

# DRAFT

## MINUTES – 8 NOVEMBER 2016



# PORT STEPHENS

## C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 8 November 2016, commencing at 5.30pm.

**PRESENT:**

Mayor B MacKenzie, Councillors C. Doohan, S. Dover, K. Jordan, P. Kafer, P. Le Mottee, S. Tucker, General Manager, Corporate Services Group Manager, Acting Facilities and Services Group Manager, Development Services Group Manager and Executive Assistant-Councillor Support.

Councillor Chris Doohan entered the meeting at 5.35pm.

<b>321</b>	<b>Councillor Steve Tucker</b> <b>Councillor Sally Dover</b>  It was resolved that the apologies from Cr John Morello and Cr John Nell be received and noted.  Note: Cr Geoff Dingle was granted leave of absence for the remainder of 2016 at the Council meeting held on 11 October 2016.
------------	--

<b>MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016</b>
---

<b>322</b>	<b>Councillor Steve Tucker</b> <b>Councillor Ken Jordan</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 25 October 2016 be confirmed.
------------	--

	There were no Declaration of Interests received.
--	--

# INDEX

**SUBJECT**

**PAGE NO**

**MAYORAL MINUTES..... 4**

1. WOMEN'S REFUGE HOUSING PROVISION IN RAYMOND TERRACE.....5
2. REPLACE TREES ON COUNCIL FOOTPATHS AND RESