination by Council.

Reason:

The reason for this call-up to Council is that the applicant has failed to complete almost none of the current conditions of consent and their request to have an open plan operation with no constraints on the site is unacceptable. The application confirms that site is too small for this sort of operation rendering it unsafe for mixture of logs and mobile equipment. Conditions not currently met include: Excessive raw volume of materials on the site, no racking of logs, no means of collecting storing and disposal of waste materials (sawdust), no road access through the site, no road works at the front of the site for safe access and traffic control purposes, no fencing of the operation boundary or the operations proper. The operator has demonstrated they are not responsible to undertake this high risk operation in the centre of a residential community, they have shown a lack of concern for the safety, health and well-being of the operations labour force and the Medowie community. No further DA's should be processed relating to the site until the applicant has demonstrated they are prepared to meet current conditions of consent.

Declaration of Interest:

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person. **I have a conflict of interest? No** (delete the response not applicable).

If **yes**, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:
.....

Signed;



Date: 30th November 2015

ITEM NO. 1

**FILE NO: 16/251406
RM8 REF NO: 16-2015-741-1-001**

DEVELOPMENT APPLICATION FOR A CHANGE OF USE TO A RETAIL PREMISES (IGA LIQUOR STORE) AT 118 GAN GAN RD, ANNA BAY (LOT 111 DP 1086178)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application No. 16-2015-741-1 for a retail premises (change of use from pizza restaurant to IGA liquor premises) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178) subject to the conditions contained in **(ATTACHMENT 1)**.
-

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Sally Dover</p> <p>That Council refuse Development Application No. 16-2015-741-1 for a retail premises (change of use from pizza restaurant to IGA liquor premises) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178).</p>
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
AMENDMENT**

	<p>Councillor John Nell Councillor Chris Doohan</p> <p>That Council defer Item 1, Development Application No. 16-2015-741-1 for a retail premises (change of use from pizza restaurant to IGA liquor premises) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178) for further consideration of the NSW Police report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Geoff Dingle, Chris Doohan, Peter Kafer, Paul Le Mottee, John Morello and John Nell.

Those against the Motion: Cr Sally Dover.

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

033	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council defer Item 1, Development Application No. 16-2015-741-1 for a retail premises (change of use from pizza restaurant to IGA liquor premises) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178), for further consideration of the NSW Police report.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Geoff Dingle, Chris Doohan, Peter Kafer, Paul Le Mottee, John Morello and John Nell.

Those against the Motion: Cr Sally Dover.

BACKGROUND

The purpose of this report is to present a development application to Council for determination for the proposed sale of alcohol from a retail premises. The Development Assessment and Compliance Manager elected to report the matter to Council due to the nature of the proposal and that concerns have been raised by the New South Wales Police regarding the social impacts of the development.

Proposed development

The application proposes a change of use from an existing pizza store to a retail premises (liquor store). The site is located within the existing B2 Local Centre zone along Gan Gan Rd at Anna Bay, next door to the IGA supermarket.

The liquor store will employ a full time manager and a number of casual and part-time staff. In keeping with the IGA practices, employees will most likely be local residents.

The proposed hours of operation of the liquor store are:

- Monday to Thursday – 8:30am – 8:30pm
- Friday – Saturday – 8:30am – 10:00pm
- Sunday – 10:00am – 8:30pm

Site History

A previous development application (16-2014-466-1) for a retail premises (liquor store) on the site was withdrawn on 26 February 2015 as a Social Impact Assessment was not submitted with the application and could not be supported. The applicant has provided a Social Impact Assessment as part of the current application.

Key Issues

Permissibility

The subject proposal complies with the requirements of the *Environmental Planning & Assessment Act 1979* (NSW), the Port Stephens Local Environmental Plan 2013 and the Port Stephens Development Control Plan 2014.

Social Impacts

The NSW Police provided comments on the proposal on the 4 December 2015. Specific concerns were raised in regards to the impact that the store will have on Police resources in the area, which is not in the interest of the public. The NSW Police have noted that the immediate vicinity of the subject premises is renowned as a 'hot spot' for alcohol related crime shown through data collected from the Police Computer System (COPS), Enterprise Data Warehouse (EDW) and Alcohol Related Crime Information Exchange (ARCIE). This data also indicates that there is a large amount of alcohol related anti-social behaviour, particularly in private residences and public places, and involves a large amount of juveniles resulting from secondary supply. The NSW Police also note that there are higher issues at peak holiday times in Anna Bay that are mostly related to youth street and house parties.

The Social Impact Assessment (SIA) submitted with the development application outlines that the Police Data is not always accurate and results in many inconsistencies. As such, the SIA research included analysis of the Australian Bureau of Statistics (ABS) and Bureau of Crime Statistics and Research (BOSCAR) data to determine the suitability of the proposed liquor store. This data shows that crime rates are low in Anna Bay. From January 2014 to December 2014 the BOSCAR data shows that in Anna Bay:

- The rate of non-domestic assault incidents, alcohol related was 51.3 per 100,000 populations, which was much lower than for NSW at 158.2 per 100,000. This was a decrease in Anna Bay from 6 incidents in 2013 to 2 incidents in 2014.
- The latest data (April 2015) shows the continued very low rate of alcohol related assault in the Anna Bay area.

It is however noted that this data represents the Anna Bay centre as a whole and does not reflect the crime data for the exact location of the proposed retail premise (liquor store), demonstrating the importance of Police data in determining the crime existence within this area.

Community consultation was also undertaken as part of the SIA process. In summary, the community raised support for commercial development that activates the street during the day and a desire to make Anna Bay a more attractive village

with a vibrant main street. It is recognised that the liquor store would add convenience for locals being situated adjacent to the supermarket, however it was questionable as to whether Anna Bay needed an additional liquor store. Qualitative research for the proposal indicated some concern about economic impacts, specifically negative impacts on existing liquor outlets in Anna Bay and associated competition. Such perceptions are however not supported by quantitative evidence.

The above issues and comments from the NSW Police have been considered in the assessment of the application. It has been determined that the proposed development is unlikely to have a negative social impact due to the scale of the proposed business, the operating hours and model of the Anna Bay IGA liquor store. The proposed development will activate a premise that is currently closed during the day, adding to the character of the village centre. Further, the proponent is committed to the responsible service of alcohol (RSA) and has an Office of Liquor, Gaming and Racing (OLGR) Plan of Management in place which will decrease the negative impacts associated with liquor. The OLGR will assess the social impacts of the premise as part of their licencing assessment and determination, taking into consideration the surrounding liquor premises.

There is no basis for the development to be refused based on competition grounds. The social impact of the proposed liquor store will be assessed on behalf of OLGR once an application has been lodged for a packaged liquor licence and a social impact assessment will form part of that process. Further, to control anti-social behaviour attributed to liquor, the implementation of a strict management policy for the bottle shop with particular attention to RSA and secondary supply will be implemented along with controlled operation hours, in line with the IGA supermarket business. These issues can be addressed through conditions of consent.

Public Submissions

One (1) submission was received in relation to the proposed development. The submission outlines concerns regarding the establishment of an additional liquor outlet in the Anna Bay community and the negative social effects this will have on the general public. It also stated that the community already exhibits negative behaviour with regard to alcohol in the area and the public are not open to additional outlets that increase this behaviour. As outlined above, a detailed assessment of the social impact of the proposal has been undertaken and it is considered the proposal complies with the requirements of the relevant legislation, plans and policies. The OLGR will have the opportunity to further assess the social impact of the proposal on submission of a liquor licence application (including a review of the existing number of liquor retail outlets in the area).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and

FINANCIAL/RESOURCE IMPLICATIONS**Development Application**

There are no known financial implications resulting from the recommendation of this report.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The proposed development is generally consistent with the objectives and requirements of the *Port Stephens Local Environmental Plan 2013* (LEP) and *Port Stephens Development Control Plan 2014* (DCP). Further details are provided in the Planners Assessment Report included in **(ATTACHMENT 2)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the development application will be challenged at the Land and Environment Court.	Low	Approve the application as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development does not have any economic or environmental impacts. Concerns have been raised over social impacts as discussed above and a more detailed discussion is contained within the planning report **(ATTACHMENT 2)**. The comments and concerns raised by the NSW Police have been noted. However the retail premise (liquor store) is generally compliant with the *Port Stephens Local Environmental Plan 2013* and *Port Stephens Development Control Plan 2014* and the application is recommended for approval as the NSW OLGR will further assess the social implications through their licencing process.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

The proposed merger is not anticipated to have any implications on the development application.

CONSULTATION

The application was exhibited in accordance with Council policy and one (1) submission was received as discussed above, with the key concerns relating to social behaviour and the sale of alcohol.

OPTIONS

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

ATTACHMENTS

- 1) Conditions of consent.
- 2) Planners Assessment Report.
- 3) Locality Plan.

COUNCILLORS ROOM

- 1) Development Plans.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.**ATTACHMENT 1 – CONDITIONS OF CONSENT****CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT**

1. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:

Plan/Doc. Title	Plan Ref. No.	Sheet.	Date	Drawn By
Preliminary Concept Plan	SK-01	1 of 1	11/06/2014	Australian Liquor Marketing Pty Ltd.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

2. **Prior to the occupation** of the building for the proposed use, the owner is to provide Council a Final Fire Safety Certificate as prescribed by Clause 174 and 170 of the *Environmental Planning and Assessment Regulations 2000*.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF OPERATION

3. A packaged liquor licence must be sought from the New South Wales Office of Liquor, Gaming and Racing **prior to the commencement of operation**.
4. **Prior to the commencement of operation**, an operation plan of management is to be formulated and submitted to Council for approval. The plan shall be dated and the name and signature of the author of the document shall be included. The plan of management shall incorporate the following:
 - All the measures to be implemented on the premises in terms of safety and security and amenity of surrounding residential properties including but not limited to matters relating to hours of operation, security staff and their responsibilities, training of staff in responsible service of alcohol procedures, control of amplified music and live band performance etc.; and,
 - All the responsibilities of the manager/publican particularly with respect to co-ordination of security measures and management of staff, and co-ordination of any matters involving the NSW Police Service; and,

ITEM 1 - ATTACHMENT 1 CONDITIONS OF CONSENT.

- An incident register shall be maintained by the Manager and shall be produced upon demand by any Council officer or NSW Police Officer. The register must contain a direction that all incidents of a criminal nature are to be reported to the police immediately

CONDITIONS TO BE SATISFIED AT ALL TIMES

5. At all times, the hours of operation are to be restricted to:

- Monday to Thursday – 8:30am – 8:30pm
- Friday to Saturday – 8:30am – 10:00pm
- Sunday and Public Holidays – 10:00am – 8:30pm

Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

6. The proposed development and all associated activities must comply with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008*.
7. At all times, the consumption of liquor is not to occur within the premise or within the Alcohol Free Zone directly adjacent to the premise.
8. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided between the entrance to the premises and any disabled parking spaces.
9. A fire safety certificate as prescribed by Section 174 *Environmental Planning and Assessment Regulations 2000* which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council if Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
10. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 *Environmental Planning and Assessment Regulations 2000* in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

ADVICES

- a) Development consent shall be obtained from Council prior to the erection of any advertising structures or signs on the site. This requirement does not apply to any exempt, complying, or previously approved signage.

SCHEDULE 4

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

PORT STEPHENS
COUNCILDEVELOPMENT
ASSESSMENT REPORT**1.0 APPLICATION DETAILS**

Application Number	16-2015-741-1
Development Description	Retail premises (liquor store)
Applicant	Anna Bay IGA PTY LTD
Date of Lodgement	10/11/2015
Value of Works	\$50 000

1.1 Development Proposal

The application proposes a change of use from an existing pizza store to a retail liquor store.

The liquor store will employ a full time manager and a number of casual and part-time staff. In keeping with the IGA practices, employees will most likely be local residents.

The proposed hours of operation of the liquor store are:

- Monday to Thursday – 8:30am – 8:30pm
- Friday – Saturday – 8:30am – 10:00pm
- Sunday – 10:00am – 8:30pm

2.0 PROPERTY DETAILS

Property Address	Shop 3B 118 Gan Gan Road, Anna Bay 2316
Lot and DP	LOT: 111 DP: 1086178
Current Use	Pizza Store
Zoning	B2 – Local Centre
Site Constraints	Bushfire Prone Land Category 1 and 3, Acid Sulphate Soils Class 3, Koala Habitat – Preferred and Supplementary, Endangered Ecological Communities – Swamp Sclerophyll Forest, Flood Prone Land, SEPP 71 Coastal Protection, Alligator Weed Affected Land

2.1 Site Description



DEVELOPMENT ASSESSMENT REPORT

The subject site is located within the existing Anna Bay Shopping Centre. This centre includes an IGA Supermarket, Bakery, Butcher, News agency and smaller retail businesses. The existing car park comprises of approximately thirty-seven (37) car parks. The subject site is within ten (10) metres from one (1) existing packaged liquor outlet, directly across from the car park. Further to this, it is within 200 metres from another packaged liquor outlet and one (1) hotel licence. Within a five (5) km radius there is a further hotel with a liquor store and three (3) packaged liquor outlets.

2.2 Site History

The subject site has been subject to the following development applications:

- DA 16-2014-466-1 – Retail Premises (Liquor Store) – Change of Use to Existing Premises (Application Withdrawn 26/02/2015)

Comment – the above application was withdrawn on the basis that insufficient information was supplied in the form of a Social Impact Assessment and additional comments from the NSW Police and Liquor and Gaming Authority. The current application (16-2015-741-1) has been submitted with the additional information for review and determination. No compliance issues exist in this regard.

2.3 Site Inspection

A site inspection was carried out on Wednesday 6th January 2015.

The subject site can be seen in figures 1, 2 and 3 below:

Figure 1 – Surrounding sites and car parking



Figure 2 – subject site



PORT STEPHENS
COUNCIL

DEVELOPMENT ASSESSMENT REPORT



Figure 3 – surrounding parking spaces



3.0 APPLICATION SUMMARY

Assessing Officer

Erin Daniel

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.



Designated Development	The application does not constitute designated development
Integrated Development	The application does not require any additional approvals listed under s.91 of the EP&A Act
Number of Submissions	One
Recommendation	Approved with Conditions

3.1 **Executive Summary**

N/A

MATTERS FOR CONSIDERATION – SECTION 79C

3.2 **s79C(1)(a)(i) – The provisions of any EPI**

3.2.1 **Port Stephens Local Environmental Plan 2013 (LEP)**

Clause 2.1 – The proposed development is defined as a Retail premises (liquor store) and is permissible with consent in the B2 – Local Centre Zone. The development addresses the objectives of the zone through encouraging employment opportunities in accessible locations. Through the implementation of an additional liquor outlet within the area in close proximity to other retail outlets, it is noted that a 'range' of retail uses has not been achieved. It is however noted that the Anna Bay Shopping Centre and surrounding street stores is large enough to cater for more than one (1) packaged liquor store and does not propose operational hours outside of feasible hours and is in line with the operating hours of the IGA Supermarket located adjacent to the proposed site. The location of the proposed liquor store encourages patrons to maximise public transport patronage and encourages walking and cycling.

Clause 7.1 – Acid Sulphate Soils

The subject site is identified as containing class 3 acid sulphate soils. The works occurring as part of the proposed development is internal therefore no impact on acid sulphate soils as a result of the proposed development will occur.

Clause 7.6 – Essential Services

Essential services are currently connected to the existing building and will service the proposed development.

3.2.2 **Applicable State Environmental Planning Policies (SEPP)**

State Environmental Planning Policy No. 71 Coastal Protection

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.



PORT STEPHENS
COUNCIL

DEVELOPMENT ASSESSMENT REPORT

No concerns are raised in regards to the SEPP as the proposal includes internal modifications only.

3.3 s79C(1)(a)(ii) – Any draft EPI

There are no draft EPI's relevant to the proposed development.

3.4 s79C(1)(a)(iii) – Any DCP

3.4.1 Port Stephens Development Control Plan 2014

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

Chapter A.12 – The development application was notified in accordance with the requirements of chapter A.12. In response, one submission was received.

Chapter B6 – Essential Services-

Essential Services (electricity, water, sewerage and suitable vehicular access) are currently connected to the existing building which will facilitate the development.

Chapter B9 – Road Network and Parking

Objective

To ensure that the impacts generating development are considered and that the existing level of service of the road network is maintained.

To ensure development provides adequate on-site parking, loading and servicing spaces

Requirements

1 car space per 25m² of floor area and 1 car space per 30 car spaces of accessible parking

Development

The proposed development has a floor area of 9.5m x 9.2m (87.4m²) therefore requiring approximately four (4) car parking spaces. The proposed development is located in the Anna Bay Shopping Village that provides a large hardstand parking area which includes approximately thirty-seven (37) car parking spaces (incorporating accessible/disabled parking spaces). The car parking area also includes 15 minute car parking spaces and a loading bay area. Public transport is located within walking distance from the store. The proposed development therefore satisfies the car parking requirements outlined in B9 of the DCP2014.

B10 – Social Impact

The proposed development will not have a negative social impact due to the scale of the proposed business, operating hours proposed and model of the Anna Bay IGA liquor store. The proposed development will activate a



DEVELOPMENT ASSESSMENT REPORT

premise that is currently closed during the day, adding to the character of the village centre. Further, the proponent is committed to the responsible service of alcohol (RSA) and has an Office of Liquor, Gaming and Racing (OLGR) Plan of Management in place which will decrease the negative impacts associated with liquor. The OLGR will assess the social impacts of the premise as part of their licencing assessment and determination, taking into consideration the surrounding liquor premises.

The NSW Police have outlined a number of concerns based on the impact that the store will have on police resources in the area and that it is not in the interest of the public. The NSW Police have noted that the immediate vicinity of the subject premise is renowned as a 'hot spot' for alcohol related crime shown through data collected from the Police Computer System (COPS), Enterprise Data Warehouse (EDW) and Alcohol Related Crime Information Exchange (ARCIE). This data also indicates that there is a large amount of alcohol related anti-social behaviour, particularly in private residences and public places, and involves a large amount of juveniles resulting from secondary supply. The NSW Police also note that there are higher issues at peak holiday times in Anna Bay that are mostly related to young people's street and house parties.

The proposed development was referred to Council's Social Planner of who has agreed with the comments made by the NSW Police.

The social impact assessment (SIA) submitted with the development application however outlines that the Police Data is not always accurate and results in many inconsistencies. As such, the SIA research included analysis of the Australian Bureau of Statistics (ABS) and Bureau of Crime Statistics and Research (BOSCAR) data to determine the suitability of the proposed liquor store. This data shows that crime rates are low in Anna Bay. From January 2014- December 2014 the BOSCAR data shows that the Anna Bay suburb:

- The rate of non-domestic assault incidents, alcohol related was 51.3 per 100,000 populations, which was much lower than for NSW at 158.2 per 100,000. This was a decrease in Anna Bay from 6 incidents in 2013 to 2 incidents in 2014.
- The latest data (April 2015) shows the continued very low rate of alcohol related assault in the Anna Bay area.

It is however noted that this data represents the Anna Bay centre as a whole and does not reflect the crime data for the exact location of the proposed retail premise (liquor store), demonstrating the importance of Police data in determining the crime existence within this area.

Community consultation was also undertaken as part of the SIA process. In summary, the community raised support for commercial development that activates the street during the day and a desire to make Anna Bay a more attractive village with a vibrant main street. It is recognised that the liquor store would add to local convenience situated adjacent to the chain

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.



PORT STEPHENS
COUNCIL

DEVELOPMENT ASSESSMENT REPORT

supermarket, however it was questionable as to whether Anna Bay needed an additional liquor store. Qualitative research for the proposal indicated some concern about economic impacts, specifically negative impacts on existing liquor outlets in Anna Bay and associated competition. Such perceptions are however not supported by quantitative evidence and are not planning considerations.

Council cannot refuse the development based on competition grounds nor on the advice received by the NSW Police. The social impact of the proposed liquor store will also be assessed on behalf of OLGR once an application has been lodged for a packaged liquor licence. Further, to control anti-social behaviour attributed to liquor, the implementation of a strict management policy for the bottle shop with particular attention to RSA and secondary supply will be required along with controlled operation hours, in line with the IGA supermarket business.

C8 – Signage

The proposed development has identified that the existing signage on the building façade and dimensions of the signage will remain. Any additional signage that does not meet the requirements of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* requires development consent.

3.5 s79C(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 93F

There are no planning agreements that have been entered into under section 93F relevant to the proposed development.

3.6 s79C(1)(a)(iv) – The regulations

3.6.1 – N/A

3.7 s79C(1)(a)(v) – Any coastal management plan

There are no coastal management plans applicable to the proposed development.

3.8 s79C(1)(b) – The likely impacts of the development

3.8.1 Social and Economic Impacts

Refer to Chapter B10 – Social Impact discussion.

3.8.2 Impacts on the Built Environment

The proposed development will not have any impacts on the surrounding built environment. Conditions of consent have been recommended by Council's Building Surveyor and approved by planning regarding the implementation of fire safety measures.

Impacts on the Natural Environment

The proposed development will not involve any impacts on the natural environment.



DEVELOPMENT ASSESSMENT REPORT

3.9 s79C(1)(c) – The suitability of the site

The comments and concerns raised by the NSW Police have been noted, however the retail premise (liquor store) is generally compliant with the *Port Stephens Local Environmental Plan 2013* and *Port Stephens Development Control Plan 2014* therefore approval is recommended as the NSW OLGR will control the operation of the premise and social implications through their licencing process. The subject site is therefore suitable for the proposed development and does not warrant a refusal based on advice received by the NSW Police and on competition grounds.

3.10 s79C(1)(d) – Any submissions

One (1) submission been received in relation to the proposed development. The submission outlines concerns regarding the implementation of an additional liquor outlet in the Anna Bay community and the negative social effects this will incur on the general public. It notes that the community already exhibits negative behaviour with regard to alcohol in the area and the public are not open to an additional outlet increasing this behaviour. Please refer to the social impact discussion under Chapter B10 – Social Impact in this report.

3.11 s79C(1)(e) – The public interest

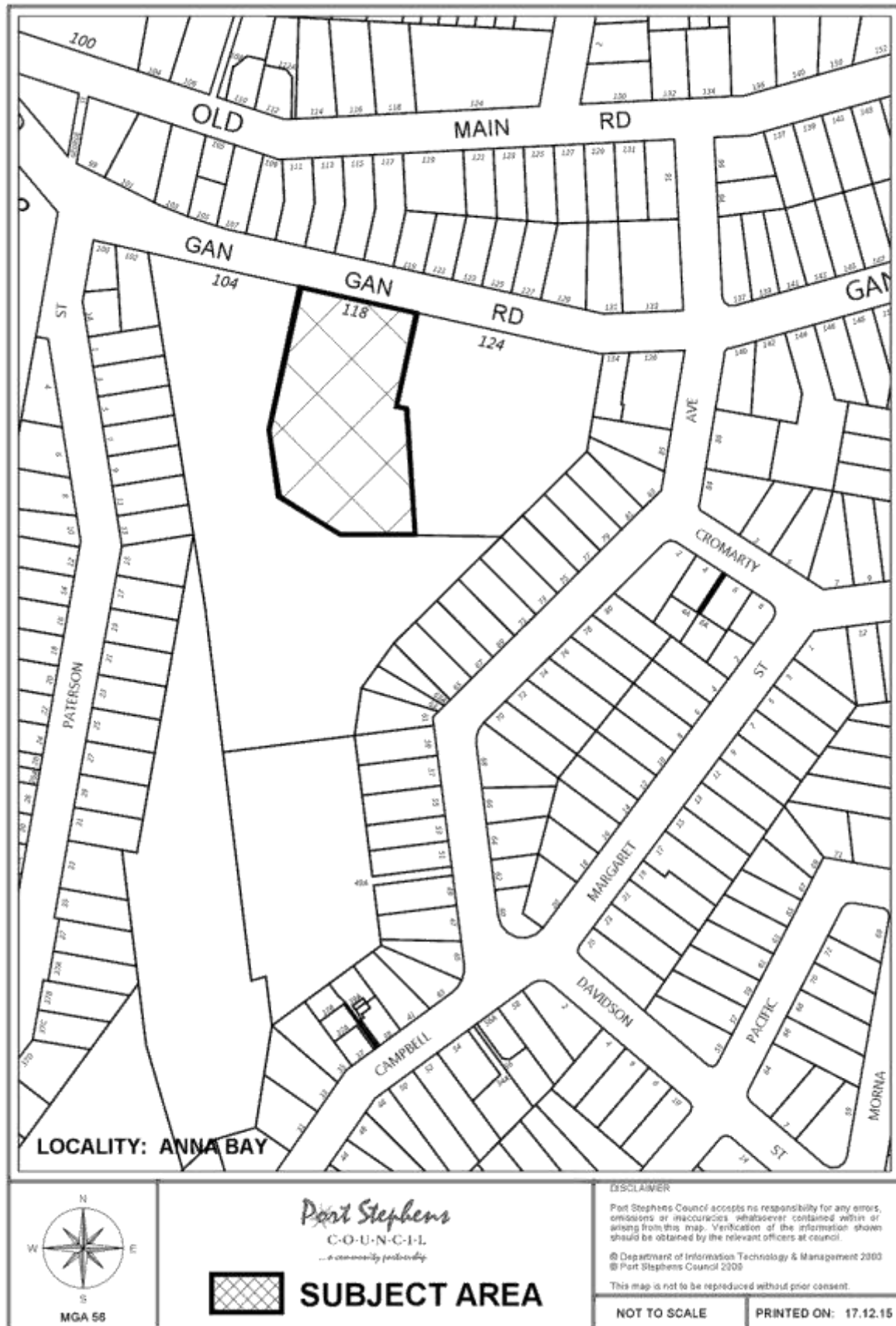
One submission has been received objecting to the proposed development, however it can be noted that these comments can be controlled by the licencing imposed by OLGR, a strict management plan and restricted operation hours. Further, the SIA recorded qualitative data showing support for the proposed development. The proposed development is therefore in the public interest.

4.0 DETERMINATION

- 4.1 The application is recommended to be approved under delegated authority, subject to conditions as contained in the notice of determination.

Erin Daniel | Development Planner | Date: 15/01/2016

ITEM 1 - ATTACHMENT 3 LOCALITY PLAN.



ITEM NO. 3

**FILE NO: 16/257440
RM8 REF NO: A2004-0853**

POLICY REVIEW - ACQUISITION & DIVESTMENT OF LAND POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Acquisition & Divestment of Land Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the Acquisition & Divestment of Land Policy, as amended, on public exhibition for a period of 28 days and should no submissions be received the policy be adopted, as amended, without a further report to Council.
 - 3) Revoke the Acquisition & Divestment of Land Policy adopted 29 May 2012 Minute No 110 and amended 14 April 2015 Minute No 079 **(ATTACHMENT 2)**, should no submissions be received.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Paul Le Mottee That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

034	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council: <ol style="list-style-type: none">1) Endorse the revised Acquisition & Divestment of Land Policy shown at (ATTACHMENT 1).2) Place the Acquisition & Divestment of Land Policy, as amended, on public exhibition for a period of 28 days and should no submissions be received the policy be adopted, as amended, without a further report to Council.3) Revoke the Acquisition & Divestment of Land Policy adopted 29 May 2012 Minute No 110 and amended 14 April 2015 Minute No 079
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MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

(ATTACHMENT 2), should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Acquisition & Divestment of Land Policy. Minor wording changes have been made to the policy, no material changes have been made. Circular 15-09 from the Office of Local Government dated 25 February 2015 has been incorporated and outlines changes to the process for acquiring privately owned land by compulsory process to improve fairness and transparency.

The policy is required to ensure Council's dealings with land acquisition and divestment is ethical, transparent, meets statutory requirements and achieves specific strategic outcomes. It provides criteria to be considered before acquisition or divestment of land and defines the process and procedures to be followed for acquisitions and divestments of land by Council.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
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 Acquisition & Divestment of Land Policy has no known financial or resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The policy has been reviewed as part of the ELT major projects program of work.
Reserve Funds			
Section 94			
External Grants			
Other			

LEGAL, POLICY AND RISK IMPLICATIONS

The Acquisition & Divestment of Land Policy is written in accordance with the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and the *Land Acquisition (Just Terms Compensation) Act 1991*.

Council's Acquisition & Divestment of Land principles aim to secure land for Council projects at a fair market value along with incidental costs that landowners may incur when dealing with Council. The principles aim to sell surplus or developed land at fair market value whilst returning a profit to Council. The policy promotes fairness, transparency and competition in all of Council's land dealings.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that acquisitions for Council projects will occur without reference to relevant legislation.	Low	Accept the recommendations.	Yes
There is a risk that divestment of Council land will occur at below market value.	Medium	Accept the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no known social or environmental implications.

An economic implication will be the limitation on acquisition costs and certainty on timeframes to acquire land for public works, both set out in the *Land Acquisition (Just Terms Compensation) Act 1991*.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

A merger will have an effect on how funds are allocated and spent in a larger Local Government Area. Transition guidelines will provide direction for any change in policy or approach.

CONSULTATION

- 1) Land Acquisition & Development Manager.
- 2) Property Services Manager.

OPTIONS

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

ATTACHMENTS

- 1) Revised Acquisition & Divestment of Land Policy.
- 2) Acquisition & Divestment of Land Policy adopted 29 May 2012 and amended 14 April 2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 REVISED ACQUISITION & DIVESTMENT OF LAND POLICY.**Policy**

FILE NO: A2004-0853

TITLE: ACQUISITION AND DIVESTMENT OF LAND POLICY

POLICY OWNER: PROPERTY SERVICES MANAGER

PURPOSE:

To define the criteria which must be considered prior to the acquisition of land or the divestment of Council owned land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned land.

CONTEXT/BACKGROUND:

The acquisition and divestment of land by Council requires a formal process that is underpinned by probity, due diligence, analysis of risk and other key objectives. The number of land acquisitions and/or divestments undertaken by Council in any given year, although relatively low, is crucial to the strategic provision of open space, operational and community benefits, achieving planning outcomes and commercial gains from land development.

This policy applies to the acquisition of all land as defined in this policy. It acknowledges Council's charter that it is the custodian and trustee of public assets and is required to effectively account for and manage the assets for which it is responsible (Section 8 of the *Local Government Act 1993*). It also acknowledges Circular 15-09 from the Office of Local Government dated 25 February 2015 relating to compulsory acquisitions.

This policy applies only to the divestment of Operational Land as defined under the *Local Government Act 1993* but applies to the acquisition of all land either for Community or Operational purposes.

SCOPE:

To define the criteria which must be considered prior to the acquisition of land or the divestment of Council owned land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned land. The objectives of this policy aim to provide Council with a framework which adopts the following principles:

- probity;
- statutory compliance;
- commercial optimisation, flexibility and confidentiality;

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- transparency of process; and
- achievement of specific strategic outcomes of Council and the community.

PRINCIPLES

All decisions and actions in relation to the acquisition or divestment of land will have due regard to the following fundamental principles:

- Best value for money - achieving 'best value' may include financial, social and environmental benefits;
- Transparency - processes must be open to scrutiny, provide full information and record the reasons behind decisions;
- Accountability - demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails;
- Impartiality - address perceived or actual conflicts of interests.

DEFINITIONS:

An outline of the key definitions of terms included in the policy.

Acquisition Authority	means Port Stephens Council.
Act	means the <i>Local Government Act 1993</i> .
Contract	means any form of contract which legally binds the Council [or potentially binds Council] and includes formal contracts and other forms of contractual arrangements including heads of agreement, in principle agreement, options to purchase etc.
Land	is as defined in Section 21 of the <i>Interpretation Act 1987</i> . As a more specific reference for the purpose of this policy, 'land' is defined as: Land as a physical entity including: <ul style="list-style-type: none"> • any building or structure on or improvement to land; or • any stratum of land whether below or above ground; or • a strata lot pursuant to relevant strata subdivision legislation; • any resources on land such as sand, soil, hard rock etc.
Land Development Activities	means the development of land that has been purchased by Council specifically for future development.
Owner Initiated Acquisition	means the principal considerations defined in Section 23 of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> to acquire affected properties.

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Programmed Acquisition	means when the acquiring authority requires the affected property and initiates the acquisition process.
Regulation	means the <i>Local Government (General) Regulation 2005</i> and any replacement Regulation.

POLICY STATEMENT:

The purpose of this policy is to describe the manner in which Port Stephens Council will undertake the acquisition and divestment of land assets and to provide Council with:

- a documented reference to guide its decision making process;
- a reference that will survive successive Councils;
- an endorsed framework to enable and pursue land acquisition and divestment opportunities of merit and proactively present such opportunities to Council;
- to establish delegations necessary to allow implementation functions to be addressed to meet market drivers;
- to set out the principles, framework, responsibilities and processes for Council and officers to account for and manage the acquisition and divestment of Council land assets;
- to identify, manage and mitigate the risks associated with the acquisition and divestment of land; and
- to ensure impartiality, transparency, accountability and the delivery of best value in the divestment of land ('fundamental principles').

POLICY RESPONSIBILITIES:

LAND ACQUISITION PROCEDURE

1) Fundamental Principles

Council will acquire land for the purpose of carrying out its functions under the Act. Any land to be acquired by Council is subject to a formal resolution of Council.

Independent Valuation Benchmark and Purchaser's Premium

Any land acquisition is to be benchmarked to an independent valuation of land unless the size of the land or the agreed value is negligible.

In some cases there will be a justified basis for Council acquiring property at a price above the valuation benchmark (ie Purchaser's Premium) in order to guarantee the successful securing of the property to achieve defined goals and objectives of Council or to acquire the property with a view to adding value (or reducing risk) to a larger scheme or development (future or current).

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Any Purchaser's Premium should be determined and quantified within the initial decision of Council and referenced to the achievement of specific goals and objectives of Council. In essence, Council can make a commercial decision to pay in excess of the valuation due to the importance of the acquisition for the public purpose.

2) Acquisition Process

While the General Manager and/or their delegate may make preliminary enquiries and negotiations regarding a possible purchase and purchase price, any formal offer will only be conditional upon a resolution of Council authorising the acquisition. The General Manager and/or their delegate shall:

- be responsible for the conduct of all negotiations;
 - have regard to an independent valuation obtained from a registered valuer;
 - seek such other professional advice as is considered necessary in the circumstances;
 - have regard to the Independent Commission Against Corruption publication Direct Negotiations so far as is appropriate in the circumstances; and
 - report the outcome of all negotiations to the Council for determination.
- 3) Prior to finalisation of an acquisition, Council shall determine the classification of the land as either Operational or Community.
- 4) Council's process of land acquisition must include the following steps:
- Identification of the land acquisition opportunity by Council and/or the responsible officer;
 - In principle decision by the General Manager to commence the pre-acquisition process;
 - Preparation of a comprehensive assessment of the land acquisition including:
 - required due diligence;
 - independent rental or purchase valuation;
 - assessment against the principles and objectives of Council's Integrated Planning framework;
 - identification of funding source and assessment against Council's Long Term Financial Plan; and
 - a statement of goals and objectives for the proposed land to be acquired including a statement of any 'Purchaser's Premium' deemed appropriate by Council;
 - Formal consideration by Council of dealing with the matter and, if required, in accordance with Section 10A of the Act be dealt with in a closed meeting;
 - Formal report to Council including the land acquisition assessment and documented reasons for Council's acquisition of the land and, if supported, delegation to the

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General Manager to negotiate an outcome subject to the financial and risk parameters as determined by Council;

- Negotiation and, if successful, implementation of all matters necessary for the preparation, signing and sealing of contract documentation required;
- Once completed the General Manager to advise Council of the outcome [successful or otherwise].

The process is designed to ensure fairness and equity.

METHODS OF ACQUISITION

Wherever possible Council's preferred method of acquisition is to acquire land through mutual agreement with the owner of the land. The key principles in the acquisition of land are:

- Opportunistically by responding when the desired land is offered to the market; and
- Pro-actively by initiating negotiations for the desired land.

Council's preferred position is not to acquire land through compulsory acquisition, however, Council has an obligation to provide services to the community and, if required, Council may consider utilising its powers under the *Local Government Act 1993* in respect of 'compulsory acquisition'.

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

If the land is to be acquired for future development or strategic investment purposes, the acquisition of the land will be through negotiation between council and the vendor on the basis

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of a valuation to determine a fair market value plus or minus 10% for the purposes of negotiation. The key principles of the acquisition are to be:

- location
- topography
- area
- zoning

A business case and feasibility study will be prepared to determine the viability and development potential for the land to be included in the report to council.

COMPENSATION

Compensation will apply to property owners affected by acquisition under the following provisions:

- Owner initiated acquisitions
- Programmed acquisitions

In determining the amount of compensation to which a person is entitled, *Part 3 Division 4 of the Land Acquisition (Just Terms Compensation) Act, 1991* requires that regard must be given to the following matters only:

- a) *The market value of the land on the date of its acquisition;*
- b) *Any special value of the land to the person on the date of its acquisition;*
- c) *Any loss attributable to severance;*
- d) *Any loss attributable to disturbance;*
- e) *Solatium (ie compensation for non-financial disadvantage arising the need to relocate as a result of the acquisition); and*
- f) *Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.*

Property owners claiming hardship in accordance with *Section 24 of the Land Acquisition (Just Terms Compensation) Act, 1991* provisions should note that council is not required to acquire land unless it is of the opinion that the owner will suffer hardship (within the meaning of *Section 24* of this Act. An owner of land suffers hardship if:

- (a) *the owner is unable to sell the land, or is unable to sell the land at its market value, because of the designation of the land for acquisition for a public purpose; and*
- (b) *it has become necessary for the owner to sell all or any part of the land without delay:*

1. for pressing personal, domestic or social reasons, or

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- II. *in order to avoid the loss of (or a substantial reduction in) the owner's income.*

However, if the owner of the land is a corporation, the corporation does not suffer hardship unless it has become necessary for the corporation to sell all or any part of the land without delay for pressing personal, domestic or social reasons of an individual who holds at least 20 per cent of the shares in the corporation, or in order to avoid the loss of (or a substantial reduction in) the income of such an individual.

LAND DIVESTMENT PROCEDURES

1) Fundamental Principles

All decisions and actions in relation to the divestment of land will have due regard to the following fundamental principles:

- Best Value for Money - Achieving 'best value' may include financial, social and environmental benefits;
- Transparency- processes must be open to scrutiny, provide full information, and record the reasons behind decisions;
- Accountability - demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails;
- Impartiality - address perceived or actual conflicts of interests, ensuring fairness and equity.

2) Land Deemed to be Surplus

'Land' includes all real property whether vacant or improved. Land may not be sold by council unless it is classified as 'Operational Land' under *Section 25 of the Local Government Act, 1993*.

In order to establish whether or not land is deemed to be surplus, a process of consultation is required to be completed across relevant divisions of Council prior to reclassification in accordance with the *Local Government Act, 1993*.

3) Delegated Authority

Section 377 (1) (h) of the Local Government Act 1993 requires a specific resolution of council to dispose of land. The decision cannot be delegated.

The report to council is to include reference to the manner of divestment (often contained within a confidential report) in regards to the terms of the sale and the agreed price, or range for negotiations. The sale cannot proceed outside of such parameters (without a further resolution).

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The resolution should also provide for the General Manager to have delegated authority to negotiate any outstanding, usually minor, conditions and to be authorised to execute any documents in relation to the matter deemed appropriate by Council's legal advisors.

A copy of the report and resolution is to be provided to council's legal advisors upon instruction, as authority to act and to ensure compliance with the resolution.

No formal actions may be commenced in the divestment of land until a report has been considered by council and an appropriate resolution adopted. However, nothing should prevent the marketing of property for sale provided intending purchasers are advised that a formal resolution of council will be required to permit a sale to proceed.

Informal pre-sale discussions/negotiations must always be qualified 'subject to resolution of council' if there is no current resolution of council to dispose of the land.

4) Valuation Processes

At least one formal market valuation undertaken by a valuer registered to value such property is required to be commissioned prior to all property divestments.

Two valuations may be required when the value of the property is likely to exceed \$2,000,000 and/or the process of divestment is not competitive (as defined below).

An internal review of the valuation(s) is to be carried out and reported, with specific attention to the valuation rationale, method of valuation, calculations and sales evidence used. After such review, the valuation is to be considered in the setting of an asking price for sale, reserve price for auction or benchmark for negotiations, tender or expression of interest.

When two valuations have been provided, averaging is the preferred method for considering the price, when any difference in the valuation is 10% or less. Differences in valuations of more than 10% require an assessment of the reasons why they are different and more detailed justification of the price.

An updated valuation or valuation advice is required after 12 months of the date of the original valuation if the land is not sold, or at any time, there is considered to be a material movement in the value.

The valuation instructions must clearly state the following:

- The purpose of the valuation being 'divestment';
- The basis of valuation being 'market value highest and best use', unless an alternative basis is considered more appropriate in the circumstances;

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- That the valuation is to be marked confidential; and
- That the valuation includes market commentary, including supply and demand details of sales evidence and adjustments, valuation rationale and methodology, a valuation range (for negotiations) and comments on marketability, most appropriate method of divestment and opportunities to add value.

In addition, the valuer must make a statement that there is no actual or perceived conflict of interest in undertaking the valuation.

METHODS OF DIVESTMENT

An open competitive process of divestment is required using one of the following methods:

- Expression of interest - used for unusual properties capable of a variety of development, difficult to determine a market value;
- Tender - least common and used predominantly in high value, limited market situations;
- Auction - the most open and public method, favoured by government but reliant on high levels of competition. Often achieves a quick sale. Can fail in poor market;
- Private Treaty - most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an independent third party to the negotiation process) and can arise after an unsuccessful auction.

Council may approve a non-competitive process of divestment such as direct negotiations, subject to clearly documented reasons and the employment of risk mitigation measures.

Risk mitigation measures for direct negotiations may include:

- obtaining two valuations where the land may be valued at more than \$2,000,000; and consequently establishing a range for negotiation, having regard to the two valuations;
- managing conflicts of interest with declarations of no personal or financial associations;
- establishing a Negotiation Protocol, describing the manner in which meetings, negotiations, decisions and progress reporting is to be managed and documented; and
- limitation on marketing budget and exclusive agency periods.

In rare circumstances, land may be disposed of to achieve strategic outcomes. In such situations, 'best value' may comprise financial, environmental or social elements, with the price falling below the 'market value' range.

The report seeking resolution of council should clearly state the reasons for such sale and quantify the amount below market value attributable to each element. The obligation to obtain a market valuation exists in accordance with the above, in order to provide a measure of the non-financial elements of the sale.

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1) Sale to Adjoining Owners

In circumstances where land is not able to be sold in isolation on the open market (such as small parcels, undersized lots, former road widening, closed laneways, boundary adjustments etc) and the only potential purchasers are adjoining owners, the land must be offered in equal proportions to each adjoining owner on identical sale terms and conditions.

Where an adjoining owner does not wish to purchase their proportion of the land, the rejected land will be equally offered to the remaining adjoining owner.

The recommended method of determining the sale price is the 'Before and After' valuation method for the purchaser's land. For small portions of land, the 'piecemeal' (\$ rate per square metre) method may be more appropriate.

An essential condition of sale is that the purchaser is required to consolidate the subject land with their existing holding at no cost to Council.

The costs associated with the sale process will be borne by the prospective purchaser.

2) Sale of Roads - *Roads Act, 1993*

No road can be sold until it is formally closed in accordance with the provisions of the *Roads Act, 1993*.

For purchaser initiated closures and sales, the costs associated with the road closure will be borne up front by the prospective purchaser.

When council initiates the road closure (in order to realise the value of surplus land), the costs will be borne by Council as development costs.

The agreed purchase price and estimated costs will be reported to Council seeking resolution agreeing to make application to close the road and dispose of the land upon closure in accordance with the terms of sale.

In accordance with *Section 43 of the Roads Act, 1993*, funds from the sale of roads are required to be set aside for acquiring Land for public roads or for carrying out work on public roads.

CONFIDENTIALITY

In the majority of divestments of land, the information contained in reports to council to sell land may confer an advantage upon a person with whom council is, or proposes, to be

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conducting business. On balance, it would be contrary to the public interest for council to deal with such matter in an open session because release of the information could prejudice council's ability to obtain the maximum return on the land.

It is acknowledged therefore that reports to council on the divestment of land will be generally deemed confidential under *Section 10A (2) (c) of the Local Government Act, 1993*. This confidentiality may be lifted by council resolution upon settlement, if considered to be in the public interest.

The need for confidentiality also arises for acquisitions of land by council, as business papers for resolutions will contain an indicative budget amount for the acquisition thus providing an advantage to the potential vendor. Hence, *Section 10A (2) (c)* should also apply to all acquisitions by Council.

DISTRIBUTION OF FUNDS

Net profit received from sales of surplus Community Land that has been rezoned and reclassified will be entirely allocated to the Asset Rehabilitation reserve.

Net profit received from the sale of land from road closures, boundary adjustments, small parcels and surplus operational land will be assigned to general revenue.

Where land development activities on land in the operational development land bank produce a net profit, 70% will be allocated to the Property Investment restricted fund and 30% will be allocated to Ward funds. The 30% Ward funds will be spent in accordance with the integrated strategic plans.

Should an allocation of funds be sought contrary to the ratio stated within this policy, a council resolution will be required to amend the ratio.

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Land Development Activities



ENVIRONMENTAL IMPLICATIONS

Environmental considerations for land that is to be reclassified or rezoned will be addressed at the time of the preparation of the Planning Proposal. The development of land will require a Development Application at which time it will be necessary to prepare a Statement of Environmental Effects, which will assess any environmental impacts.

RELEVANT LEGISLATIVE PROVISIONS

- 1) The *Local Government Act, 1993* vests authority in council to sell or exchange Real Property. In respect of this policy, 'exchange' includes property acquisition and other related activities including land swaps etc.

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- 2) In accordance with *Section 377* of the Act, any decision to dispose of land must be made by resolution of council as the power to sell, exchange or surrender land cannot be delegated.
- 3) *Section 45* of the Act prevents council from selling, exchanging or otherwise disposing of community land other than to become or be added to a Crown Reserve or National Park.
- 4) *Section 55* of the Act requires tenders to be called in certain circumstances. However, it is not necessary to call tenders for the sale of land.
- 5) In accordance with council's Purchasing Policy and Disposal Policy, land acquisition and divestment activities are excluded from the provisions of the Purchasing Policy.

Council's property activities will be managed within the legislative parameters of the:

- *Local Government Act, 1993;*
- *Valuation of Land Act, 1916;*
- *Conveyancing Act, 1919;*
- *Environmental Planning and Assessment Act, 1979;*
- *Residential Tenancies Act, 1987;*
- *Land Acquisition (Just Terms Compensation) Act, 1991;*
- *Roads Act, 1993;*
- *Retail Leases Act, 1994;*
- *Crown Lands Act, 1989;*
- *Environment Protection and Biodiversity Conservation Act, 2000;*
- *National Parks and Wildlife Conservation Act, 1975;*
- *Real Property Act, 1919;*
- *Regulations under each of the above Acts;*
- Relevant Codes, Plans and Policies referred to in Section 13 of this policy; and
- any other legislation applicable to the policy.

Contract for the Sale of Land

Contracts for the sale of land will usually contain standard conditions of sale. Any unusual or special conditions of sale require the approval of council or the General Manager under delegation.

Council's legal representative is responsible to ensure contracts for the sale of land satisfy statutory disclosure and warranty obligations (*Conveyancing (Sale of Land) Regulation 2005*).

RELATED DOCUMENTS:

- 1) Property Investment Policy
- 2) Cash Investment Policy
- 3) Long Term Financial Plan

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- 4) Financial Business Rules Management Directive
- 5) Local Government Act, 1993
- 6) Land Acquisition (Just Terms Compensation) Act, 1991
- 7) Land Acquisition Information Guide

CONTROLLED DOCUMENT INFORMATION:

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RM8 container No	A2004-0853	RM8 record No	16/257083
Audience	Council Staff		
Process Owner	Property Services Section Manager		
Author	Land Acquisition & Development Manager		
Review timeframe	Two years	Next review date	1 January 2018
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	29 May 2012	Property Services Section Manager	Original Policy.	110
2	14 April 2015	Land Acquisition & Development Manager	Changes to position titles and dates.	079
3	4 January 2016	Land Acquisition & Development Manager	Policy has been formatted into new template. No changes required to Policy - only review date.	

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**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.**

Port Stephens
C·O·U·N·C·I·L

POLICY

Adopted: 29 May 2012
Minute No: 110
Amended: 14 April 2015
Minute No: 079

FILE NO: A2004-0853

TITLE: ACQUISITION AND DIVESTMENT OF LAND POLICY

RESPONSIBLE OFFICER: PROPERTY SERVICES MANAGER

BACKGROUND

The acquisition and divestment of Land by Council requires a formal process that is underpinned by probity, due diligence, analysis of risk and other key objectives. The number of land acquisitions and/or divestments undertaken by Council in any given year although relatively low are crucial to the strategic provision of open space, operational and community benefits, achieving planning outcomes and commercial gains from land development.

This policy applies to the acquisition of all Land as defined in this policy. It acknowledges Council's charter that it is the custodian and trustee of public assets and is required to effectively account for and manage the assets for which it is responsible (Section 8 of the *Local Government Act 1993*). It also acknowledges Circular 15-09 from the Office of Local Government dated 25 February 2015 relating to compulsory acquisitions.

This policy applies only to the divestment of Operational Land as defined under the Local Government Act 1993 but applies to the acquisition of all land either for Community or Operational purposes

OBJECTIVE

- 1) To define the criteria which must be considered prior to the acquisition of land or the divestment of Council owned Land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned Land. The objectives of this policy aim to provide Council with a framework which adopts the following principles:
 - probity
 - statutory compliance
 - commercial optimisation, flexibility and confidentiality
 - transparency of process; and

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ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.**

- achievement of specific strategic outcomes of Council and the community.

PRINCIPLES

- 1) All decisions and actions in relation to the acquisition and/or divestment of Land will have due regard to the following fundamental principles:
 - Best value for money – Achieving 'best value' may include financial, social and environmental benefits.
 - Transparency – processes must be open to scrutiny, provide full information, and record the reasons behind decisions.
 - Accountability – demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
 - Impartiality – address perceived or actual conflicts of interests.

DEFINITIONS

For the purposes of this policy:

'Acquisition Authority'	means Port Stephens Council.
'Act'	means the Local Government Act 1993.
'Contract'	means any form of contract which legally binds the Council [or potentially binds Council] and includes formal contracts and other forms of contractual arrangements including heads of agreement, in principle agreement, options to purchase etc.
'Land'	is as defined in Section 21 of the Interpretation Act 1987.

As a more specific reference for the purpose of this policy, 'Land' is defined as:

1. Land as a physical entity including:
 - I. any building or structure on or improvement to Land; or
 - II. any stratum of land whether below or above ground; or
 - III. a strata lot pursuant to relevant strata subdivision legislation.
 - IV. any resources on land such as sand, soil, hard rock etc.

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.**

'Land Development Activities'	means the development of land that has been purchased by Council specifically for future development.
'Owner Initiated Acquisition'	means the principal considerations defined in Section 23 of the Land Acquisition (Just Terms Compensation) Act 1991 to acquire affected properties.
'Programmed Acquisition'	means when the acquiring authority requires the affected property and initiates the acquisition process.
'Regulation'	means the <i>Local Government (General) Regulation 2005</i> and any replacement Regulation.

POLICY STATEMENT

- 1) The purpose of this policy is to describe the manner in which Port Stephens Council will undertake the acquisition and divestment of Land assets and to provide Council with:
 - a documented reference to guide its decision making process;
 - a reference that will survive successive Councils;
 - an endorsed framework to enable and pursue Land acquisition and divestment opportunities of merit and pro-actively present such opportunities to Council;
 - to establish delegations necessary to allow implementation functions to be addressed to meet market drivers;
 - to set out the principles, framework, responsibilities and processes for Council and officers to account for, and manage the acquisition and divestment of Council Land assets;
 - to identify, manage and mitigate the risks associated with the acquisition and divestment of Land; and
 - to ensure impartiality, transparency, accountability and the delivery of best value in the divestment of Land ('fundamental principles').

LAND ACQUISITION PROCEDURE

1. Fundamental Principles

Council will acquire Land for the purpose of carrying out its functions under the Act. Any Land to be acquired by Council is subject to a formal resolution of Council.

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
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Independent Valuation Benchmark and Special Value

Any Land acquisition is to be benchmarked to an independent valuation of Land unless the size of the land or the agreed value is negligible.

In some cases there will be a justified basis for Council acquiring property at a price above the valuation benchmark (i.e. special value) in order to guarantee the successful securing of the property to achieve defined goals and objectives of Council or to acquire the property with a view to adding value [or reducing risk] to a larger scheme or development [future or current].

Any Special Value should be determined and quantified within the initial decision of Council and referenced to the achievement of specific goals and objectives of Council. In essence, Council can make a commercial decision to pay in excess of the valuation due to the importance of the acquisition for the public purpose.

2. Acquisition Process

While the General Manager and/or its delegate may make preliminary enquiries and negotiations regarding a possible purchase and purchase price, no formal offer will be made without there first being a resolution of Council authorising the acquisition. The General Manager and/or its delegate shall:

- be responsible for the conduct of all negotiations;
- have regard to an independent valuation obtained from a registered valuer;
- seek such other professional advice as is considered necessary in the circumstances;
- have regard to the Independent Commission Against Corruption publication Direct Negotiations so far as is appropriate in the circumstances; and
- report the outcome of all negotiations to the Council for determination.

3. Prior to finalisation of an acquisition, Council shall determine the classification of the Land as either Operational or Community.

4. Council's process of Land acquisition must include the following steps:

- Identification of the Land acquisition opportunity by Council and/or the Responsible Officer.
- In principle decision by the General Manager to commence the pre-acquisition process.
- Preparation of a comprehensive assessment of the land acquisition including:
 - I. required due diligence;
 - II. independent valuation, maximum price [purchase, lease or other];
 - III. assessment against the principles and objectives of Council's Integrated Planning framework;

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
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- IV. identification of funding source and assessment against Council's Long Term Financial Plan; and
 - V. a statement of goals and objectives for the proposed Land to be acquired including a statement of any 'Special Value' deemed appropriate by Council.
- Formal consideration by Council of dealing with the matter and if required in accordance with Section 10A of the Act be dealt with in a closed meeting.
 - Formal report to Council including the Land acquisition assessment and documented reasons for Council's acquisition of the Land, and if supported, delegation to the General Manager to negotiate an outcome subject to the financial and risk parameters as determined by Council.
 - Negotiation, and if successful, implementation of all matters necessary for the preparation, signing and sealing of contract documentation required.
 - Once completed the General Manager to advise Council of the outcome [successful or otherwise].

The process is designed to ensure fairness and equity.

METHODS OF ACQUISITION

Wherever possible Council's preferred method of acquisition is to acquire Land through mutual agreement with the owner of the Land. The key principles in the acquisition of Land are:

- Opportunistically by responding when the desired Land is offered to the market; and
- Pro-actively by initiating negotiations for the desired Land.

Council's preferred position is not to acquire Land through compulsory acquisition, however, Council has an obligation to provide services to the community and if required Council may consider utilising its powers under the *Local Government Act 1993* in respect of 'compulsory acquisition'.

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

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
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Compulsory Acquisition application form. Compliance with the new requirements is mandatory. The changes apply from 1 February 2015. They should be applied to all proposals to acquire private land currently under consideration by Councils, to all future proposals for the acquisition of private land and to any application currently being assessed by the Office of Local Government, where it is deemed appropriate for additional negotiation to occur.

If the land is to be acquired for future development or strategic investment purposes, the acquisition of the land will be through negotiation between Council and the Vendor on the basis of a valuation to determine a fair market value plus or minus 10% for the purposes of negotiation. The key principles of the acquisition are to be:

- location
- topography
- area
- zoning

A business case and feasibility study will be prepared to determine the viability and development potential for the Land to be included in the report to Council.

COMPENSATION

Compensation will apply to property owners affected by acquisition under the following provisions:

- Owner initiated acquisitions
- Programmed acquisitions

In determining the amount of compensation to which a person is entitled, Part 3 Division 4 of the Land Acquisition (Just Terms Compensation) Act, 1991 requires that regard must be given to the following matters only:

- (a) *The market value of the land on the date of its acquisition;*
- (b) *Any special value of the land to the person on the date of its acquisition;*
- (c) *Any loss attributable to severance;*
- (d) *Any loss attributable to disturbance;*
- (e) *Solatium (ie. compensation for non-financial disadvantage arising the need to relocate as a result of the acquisition); and*
- (f) *Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.*

Property owners claiming hardship in accordance with Section 24 of the Land Acquisition (Just Terms Compensation) Act, 1991 provisions should note that:

Council is not required to acquire land unless it is of the opinion that the owner will suffer hardship (within the meaning of the Land Acquisition (Just Terms Compensation) Act, 1991. An owner of land must demonstrate they suffer hardship if:

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.**

- (a) *the owner is unable to sell the land, or is unable to sell the land at its market value, because of the designation of the land for acquisition for a public purpose; and*
- (b) *it has become necessary for the owner to sell all or any part of the land without delay:*
 - I. for pressing personal, domestic or social reasons, or*
 - II. in order to avoid the loss of (or a substantial reduction in) the owner's income.*

However, if the owner of the Land is a corporation the corporation does not suffer hardship unless it has become necessary for the corporation to sell all or any part of the Land without delay for pressing personal, domestic or social reasons of an individual who holds at least 20 per cent of the shares in the corporation, or in order to avoid the loss of (or a substantial reduction in) the income of such an individual.

LAND DIVESTMENT PROCEDURES

1. Fundamental Principles

All decisions and actions in relation to the divestment of Land will have due regard to the following fundamental principles:

- Best Value for Money – Achieving 'best value' may include financial, social and environmental benefits.
- Transparency – processes must be open to scrutiny, provide full information, and record the reasons behind decisions.
- Accountability – demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
- Impartiality – address perceived or actual conflicts of interests, ensuring fairness and equity.

2. Land deemed to be surplus

'Land' includes all real property whether vacant or improved. Land may not be sold by Council unless it is classified as 'Operational Land' under Section 25 of the *Local Government Act, 1993*.

In order to establish whether or not Land is deemed to be surplus, a process of consultation is required to be completed across relevant divisions of Council prior to reclassification in accordance with the *Local Government Act, 1993*.

3. Delegated Authority

Section 377 (1) (h) of the *Local Government Act 1993* requires a specific resolution of Council to dispose of Land. The decision cannot be delegated.

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
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The report to Council is to include reference to the manner of divestment (often contained within a confidential report) in regards to the terms of the sale and the agreed price, or range for negotiations. The sale cannot proceed outside of such parameters (without a further resolution).

The resolution should also provide for the General Manager to have delegated authority to negotiate any outstanding, usually minor conditions, and to be authorised to execute any documents in relation to the matter deemed appropriate by Council's legal advisors.

A copy of the report and resolution is to be provided to Council's legal advisors upon instruction, as authority to act and to ensure compliance with the resolution.

No formal actions may be commenced in the divestment of Land until a report has been considered by Council and an appropriate resolution adopted. However, nothing should prevent the marketing of property for sale provided intending purchasers are advised that a formal resolution of Council will be required to permit a sale to proceed.

Informal pre-sale discussions/negotiations must always be qualified 'subject to resolution of Council' if there is no current resolution of Council to dispose of the Land.

4. Valuation Processes

At least one formal market valuation undertaken by a valuer registered to value such property is required to be commissioned prior to all property divestments.

Two valuations may be required when the value of the property is likely to exceed \$2,000,000-and/or the process of divestment is not competitive (as defined below).

An internal review of the valuation(s) is to be carried out and reported, with specific attention to the valuation rationale, method of valuation, calculations and sales evidence used. After such review, the valuation is to be considered in the setting of an asking price for sale, reserve price for auction or benchmark for negotiations, tender or expression of interest.

When two valuations have been provided, averaging is the preferred method for considering the price, when any difference in the valuation is 10% or less. Differences in valuations of more than 10% require an assessment of the reasons why they are different, and more detailed justification of the price.

An updated valuation or valuation advice is required after 12 months of the date of the original valuation if the Land is not sold, or at any time, there is considered to be a material movement in the value.

The valuation instructions must clearly state the following:

- The purpose of the valuation being 'divestment';

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.**

- The basis of valuation being 'market value highest and best use', unless an alternative basis is considered more appropriate in the circumstances;
- That the valuation is to be marked confidential; and
- That the valuation includes market commentary, including supply and demand details of sales evidence and adjustments, valuation rationale and methodology, a valuation range (for negotiations) and comments on marketability, most appropriate method of divestment and opportunities to add value.

In addition, the valuer must make a statement that there is no actual or perceived conflict of interest in undertaking the valuation.

METHODS OF DIVESTMENT

An open competitive process of divestment is required using one of the following methods:

- Expression of interest – used for unusual properties capable of a variety of development, difficult to determine a market value.
- Tender – least common and used predominantly in high value, limited market situations.
- Auction – the most open and public method, favoured by government, but reliant on high levels of competition. Often achieves a quick sale. Can fail in poor market.
- Private Treaty – most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an independent third party to the negotiation process) and can arise after an unsuccessful Auction.

Council may approve a non-competitive process of divestment such as direct negotiations, subject to clearly documented reasons and the employment of risk mitigation measures.

Risk mitigation measures for direct negotiations may include:

- obtaining two valuations where the Land may be valued at more than \$2,000,000; and consequently establishing a range for negotiation, having regard to the two valuations;
- managing conflicts of interest with declarations of no personal or financial associations;
- establishing a Negotiation Protocol, describing the manner in which meetings, negotiations, decisions and progress reporting is to be managed and documented; and
- limitation on marketing budget and exclusive agency periods.

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.**

1. Divestment below Market Value

In rare circumstances, Land may be disposed of to achieve strategic outcomes. In such situations, 'best value' may comprise financial, environmental or social elements, with the price falling below the 'market value' range.

The report seeking resolution of Council should clearly state the reasons for such sale and quantify the amount below market value attributable to each element. The obligation to obtain a market valuation exists in accordance with the above, in order to provide a measure of the non-financial elements of the sale.

2. Sale to Adjoining Owners

In circumstances where Land is not able to be sold in isolation on the open market (such as small parcels, undersized lots, former road widening, closed laneways, boundary adjustments etc) and the only potential purchasers are adjoining owners; the Land must be offered in equal proportions to each adjoining owner on identical sale terms and conditions.

Where an adjoining owner does not wish to purchase their proportion of the Land, the rejected Land will be equally offered to the remaining adjoining owner.

The recommended method of determining the sale price is the 'Before and After' valuation method for the purchaser's Land. For small portions of Land, the 'piecemeal' (\$ rate per square metre) method may be more appropriate.

An essential condition of sale is that the purchaser is required to consolidate the subject Land with their existing holding at no cost to Council.

The costs associated with the sale process will be borne by the prospective purchaser.

3. Sale of Roads – Roads Act, 1993

No road can be sold until it is formally closed in accordance with the provisions of the *Roads Act, 1993*.

For purchaser initiated closures and sales, the costs associated with the road closure will be borne up front by the prospective purchaser.

When Council initiates the road closure (in order to realise the value of surplus Land), the costs will be borne by Council as development costs.

The agreed purchase price and estimated costs will be reported to Council seeking resolution agreeing to make application to close the road and dispose of the Land upon closure in accordance with the terms of sale.

In accordance with Section 43 of the Roads Act, 1993, funds from the sale of roads are required to be set aside for acquiring Land for public roads or for carrying out work on public roads.

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.**

CONFIDENTIALITY

In the majority of divestments of Land, the information contained in reports to Council to sell Land may confer an advantage upon a person with whom Council is, or proposes, to be conducting business. On balance, it would be contrary to the public interest for Council to deal with such matter in an open session because release of the information could prejudice Council's ability to obtain the maximum return on the Land.

It is acknowledged therefore that reports to Council on the divestment of Land will be generally deemed confidential under Section 10A (2) (c) of the *Local Government Act, 1993*. This confidentiality may be lifted by Council resolution upon settlement, if considered to be in the public interest.

RELATED POLICIES

Property Investment policy
Restricted Funds policy
Cash Investment policy
Integrated Strategic plans
Resource strategy
Long Term Financial plan

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil.

ECONOMIC IMPLICATIONS

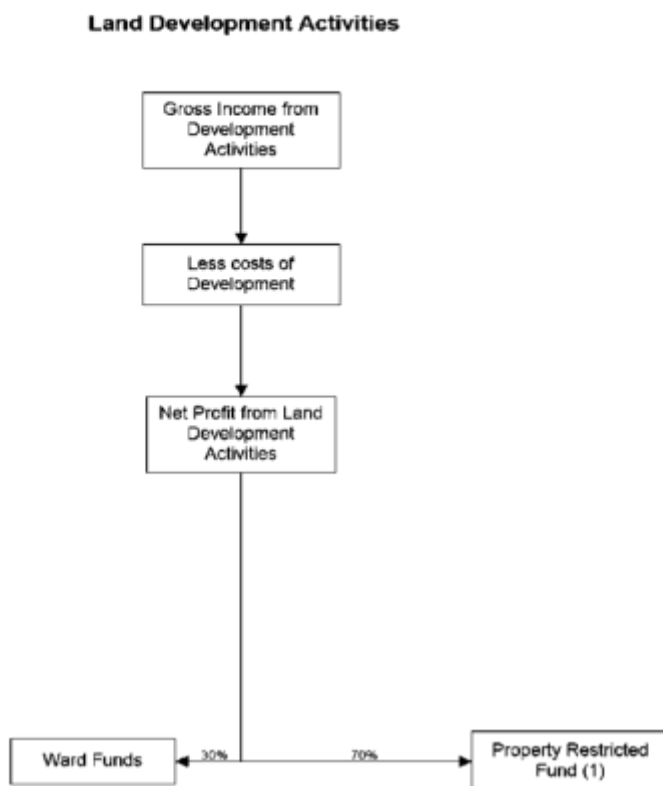
1. Distribution of Funds

Net profit received from sales of surplus Community Land that has been rezoned and reclassified will be entirely allocated to the Asset Rehabilitation reserve.

Net profit received from the sale of Land from road closures, boundary adjustments, small parcels and surplus operational land will be assigned to General revenue.

Where land development activities on Land in the operational development land bank produce a net profit, 70% will be allocated to the Property Investment restricted fund and 30% will be allocated to Ward funds. The 30% Ward funds will be spent in accordance with the integrated strategic plans.

Should an allocation of funds be sought contrary to the ratio stated within this policy, a Council resolution will be required to amend the ratio.

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.****ENVIRONMENTAL IMPLICATIONS**

Environmental considerations for land that is to be reclassified or rezoned will be addressed at the time of the preparation of the Planning proposal. The development of land will require a Development Application at which time it will be necessary to prepare a Statement of Environmental Effects, which will assess any environmental impacts.

RELEVANT LEGISLATIVE PROVISIONS

- 1) The Local Government Act, 1993 vests authority in Council to sell or exchange Real Property. In respect of this policy, 'exchange' includes property acquisition and other related activities including Land swaps etc.
- 2) In accordance with Section 377 of the Act, any decision to dispose of Land must be made by resolution of Council as the power to sell, exchange or surrender Land cannot be delegated.
- 3) Section 45 of the Act prevents Council from selling, exchanging or otherwise disposing of community Land other than to become or be added to a Crown Reserve or National Park.
- 4) Section 55 of the Act requires tenders to be called in certain circumstances. However, it is not necessary to call tenders for the sale of Land.

**ITEM 3 - ATTACHMENT 2 ACQUISITION & DIVESTMENT OF LAND POLICY
ADOPTED 29 MAY 2012 AND AMENDED 14 APRIL 2015.**

- 5) In accordance with Council's Purchasing policy and Disposal policy, Land acquisition and divestment activities are excluded from the provisions of the Purchasing policy.

Council's property activities will be managed within the legislative parameters of the:

- Local Government Act, 1993;
- Valuation of Land Act, 1916;
- Conveyancing Act, 1919;
- Environmental Planning and Assessment Act, 1979;
- Residential Tenancies Act, 1987;
- Land Acquisition (Just Terms Compensation) Act, 1991;
- Roads Act, 1993;
- Retail Lease Act, 1994;
- Crown Lands Act, 1989;
- Environment Protection and Biodiversity Conservation Act, 2000;
- National Parks and Wildlife Conservation Act, 1975;
- Real Property Act, 1919;
- Regulations under each of the above Acts;
- Relevant Codes, Plans and Policies referred to in Section 13 of this policy;
and
- any other legislation applicable to the policy.

Contract for the Sale of Land

Contracts for the sale of Land will usually contain standard conditions of sale. Any unusual or special conditions of sale require the approval of Council or the General Manager under delegation.

Council's legal representative is responsible to ensure contracts for the sale of Land satisfy statutory disclosure and warranty obligations (Conveyancing (Sale of Land) Regulation 2005).

IMPLEMENTATION RESPONSIBILITY

Property Services Manager.

REVIEW DATE

1 January 2016.

ITEM NO. 4

**FILE NO: 16/259646
RM8 REF NO: A2004-0242**

QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2015

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget as detailed in **(ATTACHMENT 1)** presented as the 2015-2016 Quarterly Budget Review Statement - December 2015.
-

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Chris Doohan That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

035	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council approve the discretionary changes to the adopted budget as detailed in (ATTACHMENT 1) presented as the 2015-2016 Quarterly Budget Review Statement - December 2015.
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BACKGROUND

The purpose of this report is to amend the budget by bringing to Council's attention the proposals and issues that have an impact on the 2015-2016 budget that are detailed in the Quarterly Budget Review Statement - December 2015. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the December Quarterly Budget Review.

Council considered its Integrated Strategic Plans on 26 May 2015 (Minute No 135) and these plans include the budget estimates for the 2015-2016 financial year.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Port Stephens Council's services and assets are sustainable in the longer term.	<p>Council will reduce its underlying deficit to break even in 2014-2015 financial year.</p> <p>Council will increase its revenue from non-rates sources.</p> <p>Manage risks across Council.</p> <p>Attract, retain and develop staff to meet current and future workforce needs.</p> <p>Provide enabling business support services for Council's operations.</p>

FINANCIAL/RESOURCE IMPLICATIONS

Council's anticipated underlying result is as follows:

	Surplus (\$)	Deficit
Budget 2015-2016	1.29M	
September Review	1.47M	
December Review	1.26M	

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

There are no anticipated implications with this report due to the fact it is a legislative requirement.

CONSULTATION

- 1) Executive Leadership Team.

OPTIONS

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

ATTACHMENTS

- 1) 2015-2016 Quarterly Budget Review Statement - December 2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 2015-2016 QUARTERLY BUDGET REVIEW
STATEMENT - DECEMBER 2015.



PORT STEPHENS
COUNCIL

"A great lifestyle in a
treasured environment"

2015 – 2016
Quarterly Budget Review Statement – Dec 2015

**ITEM 4 - ATTACHMENT 1 2015-2016 QUARTERLY BUDGET REVIEW
STATEMENT - DECEMBER 2015.****TABLE OF CONTENTS**

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ITEM 4 - ATTACHMENT 1 2015-2016 QUARTERLY BUDGET REVIEW
STATEMENT - DECEMBER 2015.

1. Executive Summary

Categorising the changes by Group:

- **Corporate Services** – The operating budget changes in this group were \$2K (Favourable). Income was increased to account for risk management subsidies which were offset by an increase in the related expenditure. The capital budget changes were \$165K (Unfavourable) and relate to additional investment in the Business Technology Fund for further development of online forms within the new digital environment, CAMMS enhancement, disaster recovery improvement and spatial services.
 - **Development Services** – The net changes within this group amounted to \$4K (Favourable). The changes in this Group centred on expenditure for service packs related to the new website, revised income forecasts for development application fees and the recognition of additional grant income and subsequent expenditure for illegal dumping campaigns.
 - **Facilities & Services** - The operating budget changes in this group were \$22K (Unfavourable). Changes in the operating expenditure budget included the following net changes.
 - Community Services \$0 (Net) Increases were made due to additional costs in the service contracts for Pools and Waste which was offset by increased revenue.
 - Group Managers Office for \$35K (Unfavourable). This is for the employment of an Emergency Services position.
 - Capital Works for \$13K (net favourable). This is due to the increase in the demand for project work from the RMS. Road maintenance costs have also been increased however they have been funded by decreasing roads depreciation. This is to align depreciation costs with the new deterioration curve adopted last financial year.
- The capital budget changes were \$4.8M (Unfavourable). These changes related to
- Recognition of \$3.7M for the Medowie Sports Community Complex which will be funded by new bank loans and s94 contributions (restricted cash reserve).
 - Additional \$770K for capital road works the increase is to be funded by s94 funds collected under Haulage DA's (restricted cash reserve)
 - Additional \$389K for a new waste sorting facility. This change is funded from the waste reserve (restricted cash reserve).
- **General Managers Office** – The operating budget was increased by \$200K (Unfavourable) in order to fund the public information campaign surrounding the proposed merger with NCC.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2015 and should be read in conjunction with other documents in the QBR.

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ITEM 4 - ATTACHMENT 1 2015-2016 QUARTERLY BUDGET REVIEW
STATEMENT - DECEMBER 2015.

Operating Budget	2015 Original Budget \$000	Budget revotes & carry forwards	Budget Revision Sept Qtr \$000	Budget Revision Dec Qtr \$000	Budget Revision Mar Qtr \$000	Budget Revision Jun Qtr \$000	2015 Revised Budget Full Year \$000	2015 YTD Actuals \$000
Corporate Services	41,106	-	274	2	-	-	41,382	35,645
Development Services	(7,318)	(26)	102	4	-	-	(7,210)	(3,728)
General Managers Office	(2,738)	(106)	-	(200)	-	-	(3,044)	(1,157)
Facilities & Services	(27,762)	-	(64)	(22)	-	-	(27,848)	(8,201)
Total	3,288	(133)	313	(216)	-	-	3,253	22,559
Newcastle Airport	3,279	-	-	-	-	-	3,279	-
Total	6,567	(133)	313	(216)	-	-	6,532	22,559

Capital Budget	2015 Original Budget \$000	Budget revotes & carry forwards	Budget Revision Sept Qtr \$000	Budget Revision Dec Qtr \$000	Budget Revision Mar Qtr \$000	Budget Revision Jun Qtr \$000	2015 Revised Budget Full Year \$000	2015 YTD Actuals \$000
Corporate Services	(5,479)	(3,817)	55	(165)	-	-	(9,406)	(5,038)
Development Services	2,618	-	-	-	-	-	2,618	1,533
General Managers Office	-	-	-	-	-	-	-	(21)
Facilities & Services	(9,251)	(1,838)	(3,309)	(4,861)	-	-	(19,260)	(10,610)
Total	(12,112)	(5,655)	(3,254)	(5,026)	-	-	(26,048)	(14,136)

Note - + = inflow () = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2015 and should be read in conjunction with other documents in the QBRs.

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**ITEM 4 - ATTACHMENT 1 2015-2016 QUARTERLY BUDGET REVIEW
STATEMENT - DECEMBER 2015.**

2. Introduction

Clause 203(1) of the Local Government (General) Regulation 2005 requires Council's responsible accounting officer to prepare and submit a Quarterly Budget Review Statement (QBRs) to Council. The QBRs must show, by reference to the estimated income & expenditure that is set out in the operational plan, a revised estimate of income and expenditure for the year.

It also requires the QBRs to include a report by the responsible accounting officer as to whether or not the statement indicates Council to be in a satisfactory financial position, with regard to Council's original budget.

Council's operational plan sets out the achievements, goals and revenue policy, including estimates of income and expenditure. The QBRs plays an important role in monitoring Council's progress against the plan and ongoing management of the annual budget.

The QBRs is the mechanism whereby Councillors and the community are informed of Council's progress against the operational plan (original budget) and the recommended changes and reasons for major variances.

The QBRs is composed of the following components:

- Responsible Accounting Officer Statement;
- Income & Expenses Budget Review Statement;
- Capital Budget Review Statement;
- Cash Flow Statement Review;
- Budget Review Contracts and Other Expenses.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2015 and should be read in conjunction with other documents in the QBRs.

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ITEM 4 - ATTACHMENT 1 2015-2016 QUARTERLY BUDGET REVIEW
STATEMENT - DECEMBER 2015.

3. Responsible Accounting Officer's Statement

The Regulations require that a budget review statement must include or be accompanied by a report as to whether or not the Responsible Accounting Officer (RAO) believes that the QBRs indicates that Council's financial position is satisfactory, having regard to the original estimate of income and expenditure. If Council's financial position is considered by the RAO to be unsatisfactory, then recommendations for remedial action must be included.

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 31/12/2015 indicates that Council's projected financial position at 31/12/2015 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Name: Tim Hazell

Responsible Accounting Officer, Port Stephens Council

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4. Income & Expenses Budget Review Statement

Consolidated	2015 Original Budget \$000	Budget revotes & carry forwards	Budget Revision Sept Qtr \$000	Budget Revision Dec Qtr \$000	Budget Revision Mar Qtr \$000	Budget Revision Jun Qtr \$000	2015 Revised Budget Full Year \$000	2015 YTD Actuals \$000	% spent or earned
Rates & Annual Charges	51,389	-	62	102	-	-	51,553	51,674	100%
User Charges & Fees Income	37,471	-	152	1,213	-	-	38,836	13,390	35%
Interest & Investment Income	1,785	-	-	-	-	-	1,785	440	25%
Other Income	7,991	-	113	26	-	-	8,130	2,876	33%
Grants and Cont.	12,892	-	78	35	-	-	13,005	8,572	66%
Grants and Cont. (Capital)	8,288	-	364	224	-	-	8,876	1,916	22%
Gain on Sale	1,750	-	-	-	-	-	1,750	36	2%
Total Revenue	121,566	-	769	1,600	-	-	123,935	78,904	64%
Employee Costs	37,394	-	(217)	(109)	-	-	37,068	20,387	55%
Borrowing Costs	915	-	-	-	-	-	915	318	35%
Materials & Contracts	39,532	26	510	3,171	-	-	43,239	23,025	53%
Other Expenses	12,297	106	(201)	-	-	-	12,201	4,192	34%
Depreciation	16,573	-	-	(1,470)	-	-	15,103	7,551	50%
Total Expenditure	106,711	132	92	1,592	-	-	108,527	55,473	51%
Operating Surplus/(Deficit) after capital grants	14,855	(132)	677	8	-	-	15,408	23,431	-
Operating Surplus/(Deficit) before capital grants	6,567	(132)	313	(216)	-	-	6,532	21,515	-
Less: NAL Surplus	(3,278)	-	-	-	-	-	(3,278)	0	-
Less: LIRS principal repayment 1	(87)	-	-	-	-	-	(87)	0	-
Less: LIRS principal repayment 2	(161)	-	-	-	-	-	(161)	0	-
Less: Gain on sale	(1,750)	-	-	-	-	-	(1,750)	(36)	-
Underlying Operating Surplus/(Deficit)	1,291	(132)	313	(216)	-	-	1,256	21,479	-

Notes:
1. Revised Budget = Original Budget +/- approved budget changes in previous quarters. 2. Proposed Budget = Revised Budget +/- recommended changes this quarter.

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Council's original operating budget for 2015-16 was incorporated as part of the Integrated Plans and was adopted by Council on 26 May 2015.

This statement sets out the details of variations between Council's original operating budget and the revised budget as part of the September Quarterly Budget Review. There are a number of budgetary changes proposed across the Council budget which have delivered Council's Underlying Operating result. This has altered from an original projected surplus of \$1.290 million to a projected surplus of \$1.256 Million

Note that for budgetary changes: **F** = favourable budget change, **U** = unfavourable budget change.

Budget Change
F/U

\$'000

REVENUE

Rates and Annual Charges

102

F

The increase is to recognise the additional income received under the waste service contract than originally budgeted for.

User Charges and Fees

1,213

F

User charges have been increased to account for forecasted income from DA fees (\$120K) and additional RMS projects (\$932K) which are being carried out by Council and contract staff. Additional income has also been recognised for child care services (\$161K) under the restructure however this has been offset by a decrease in grant income.

Grants and Contributions provided for Operating Purposes

35

F

Grant income has been decreased by \$200K to account for the change in the child industry which has forced a restructure of the business unit. This has been offset by an increase by \$235K for various recreational and environmental programs.

Interest and Investment Revenue

-

-

No Change

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Other Revenues	26	F
There has been an increase in other revenue to for additional income received under leasing contracts.		
Grants and Contributions provided for Capital Purposes	224	F
Additional grant income has been increased for the capital works at Karuah Wharf, Tomaree Library, Tanilba Foreshore and Blackspot funding.		
Net Gains from the Disposal of Assets	-	-
No Change		

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ITEM 4 - ATTACHMENT 1 2015-2016 QUARTERLY BUDGET REVIEW
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EXPENDITURE	\$'000	Budget Change F/U
Borrowing Costs	-	-
No Change		
Depreciation and Amortisation	(1,470)	F
Road depreciation has been decreased in order to align the new deterioration curves adopted under the 2015 roads revaluation. These costs have been transferred to material and contractors in order to maintain the road maintenance required under the model.		
Employee Benefits and On-Costs	(109)	F
Employee costs in the RMS program have been transferred to materials and contractors.		
Materials and Contracts	3,171	U
Increased expenditure on Contractor & Materials is mainly due to the following areas:		
1) Road maintenance - \$1,470M (transfer from depreciation expenditure)		
2) Increased RMS project work - \$934K (offset by increased revenue)		
3) Increased costs in Pool and waste contracts - \$274K (offset by increased fee revenue)		
4) Website service costs - \$67K (offset by increased fee revenue)		
5) New grant programs - \$100K (offset by grant revenue)		
7) Increase in casual labour - \$100K (offset by increased fee revenue)		
6) Public information campaign on the merger proposal - \$200K		
Other Expenses	-	-
No change		

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5. Capital Budget Review Statement

Consolidated	2015 Original Budget \$000	Budget revotes & carry forwards \$000	Budget Revision Sept Qtr \$000	Budget Revision Dec Qtr \$000	Budget Revision Mar Qtr \$000	Budget Revision Jun Qtr \$000	2015 Revised Budget Full Year \$000	2015 YTD Actuals \$000
Grants and Cont (Capital)	8,289	-	364	224	-	-	8,877	1,916
Total Receipts	8,289	-	364	224	-	-	8,877	1,916
Capitalised Labour	-	-	-	-	-	-	-	-
Capital Materials & Contracts	12,217	1,839	3,169	5,040	-	-	22,265	8,769
Capital Acquisition & Development	8,184	3,817	449	210	-	-	12,660	7,345
Other	-	-	-	-	-	-	-	-
Total Payments	20,401	5,656	3,618	5,250	-	-	34,925	16,115
Add back changes supported by cash reserves	-	-	-	-	-	-	-	-
Capital Surplus/(Deficit)	(12,112)	(5,656)	(3,254)	(5,026)	-	-	(26,048)	14,199

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INCOME	\$'000	Budget Change F/U
Capital Grants and Contributions	224	F
Capital income has been increased for the following		
1. Anchorage playground contribution		
2. Tomaree Library solar system		
3. Tanilba Bay foreshore playground		
4. Karuah Wharf		
5. Raymond Terrace little Athletics contribution		
EXPENDITURE		
Capital Acquisition and Development	210	U
Capital acquisitions relate an increase in the fleet purchases for waste services. These acquisitions are being funded from the waste reserve.		
Capital Materials and Contracts	5,040	U
Capital Materials and contractors have been increased in relation to.		
<ul style="list-style-type: none"> Recognition of \$3.7M for the Medowie Sports Community Complex which will be funded by new bank loans and s94 contributions (restricted cash reserve). Additional \$770K for capital road works the increase is to be funded by s94 funds collected under Haulage DA's (restricted cash reserve). Additional \$389K for a new waste sorting facility. This change is funded from the waste reserve (restricted cash reserve). 		

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The capital works program by section is as follows:

	Original Budget \$'000	Budget Revotes & carry forwards \$'000	Budget Revision Sept \$'000	Budget Revision Dec \$'000	Budget Revision Mar \$'000	Revised Budget \$'000	Actual 30-Dec-15 \$'000
Capital Funding							
Capital Grants & Contributions	8,288	0	364	224	0	8,877	1,916
Total Capital Funding	8,288	0	364	224	0	8,877	1,916
Capital Expenditure							
Corporate Services Group							
Commercial Property							
Fingal Bay Holiday Park	968	2,055	(55)	0	0	3,023	1,372
Halifax Holiday Park	350	456	0	0	0	806	41
Shoal Bay Holiday Park	575	219	0	0	0	794	78
Thou Walla Sunset Retreat	0	75	0	0	0	75	48
TreEscape	155	0	0	0	0	155	218
Office and Chambers	394	0	0	0	0	394	41
Property Development	2,615	783	0	0	0	3,398	2,864
Property Services Section Manager	0	100	0	0	0	100	1
Property Investments	27	0	0	0	0	27	231
Commercial Property Total	5,084	3,743	(55)	0	0	8,772	4,983
Business System Support							
Business Improvement Technology	395	74	0	165		635	208
Business System Support Total	395	74	0	165	0	635	208
Corporate Services Total	5,479	3,817	(55)	165	0	9,407	5,101

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	Original Budget \$'000	Budget Revotes & carry forwards \$'000	Budget Revision Sept \$'000	Budget Revision Dec \$'000	Budget Revision Mar \$'000	Revised Budget \$'000	Actual 30-Dec-15 \$'000
Facilities and Services							
Civil Assets							
Civil Projects	0	0	0	0	0	0	1
Community and Recreational Assets	0	184	0	(73)	0	111	58
Drainage	0	0	383	110	0	493	128
Civil Assets Total	0	184	383	37	0	604	187
Community and Recreation							
Library Services	250	0	0	0	0	250	115
State Emergency Services	0	0	0	0	0	0	0
Community and Recreation Total	250	0	0	0	0	250	115
Capital Works							
Capital Works Construction	12,217	1,654	2,787	4,819	0	21,477	8,102
Capital Works Total	12,217	1,654	2,787	4,819	0	21,477	8,102
Public Domain and Services							
Building Trades	0	0	0	0	0	0	0
Depots	0	0	0	19	0	19	0
Fleet Maintenance	2,455	0	504	210	0	3,169	2,589
Public Domain and Services total	2,455	0	504	229	0	3,188	2,589
Facilities and Services Total	14,922	1,838	3,674	5,085	0	25,519	10,993
General Managers Office	-	-	-	-	0	-	21
Total Capital Expenditure	20,401	5,655	3,619	5,250	0	34,926	16,115
Net Outlay	12,113	5,655	3,254	5,026	0	26,048	14,199

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2015 and should be read in conjunction with other documents in the QBR.

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6. Cash Flow Statement	Original Budget	Revotes Carried Forward	Budget Revision Sept	Budget Revision Dec	Budget Revision Mar	Revised Budget
Cash Flows from Operating Activities	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Receipts:						
Rates & Annual Charges	49,350	-	62	102	-	49,514
User Charges & Fees	35,759	-	152	1,213	-	37,124
Interest & Investment Revenue Received	1,642	-	-	-	-	1,642
Grants & Contributions	21,383	-	1,442	259	-	23,084
Other	6,060	-	-	26	-	6,116
Payments:						
Employee Benefits & On-Costs	(35,946)	-	217	109	-	(35,620)
Materials & Contracts	(34,734)	(106)	(510)	(3,171)	-	(38,521)
Borrowing Costs	(915)	-	-	-	-	(915)
Other	(15,264)	(26)	201	-	-	(15,119)
Net Cash provided (or used in) Operating Activities	27,335	(133)	1,564	(1,462)	-	27,304
Cash Flows from Investing Activities						
Receipts:						
Proceeds from disposal of Property Plant & Equipment	1,750	-	-	-	-	1,750
Payments:						
Purchase of Infrastructure, Property, Plant & Equipment	(20,401)	(5,655)	(3,618)	(5,250)	-	(34,924)
Net Cash provided (or used in) Investing Activities	(18,651)	(5,655)	(3,618)	(5,250)	-	(33,174)
Cash Flows from Financing Activities						
Receipt of new borrowings	-	-	-	2,367	-	2,367
Repayment of Borrowings & Advances	(4,335)	-	-	-	-	(4,335)
Net Cash Flow provided (used in) Financing Activities	(4,335)	-	-	2,367	-	(1,968)
Net Increase/(Decrease) in Cash & Cash Equivalents	4,349	(5,788)	(2,054)	(4,345)	-	(7,838)
plus: Cash & Investments - beginning of year	**37,168	-	-	-	-	37,168
Cash & Investments - end of the year	**41,517	(5,788)	(2,054)	(4,345)	-	29,330

* - Affected by the April storm by approx. \$5M ** - includes cash from NAL of \$9,766

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2015 and should be read in conjunction with other documents in the QBR.

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Cash Flow Statement Funding Reconciliation

The 'Recommended Changes to Budget' in the Dec QBR constitute a gross cash outflow of 6,712M which is made up of a net loss in operating activities of \$1,462 and Investing Activities of \$5,250. These changes are being funded from existing cash reserves, reallocating of operating expenditure (depreciation) and external borrowings.

Sourced from current year cash result::	6	Unfunded portion of the capital and operating changes
Sourced from external borrowings	2,367	Ferodale Sports Complex
Transfer from externally restricted cash:	2,869	Waste and s94 reserve
Funded by lowering depreciation costs:	1,470	Non cash item
	<u>6,712</u>	

PSC is clearly solvent based on the current and estimated cash position from the September review changes. PSC's current cash position at the end of Dec was \$20.7M.

7. Budget Review Contracts and Other Expenses

Councillors are currently made aware of tenders of \$150,000 or more in accordance with legislation. However, Councillors should be made aware of other material contracts entered into by Council and details of other expenses that are of particular interest. To this end a contract listing and details of legal fees and consultancy expenses are included in the QBRs.

Part A lists contracts (other than employment contracts and contracts entered into from Council's preferred suppliers list) that:

- Were entered into during the quarter ending 31 Dec 2015; and
- Have a value equal to or more than \$50,000

Part B of the report shows expenditure as at 31 Dec 2015 for:

- Consultancies
- Legal fees

For the purposes of this report, a consultancy is defined as a person or organisation engaged under contract on a temporary basis to provide recommendation or high level specialist or professional advice to assist decision-making by management.

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Part A Contracts Listing							
No	Contractor	Contract Details and Purpose	Contract Value (\$)	Commencement date	Duration of contract (weeks)	Contract end date	Contract Status
RFQ17-2015	Anketangl Pty Ltd T/A Dare 2XL (Andrew Hughes) Griffith Consulting Hudson Global Resources (AUST) Pty Ltd	Leadership Development Program	100,000	4/12/2015	156	30/11/2018	Active
	Local Government Training Institute Matrix Leadership Networks Pty Ltd Nobel Works TAFE NSW - Hunter Institute						
T23-2015	Ozz Projects	Raymond Terrace Library Repairs	148,869	2/11/2015	2	19/11/2015	Active
Part B Consultancy & Legal Expenses							
Expense	Annual Budget (\$)	Expenditure YTD (\$)	Budgeted (Y/N)				
Consultancies	526,745	368,932	Y				
Legal Fees	572,105	84,336	Y				

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 31/12/2015 and should be read in conjunction with other documents in the QBR.

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ITEM NO. 5

**FILE NO: 16/258570
RM8 REF NO: T19-2015**

TENDER T19-2015: ELECTRICAL MAINTENANCE SERVICES

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the *Local Government Act, 1993*, the Council resolve to close to the public that part of its meetings to discuss Item 5 on the Ordinary Council agenda namely TENDER T19-2015: Electrical Maintenance Services.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the TENDER T19-2015: Electrical Maintenance Services.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the *Local Government (General) Regulation 2005*.
- 5) That Council accept the tenders submitted from the following suppliers as a panel of contractors within budget estimates for the provision of electrical maintenance services:
 - Novocastrian Electrical Contractors Pty. Ltd (preferred supplier)
 - Elekmark Industries Pty Limited
- 6) That the contract will commence on 1 March 2016 for a period of one year, terminating on 28 February 2017 with an option to extend for a further two years.

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Mayor Bruce MacKenzie Councillor John Nell</p> <p>That Council:</p> <ol style="list-style-type: none">1) Accept the tenders submitted from the following suppliers as a panel of contractors within budget estimates for the provision of electrical maintenance services:<ul style="list-style-type: none">• Novocastrian Electrical Contractors Pty. Ltd (preferred supplier)• Elekmark Industries Pty Limited2) That the contract will commence on 1 March 2016 for a period of one year, terminating on 28 February 2017 with an option to extend for a further two years.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

036	<p>Mayor Bruce MacKenzie Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Accept the tenders submitted from the following suppliers as a panel of contractors within budget estimates for the provision of electrical maintenance services:<ul style="list-style-type: none">• Novocastrian Electrical Contractors Pty. Ltd (preferred supplier)• Elekmark Industries Pty Limited2) That the contract will commence on 1 March 2016 for a period of one year, terminating on 28 February 2017 with an option to extend for a further two years.
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BACKGROUND

The purpose of this report is to recommend the acceptance of a panel of contractors for the provision of electrical maintenance services. The tender was advertised and closed on 23 December 2015 with a total of three submissions received at the close

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

of the tender period, one of which was non-conforming as the pricing requirements were not met. A summary of the submissions is included as **(ATTACHMENT 1)**.

This tender is required as the current electrical maintenance services contract has lapsed (T14-2014). The intent is to appoint a panel of suppliers to service Port Stephens Council's requirements to maintain the existing infrastructure. The tender specification has been written incorporating the relevant needs of Council as well as the relevant Standards, Code of Practice and Guidelines for electrical services.

The panel of two contractors were chosen due to their capability in meeting the services as per the Specification and were chosen using the "Value for Money" methodology.

Novocastrian Electrical Contractors has been in operation since 1993 (22 years) and have been working with Council for over six years. The company is located in Heatherbrae and is well respected in the Hunter region.

Elekmark Industries is a niche contractor capable of meeting the response times within the Port Stephens region and have been in operation since 2004 (11 years). They have a single office located at Stroud with a working history with other Councils within the local Hunter region, other large multi-nationals and government organisations.

In the last two financial years Council has spent approximately \$600,000 on electrical maintenance services across all services and activities.

The weightings agreed for this tender were:

Criteria	Weighting (%)
Price	50
Management of contract	10
Relevant experience/expertise	20
Capability	20
Total	100

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

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

	current and future workforce needs. Provide enabling business support services for Council's operations.
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FINANCIAL/RESOURCE IMPLICATIONS

This program will be funded from within existing budget allocations.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that contractors may expose Council to a public liability risk.	Medium	Implement contract/s which will ensure contractors have sufficient insurances in place as prescribed by Port Stephens Council.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant sustainability implications.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

This tender was called prior to the proposed merger being announced. The body of work is considered necessary for the day to day operations of Council. As the recommended contract period is one year this will not impact on any Council merger proposal.

CONSULTATION

- 1) Building Trades Coordinator.
- 2) Beachside Holiday Parks Manager.
- 3) Team Leader - Electrical.
- 4) Finance Officer - Procurement and Contract Management Specialist.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL T19-2015 Weighted Criteria Methodology Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

**FILE NO: 16/258573
RM8 REF NO: T25-2015**

TENDER T25-2015: PLUMBING MAINTENANCE SERVICES

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the *Local Government Act, 1993*, the Council resolve to close to the public that part of its meetings to discuss Item 6 on the Ordinary Council agenda namely TENDER T25-2015: Plumbing Maintenance Services.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the TENDER T25-2015: Plumbing Maintenance Services.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the *Local Government (General) Regulation 2005*.
- 5) That Council accept the tenders submitted from the following suppliers as a panel of contractors within budget estimates for the provision of plumbing maintenance services:
 - Water Art Australia Pty Ltd
 - Mullane Maintenance Pty Limited T/A H L Mullane Son Pty Ltd
 - IPS Plumbing Services Pty Ltd
 - M & L Sullivan Plumbing Pty. Ltd.
- 6) That the contract will commence on 1 March 2016 for a period of one year, terminating on 28 February 2017 with an option to extend for a further two years.

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Mayor Bruce MacKenzie Councillor John Nell</p> <p>That Council:</p> <ol style="list-style-type: none">1) Accept the tenders submitted from the following suppliers as a panel of contractors within budget estimates for the provision of plumbing maintenance services:<ul style="list-style-type: none">• Water Art Australia Pty Ltd• Mullane Maintenance Pty Limited T/A H L Mullane Son Pty Ltd• IPS Plumbing Services Pty Ltd• M & L Sullivan Plumbing Pty. Ltd.2) That the contract will commence on 1 March 2016 for a period of one year, terminating on 28 February 2017 with an option to extend for a further two years.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

037	<p>Mayor Bruce MacKenzie Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Accept the tenders submitted from the following suppliers as a panel of contractors within budget estimates for the provision of plumbing maintenance services:<ul style="list-style-type: none">• Water Art Australia Pty Ltd• Mullane Maintenance Pty Limited T/A H L Mullane Son Pty Ltd• IPS Plumbing Services Pty Ltd• M & L Sullivan Plumbing Pty. Ltd.2) That the contract will commence on 1 March 2016 for a period of one year, terminating on 28 February 2017 with an option to extend for a further two years.
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BACKGROUND

The purpose of this report is to recommend the acceptance of a panel of contractors for the provision of plumbing maintenance services. The tender was advertised and closed on 23 December 2015 with a total of six submissions received at the close of the tender period, a summary of which is included as **(ATTACHMENT 1)**.

The intent is to appoint the panel of providers who will have specialist knowledge in servicing Port Stephens Council's requirement to maintain existing infrastructure. All the recommended tenderers scored highly and, due to the specialist nature of plumbing requirements and pricing considerations, four plumbing suppliers were chosen.

Consideration was also made to the office and service areas of the suppliers, to meet the Port Stephens Council customer service requirements and its diverse sites within the Local Government Area.

The tender specification and pricing requirements has been written incorporating the relevant needs of Council as well as the relevant Standards, Code of Practice and Guidelines for plumbing services.

The panel of four contractors were chosen due to their capability in meeting the services as per the Specification and were chosen using the "Value for Money" methodology.

Water Art Australia Pty Ltd has been trading since 2000 (16 years). They have branches in Sydney and Morpeth.

Mullane Maintenance Pty Ltd has been trading since 1925 (91 years). They are Newcastle based and work throughout the Hunter region.

IPS Plumbing Services have been trading since 2005 (11 years). They are located at Soldiers Point and have undertaken plumbing work for Council in recent years.

M & L Sullivan have been trading since 1992 (24 years). They are based at Seaham and operate in the Newcastle and Hunter region.

The weightings agreed for this tender were:

Criteria	Weighting (%)
Price	50
Management of contract	10
Relevant Experience/Expertise	20
Capability	20
Total	100

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Port Stephens Council's services and assets are sustainable in the longer term.	<p>Council will reduce its underlying deficit to break even in 2014-2015 financial year.</p> <p>Council will increase its revenue from non-rates sources.</p> <p>Manage risks across Council.</p> <p>Attract, retain and develop staff to meet current and future workforce needs.</p> <p>Provide enabling business support services for Council's operations.</p>

FINANCIAL/RESOURCE IMPLICATIONS

This program will be funded from within existing budget allocations.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no significant legal and or policy implications. The risks are detailed in the table below:

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that contractors may expose Council to a public liability risk.	Medium	Implement contract/s which will ensure contractors have sufficient insurances in place as prescribed by Port Stephens Council.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant sustainability implications.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

This tender was called prior to the proposed merger being announced. The body of work is considered necessary for the day to day operations of Council. As the recommended contract period is one year this will not impact on any Council merger proposal.

CONSULTATION

- 1) Building Trades Coordinator.
- 2) Finance Officer - Procurement and Contract Management Specialist.
- 3) Holiday Parks Manager.
- 4) Supervisory Licensed Plumber.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Weighted Criteria Methodology Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

**FILE NO: 16/258580
RM8 REF NO: T27-2015**

TENDER T27-2015: SHOAL BAY TOURIST TENTS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the *Local Government Act, 1993*, the Council resolve to close to the public that part of its meetings to discuss Item 7 on the Ordinary Council agenda namely TENDER T27-2015: Shoal Bay Tourist Tents.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the TENDER T27-2015: Shoal Bay Tourist Tents.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the *Local Government (General) Regulation 2005*.
 - 5) That Council accept the tender submitted from Undercover Canvas Pty Ltd for \$483,887 for the replacement of the Shoal Bay Tourist Tents.
-

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Mayor Bruce MacKenzie Councillor John Nell</p> <p>That Council accept the tender submitted from Undercover Canvas Pty Ltd for \$483,887 for the replacement of the Shoal Bay Tourist Tents.</p>
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

038	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council accept the tender submitted from Undercover Canvas Pty Ltd for \$483,887 for the replacement of the Shoal Bay Tourist Tents.
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BACKGROUND

The purpose of this report is to recommend the acceptance of a tender for the replacement of the Eco Safari Tourist Tents at Shoal Bay Holiday Park.

The tender was advertised and closed on 22 December 2015 with a total of three submissions received at the close of the tender period. A total of six options were received, four of which were non-conforming as they did not meet the requirements of the tender specifications. A summary of the submissions is included as **(ATTACHMENT 1)**.

There will be eight new tents installed in total including one designated disabled tent, compliant with current *Disability Discrimination Act* standards. The Eco Tent precinct will deliver entry level accommodation with the inclusion of a basic but functional fit-out, including an ensuite, but excluding a kitchenette. The tents will be mounted on wooden platforms sufficient in size to offer a covered and uncovered outdoor sitting/entertainment area. The supply and installation of the platforms is included as part of this tender.

The design of the tents and platforms as well as the installations must comply with all relevant Australian Standards, having regard to the *Local Government Regulation 2005*, *Local Government Act 1993*, Shoal Bay Plan of Management and be accompanied with the necessary engineering certificates and compliance certification.

The weightings agreed for this tender were:

Criteria	Weighting (%)
Price	20
Financial Viability/Study	20
Design	15
Quality	15
Innovation	15

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

Capability/Delivery	10
Warranty Response Times	5
Total	100

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Port Stephens Council's services and assets are sustainable in the longer term.	<p>Council will reduce its underlying deficit to break even in 2014-2015 financial year.</p> <p>Council will increase its revenue from non-rates sources.</p> <p>Manage risks across Council.</p> <p>Attract, retain and develop staff to meet current and future workforce needs.</p> <p>Provide enabling business support services for Council's operations.</p>

FINANCIAL/RESOURCE IMPLICATIONS

The program will be funded from within existing budget allocations.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that there will be a loss of income for the Holiday Park.	Low	Accept the recommendations and commence installation of the new tents.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant social or environmental implications. This tender will allow for the implementation of the capital works program with the existing deteriorated tents being replaced with new product to ensure revenue forecasts are maintained.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

The tender was called prior to the proposed merger being announced. The body of work is considered necessary for the day to day operations of Council.

CONSULTATION

- 1) Beachside Holiday Parks Manager.
- 2) Facilities Coordinator.
- 3) Finance Expenditure Coordinator.
- 4) Finance Officer - Procurement and Contract Management Specialist.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL T27-2015 Weighted Criteria Methodology Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8**FILE NO: 16/258592
RM8 REF NO: T30-2015****TENDER T30-2015: THOU WALLA SUNSET RETREAT REPAIRS**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the *Local Government Act, 1993*, the Council resolve to close to the public that part of its meetings to discuss Item 8 on the Ordinary Council agenda namely TENDER T30-2015: Thou Walla Sunset Retreat Repairs.
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the TENDER T30-2015: Thou Walla Sunset Retreat Repairs.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the *Local Government (General) Regulation 2005*.
 - 5) That Council accept the tender submitted from The Trustee for Ozz Projects Unit Trust T/A Ozz Projects Pty Ltd for \$230,430 for the provision of Thou Walla Sunset Retreat Repairs.
-

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Mayor Bruce MacKenzie Councillor John Nell That Council accept the tender submitted from The Trustee for Ozz Projects Unit Trust T/A Ozz Projects Pty Ltd for \$230,430 for the provision of Thou Walla Sunset Retreat Repairs.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

039	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council accept the tender submitted from The Trustee for Ozz Projects Unit Trust T/A Ozz Projects Pty Ltd for \$230,430 for the provision of Thou Walla Sunset Retreat Repairs, and receive and note the supplementary information.
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BACKGROUND

The purpose of this report is to recommend the acceptance of a tender for the repairs to the storm damaged cabins, tents and decks at Thou Walla Sunset Retreat. The tender was advertised and closed on 14 January 2016 with a total of two submissions received at the close of the tender period, one of which was non-conforming as no price schedule was submitted. A summary of the submissions is included as **(ATTACHMENT 1)**.

The weightings agreed for this tender were:

Criteria	Weighting (%)
Price	30
Commercial Terms	10
Capability	20
Quality	20
Relevant Experience	20
Total	100

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

There are no significant financial/resource implications identified.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	230,430	Funds will be reimbursed by Council's insurer as part of the property claim from the April 2015 Storm event.

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the Council asset will not be replaced under insurance coverage resulting in loss of income for the holiday park.	Low	Accept the recommendations and carry out the repairs to the structures and return the holiday park to its former capacity.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant social, economic or environmental implications.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

There are no anticipated implications with this tender as it relates to the replacement of an asset damaged in the April storms and will be funded from the insurance claim.

CONSULTATION

- 1) Beachside Holiday Parks Manager.
- 2) Finance Expenditure Coordinator.
- 3) Finance Officer - Procurement and Contract Management Specialist.

OPTIONS

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

ATTACHMENTS

- 1) CONFIDENTIAL Weighted Criteria Methodology Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9**FILE NO: 16/254331
RM8 REF NO: PSC2011-04362****SUSTAINABILITY REVIEW - CHILDREN'S SERVICES**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Sustainability Review – Children's Services, Service Strategy and endorse the findings of the review (ATTACHMENT 1).
-

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Sally Dover That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

040	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council note the information contained in the Sustainability Review – Children's Services, Service Strategy and endorse the findings of the review (ATTACHMENT 1).
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BACKGROUND

The purpose of this report is to present to Council the outcomes of the sustainability review for Children's Services and seek endorsement of the recommendations contained in the Children's Services Strategy.

Council endorsed the recommendations of the first sustainability review of Children's Services in 2012. These recommendations were to:

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

- 1) Seek an alternate organisation to take on the operation of Medowie Children's Centre.
- 2) Continue to deliver Outside School Hours, Port Stephens Activity Van and Family Day Care with a focus on continuous improvement of processes.
- 3) Improve the efficiency and resilience of Children's Services Administration through the co-location of all administration staff at the Family Day Care Unit at 59 Port Stephens St Raymond Terrace.
- 4) Develop a Business Plan for the alignment of Port Stephens Family Day Care with other Hunter Region Family Day Care Units and move towards a regional service delivery model.

The result since then has been:

- 1) Medowie Children's Centre is now leased to the Uniting Church in Australia Property Trust commencing 19 August 2013. This has assured accessibility to an affordable Long Day Care service for families and delivered increased revenue to Council through commercial rent. The result has been a combined saving to ratepayers of around \$210,000 p.a.
- 2) The Outside School Hours, Port Stephens Activity Van and Family Day Care teams have continued to deliver services with a focus on continuous improvement of processes. Outcomes have included an increase in the number of weekly preschool sessions from three to four, thereby improving accessibility for customers and increasing revenue. This was achieved through the annualisation of staff hours without incurring additional cost. This improvement in service delivery was fundamental in ensuring the preschool was deemed eligible for a Mobile Services Contract and a guarantee of funding for the next four years. Family Day Care has mitigated the financial impact of the withdrawal of operational subsidy in July 2015 with an increase in fees and a reduction in staff levels. The result has been a combined saving to the business of around \$135,000 p.a.
- 3) Children's Services Administration and Management staff co-located with the Family Day Care Unit in December 2012. Savings have been realised through decreased rent, photocopier, and telephone costs. Additionally it has been possible, in conjunction with a restructure of Family Day Care hours, to reduce overall administration hours by thirteen. The result has been a combined reduction in costs to the business of around \$33,000 p.a.
- 4) In early 2013 Port Stephens Family Day Care liaised with Newcastle City Council concerning the decision of Newcastle to exit Family Day Care. As a result in the 2013-2014 year Port Stephens Family Day Care registered an additional 33 Educators and the number of childcare places grew from 143 each day to 216. This resulted in increased revenue for the service and improved accessibility for families. Port Stephens Family Day Care now has 81 Educators registered in five local government areas. In response to the Federal Government removing operational subsidy from Family Day Care in June 2015 fees were increased significantly and staffing levels reduced. Coordinator positions were reduced from four to three and hours from 108 to 77. The result has been a cost reduction to the business of around \$80,000 p.a.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Children have safe places to play, learn and grow.	Plan and provide facilities, services and opportunities for children.

FINANCIAL/RESOURCE IMPLICATIONS

Adopting the recommendation in the Service Strategy has no Financial or Resource implications. There are no cost savings or revenue benefits from the recommendation.

Adopting the recommendation will improve coordination of the administrative function of Children's Services. It will ensure that administration staff have clarity about responsibilities, planning of work flow, and reporting procedures, and will improve the experience for customers.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications associated with the recommendations.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that future changes in government policy will impact on the financial sustainability of children's services.	Medium	Children's Services team will continue to use fact based business improvement processes to ensure that strategy, structure, systems and processes are in place which will provide the agility required to respond to future requirements effectively and efficiently.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adoption of the recommendation is meant to provide ongoing compliant child care at affordable rates. The purpose of this is to enable families to engage fully in the life of their communities and contribute to the local and regional economy.

The Service Strategy benchmarking shows that Port Stephens Council offers a range of children's services at affordable rates. Most fees fall within the range of fees of other similar service types, with only the Family Day Care Family Levy falling outside this range (+4%). The high utilisation rates of services (861 families) and customer satisfaction rate (98%) indicate that the Children's Services package is a sustainable service package.

Family Day Care currently provides 81 Educators with the opportunity to run their own locally based small business. A strong business community plays an important part in the resilience of the local economy.

Adoption of the recommendation is not likely to result in any impacts on the local ecology.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

The merger proposal does have implications for the future operations of Before and After School/Vacation Care services. Specifically, if the merger proceeds, the Approved Provider License would be transferred to the new Council entity which in turn triggers full compliance with current regulations as opposed to operating under transitional savings of older regulations. The implication here is the reduction in child care places at Raymond Terrace and Medowie Before and After School Care/Vacation Care centres by some 84 places.

Port Stephens Council provides seven children's services whilst Newcastle City Council provides one service (i.e. Beresfield Child Care Centre). There are no staffing or service implications from continuing to provide children's services. However the merger proposal may generate mixed messaging with the split in the Family Day Care scheme to create two distinct schemes (Port Stephens and Newcastle) both provided by Port Stephens Council as the Approved Provider. A communication plan that addresses this potential issue has been deployed.

CONSULTATION

- 1) A two way conversation was held with the Mayor and Councillors on 16 February 2016.
- 2) Executive Leadership Team.
- 3) Children's Services Coordinator.
- 4) Children's Services Team staff.
- 5) Children's Services Customers.

OPTIONS

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

ATTACHMENTS

- 1) Excerpt of Service Strategy - Summary of Options and Recommendations Children's Services.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review - Service Strategy Children's Services.

ITEM 9 - ATTACHMENT 1 EXCERPT OF SERVICE STRATEGY - SUMMARY OF OPTIONS AND RECOMMENDATIONS CHILDREN'S SERVICES.

SERVICE STRATEGY - EXCERPT

Service Package Name: Children's Services

Group: Facilities and Services

Section: Community services

SUMMARY OF OPTIONS:

Option 1	Details	Prioritisation (refer matrix)
Continue on, however seek to continuously improve the service	The Children's Services team is committed to providing a quality service which is valued by customers and delivered at a price they are willing to pay. The team will continue to seek improvements on an ongoing basis.	High
Option 2	Details	Prioritisation (refer matrix)
Change the way the service is delivered (ie. process or supplier improvement)	The manner of service delivery is defined by the childcare regulatory parameters	Low
Option 3	Details	Prioritisation (refer matrix)
Spin off or restructure	During the Sustainability review process a number of organisational changes were implemented which reduced costs and enhanced service delivery. An additional change is recommended in creating a discrete administration team by having the three administration officer positions report to the Children's Services co-ordinator.	High
Option 4	Details	Prioritisation (refer matrix)
Cease the service altogether	There is a reputation risk in ceasing to deliver the existing programs. All programs are well utilised (861 families using the programs) and highly valued by customers (98 % satisfaction rate overall). In 2015-16 the programs are budgeted to deliver a surplus of \$341,635 to Council.	Low

ITEM 9 - ATTACHMENT 1 EXCERPT OF SERVICE STRATEGY - SUMMARY OF OPTIONS AND RECOMMENDATIONS CHILDREN'S SERVICES.
RECOMMENDATION:

Service	Details	Net One off costs/savings	Recurrent costs/savings
Children's Services Administration Office	Endorse the Administration Services team to continue to provide this service to customers while continuously seeking improvements to ensure it is run in the best way possible at the best value for money. Endorse the change in organisational structure to have the three administration officer positions report to the Children's Services Co-ordinator	Nil	Nil
Port Stephens Activity Van	Endorse the Mobile Services team to continue to provide this service to customers while continuously seeking improvements to ensure that it is run in the best way possible at the best value for money.	Nil	Nil
Outside School Hours	Endorse the Outside School Hours team to continue to provide these services to customers while continuously seeking improvements to ensure they are run in the best way possible at the best value for money.	Nil	Nil
Family Day Care Coordination Unit	Endorse the Family Day Care team to continue to provide these services to customers while continuously seeking improvements to ensure they are run in the best way possible at the best value for money.	Nil	Nil

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016**ITEM NO. 10****FILE NO: 16/259306
RM8 REF NO: PSC2011-02657****SIX-MONTHLY REPORT JULY TO DECEMBER 2015**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Six-Monthly Report July to December 2015.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor John Morello That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

041	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council adopt the Six-Monthly Report July to December 2015.
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BACKGROUND

The purpose of this report is to provide to Council and the community of Port Stephens a progress report for the period July 2015 to December 2015 against the Delivery Program 2013-2017.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
The Port Stephens community is informed and involved in decisions that affect them.	Engage our community in conversations and provide timely & accurate information.

FINANCIAL/RESOURCE IMPLICATIONS

This report was developed in-house and is in electronic format so that financial resources are minimal. The report has been generated from corporate data sources.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Under section 404(5) of the *Local Government Act 1993* the General Manager is required to report at least every six months to Council and the community on progress in implementing the Council's Delivery Program.

There is no policy implications related to this report.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council fails to adopt the report, leading to loss of reputation.	Low	Adopt the Six Monthly Report July – December 2015.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's Delivery Program 2013-2017 was developed in line with social, economic and environmental factors and this report reflects consideration of those implications.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

There are no implications for the merger proposal.

CONSULTATION

- 1) This report was developed from data supplied by officers from across Council. It was reviewed by the Executive Leadership Team.

OPTIONS

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

ATTACHMENTS

- 1) Six Monthly Report July-December 2015. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 11

**FILE NO: 16/265293
RM8 REF NO: PSC2016-00178**

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. Mayoral Funds – Nelson Bay Australia Day Committee – Donation towards costs associated with efforts on Australia Day 2016 - \$500.
 - b. Mayoral Funds – Lemon Tree Passage Australia Day Committee – Donation towards costs associated with efforts on Australia Day 2016 - \$500.
 - c. Mayoral Funds – Raymond Terrace Rotary Club – Donation towards costs associated with efforts on Australia Day 2016 - \$500.
 - d. Mayoral Funds – Nelson Bay Rotary Club – Donation towards costs associated with phase two of the exercise trail - \$1000.
 - e. West Ward Funds – Raymond Terrace Aquatic Club – Donation towards associated costs of providing the display on Australia Day 2016 - \$1800.
 - f. West Ward Funds – Rotary Club of Raymond Terrace – Donation towards cost of training volunteers for local government training in relation to Australia Day 2016 - \$230.
 - g. Central Ward Funds – Medowie Rugby Club – Donation towards costs with machinery repairs for oval maintenance - \$500.
 - h. Central Ward Funds – Tilligerry RSL Sports Club – Donation towards costs associated with 2015 Carols by Candlelight - \$500
 - i. East Ward Funds – Port Stephens Scenic Foreshore Cycleway Inc. – Donation towards associated costs of public liability policy to cover volunteers working on the Corlette cycleway - \$1000.
 - j. East Ward Funds - Port Stephens Council Building Trades – Donation towards installation of picnic table shelters at Roy Wood Reserve - \$1,000
 - k. East Ward Funds – Nelson Bay and District Business Association – Donation towards costs of event undertaken in 2015 for Council hire fees - \$3,957.

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Chris Doohan That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

042	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council 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:- <ul style="list-style-type: none">a. Mayoral Funds – Nelson Bay Australia Day Committee – Donation towards costs associated with efforts on Australia Day 2016 - \$500.b. Mayoral Funds – Lemon Tree Passage Australia Day Committee – Donation towards costs associated with efforts on Australia Day 2016 - \$500.c. Mayoral Funds – Raymond Terrace Rotary Club – Donation towards costs associated with efforts on Australia Day 2016 - \$500.d. Mayoral Funds – Nelson Bay Rotary Club – Donation towards costs associated with phase two of the exercise trail - \$1000.e. West Ward Funds – Raymond Terrace Aquatic Club – Donation towards associated costs of providing the display on Australia Day 2016 - \$1800.f. West Ward Funds – Rotary Club of Raymond Terrace – Donation towards cost of training volunteers for local government training in relation to Australia Day 2016 - \$230.g. Central Ward Funds – Medowie Rugby Club – Donation towards costs with machinery repairs for oval maintenance - \$500.h. Central Ward Funds – Tilligerry RSL Sports Club – Donation towards costs associated with 2015 Carols by Candlelight - \$500i. East Ward Funds – Port Stephens Scenic Foreshore Cycleway Inc. – Donation towards associated costs of public liability policy to cover volunteers working on the Corlette cycleway - \$1000.j. East Ward Funds - Port Stephens Council Building Trades – Donation towards installation of picnic table shelters at Roy Wood Reserve - \$1,000k. East Ward Funds – Nelson Bay and District Business Association – Donation towards costs of event undertaken in 2015 for Council hire fees - \$3,957.
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MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

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.

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

Mayoral Funds

1. Rapid Response
2. Community Financial Assistance Grants (bi-annually)
3. 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 Operational 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 are provided through Mayoral Funds, Rapid Response or Community Capacity Building:-

WEST WARD – Councillors Jordan, Kafer and Le Mottee

Raymond Terrace Aquatic Club	Donation towards associated costs of providing the display on Australia Day 2016.	\$1,800
Rotary Club of Raymond Terrace	Donation towards cost of training volunteers for local government training in relation to Australia Day 2016.	\$230

CENTRAL WARD – Councillors Dingle, Doohan and Tucker

Medowie Rugby Club	Donation towards costs with machinery repairs for oval maintenance.	\$500
Tilligerry RSL Sports Club	Donation towards costs associated with 2015 Carols by Candlelight.	\$500

EAST WARD – Councillors Dover, Nell and Morello

Port Stephens Scenic Foreshore Cycleway Inc.	Donation towards associated costs of public liability policy to cover volunteers working on the Corlette cycleway.	\$1000
Port Stephens Council Building Trades	Donation towards installation of picnic table shelters at Roy Wood Reserve.	\$1000
Nelson Bay and District	Donation towards costs of event undertaken	\$3,957

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

Business Association	in 2015 for Council hire fees.	
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MAYORAL FUNDS – Mayor MacKenzie

Nelson Bay Australia Day Committee	Donation towards costs associated with efforts on Australia Day 2016.	\$500
Lemon Tree Passage Australia Day Committee	Donation towards costs associated with efforts on Australia Day 2016.	\$500
Raymond Terrace Rotary Club	Donation towards costs associated with efforts on Australia Day 2016.	\$500
Nelson Bay Rotary Club	Donation towards costs associated with phase two of the exercise trail.	\$1000

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

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	11,487	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 (Act)*, 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:

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

There are no implications for the proposed merger.

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.

MINUTES ORDINARY COUNCIL - 23 FEBRUARY 2016**ITEM NO. 12****FILE NO: 16/267149
RM8 REF NO: PSC2016-00015****INFORMATION PAPERS****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 23 February 2016.

No:	Report Title	Page:
1	Cash and Investments held as at 31 January 2016	128

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Sally Dover That the recommendation be adopted.
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043	Councillor Chris Doohan Councillor John Morello It was resolved that Council move out of Committee of the Whole.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

044	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 23 February 2016. <hr/> No: Report Title 1 Cash and Investments held as at 31 January 2016
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INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 16/259642
RM8 REF NO: PSC2006-6531**

CASH AND INVESTMENTS HELD AS AT 31 JANUARY 2016

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

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 31 January 2016.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

There are no merger proposal implications as this is a legislative requirement.

ATTACHMENTS

- 1) Cash and investments held at 31 January 2016.
- 2) Monthly cash and investments balance January 2015 to January 2016.
- 3) Monthly Australian term deposit index January 2015 to January 2016.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

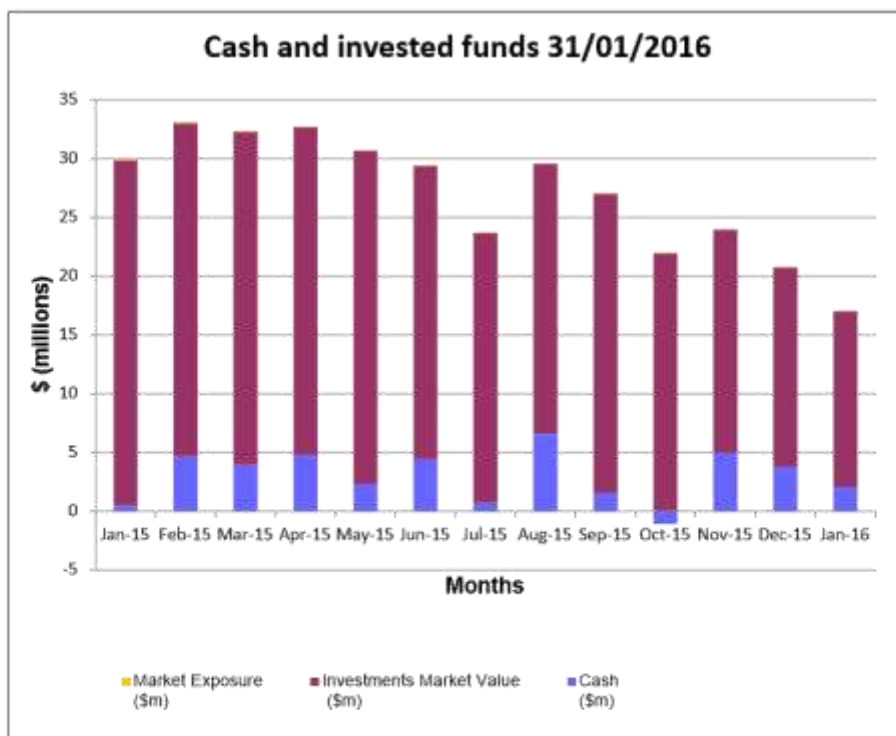
Nil.

ITEM 1 - ATTACHMENT 1 CASH AND INVESTMENTS HELD AT 31 JANUARY 2016.
CASH AND INVESTMENTS HELD AS AT 31 JANUARY 2016

ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
AMP BANK LTD	FARQUHARSON	A+	TD	2.90%	182	10-Feb-16	2,000,000	2,000,000
SUNCORP BANK	SUNCORP	A+	TD	2.95%	182	9-Mar-16	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.00%	182	23-Mar-16	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	2.90%	168	6-Apr-16	2,000,000	2,000,000
ARAB BANK AUSTRALIA LTD	RIM	NR	TD	3.05%	280	20-Apr-16	2,000,000	2,000,000
ANZ	ANZ	AA-	TD	3.00%	119	4-May-16	2,000,000	2,000,000
ANZ	ANZ	AA-	TD	3.00%	126	18-May-16	2,000,000	2,000,000
SUB TOTAL (\$)							14,000,000	14,000,000
OTHER INVESTMENTS								
ANZ ZERO COUPON BOND	ANZ	AA-	BOND	0.00%	9yrs	1-Jun-17	1,017,877	989,274
SUB TOTAL (\$)							1,017,877	989,274
INVESTMENTS TOTAL (\$)							15,017,877	14,989,274
CASH AT BANK (\$)							2,042,729	2,042,729
TOTAL CASH AND INVESTMENTS (\$)							17,060,606	17,032,003
CASH AT BANK INTEREST RATE				2.40%				
BBSW FOR PREVIOUS 3 MONTHS				2.33%				
AVG. INVESTMENT RATE OF RETURN				2.77%				
TD = TERM DEPOSIT								
*STANDARD AND POORS LONG TERM RATING								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
T HAZELL								

**ITEM 1 - ATTACHMENT 2 MONTHLY CASH AND INVESTMENTS BALANCE
JANUARY 2015 TO JANUARY 2016.**
CASH AND INVESTMENTS BALANCE

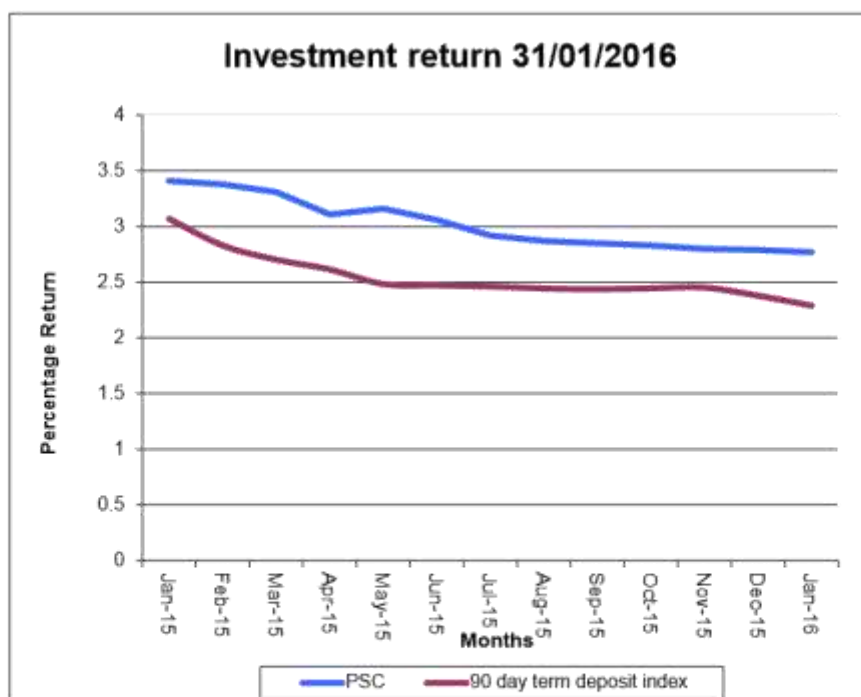
Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Jan-15	0.527	29.323	0.107	29.957
Feb-15	4.691	28.328	0.103	33.122
Mar-15	3.937	28.332	0.098	32.367
Apr-15	4.793	27.867	0.064	32.723
May-15	2.301	28.375	0.056	30.732
Jun-15	4.422	24.967	0.051	29.440
Jul-15	0.727	22.968	0.050	23.745
Aug-15	6.590	22.968	0.050	29.608
Sep-15	1.542	25.468	0.050	27.060
Oct-15	1.092	21.968	0.050	20.926
Nov-15	4.959	18.989	0.029	23.977
Dec-15	3.759	16.989	0.029	20.776
Jan-16	2.043	14.989	0.029	17.061



**ITEM 1 - ATTACHMENT 3 MONTHLY AUSTRALIAN TERM DEPOSIT INDEX
JANUARY 2015 TO JANUARY 2016.**

AUSTRALIAN TERM DEPOSIT ACCUMULATION INDEX

Date	90 day term deposit index	PSC
Jan-15	3.0697	3.41
Feb-15	2.8301	3.38
Mar-15	2.7035	3.31
Apr-15	2.6157	3.11
May-15	2.4841	3.16
Jun-15	2.4727	3.06
Jul-15	2.4632	2.92
Aug-15	2.4447	2.87
Sep-15	2.4384	2.85
Oct-15	2.4458	2.83
Nov-15	2.4535	2.80
Dec-15	2.3800	2.79
Jan-16	2.2900	2.77



NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 16/265142

RM8 REF NO: PSC2014-03030

EXHIBITION SPACE AT RAYMOND TERRACE LIBRARY BUILDING

COUNCILLOR: MAYOR BRUCE MACKENZIE

STEVE TUCKER

MORELLO JOHN

KEN JORDAN

PAUL LE MOTTEE

SALLY DOVER

CHRIS DOOHAN

THAT COUNCIL:

- 1) Authorise an "exhibition space" within the existing Raymond Terrace Library building, subject to the project scoping, estimating and approval of funds.
-

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

045	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council authorise an "exhibition space" within the existing Raymond Terrace Library building, subject to the project scoping, estimating and approval of funds.
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**BACKGROUND REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES
SECTION MANAGER**

BACKGROUND

Council's adopted 2015-2019 Delivery Plan includes an action in the Operational Plan at 16.1.1.17 being "*develop a project plan for the long term enhancement of Raymond Terrace Library to accommodate diverse cultural activities*". This action is scheduled for completion in 2018/2019.

Raymond Terrace Library is located in the refurbished former Raymond Terrace Indoor Sports and Community Centre. The library service uses the full ground level and about half of the lower level of the building. A community art exhibition space

(the Raymond Terrace Art Space) already exists down the main corridor of the library and is managed by volunteers. The remainder of the building that is unoccupied includes a series of offices which were installed when the whole site was the temporary Police Station as well as remnants of the former basketball court and stadium seating. The lower part of the building has been made fire safety compliant however the area is subject to flooding and would require significant work to make the space suitable for a community art exhibition space.

NCC AND PSC MERGER PROPOSAL IMPLICATIONS

The Office of Local Government's s23A guideline "*Council decision making during merger proposal periods – December 2015*" requires a council subject to a merger proposal to not make decisions that will impose a significant and or ongoing financial commitment on a new council.

The s23A guideline states that councils "*should continue to implement and operate in accordance with their adopted Community Strategic Plan, Delivery Program, Operational Plan and Resourcing Strategy*".

As the background to the Notice of Motion states above, the subject matter is listed for action in Council's Operation Plan 2018/2019 and the NOM is seeking to proceed subject to funding approval.

ATTACHMENTS

Nil.

There being no further business the meeting closed at 6.39pm.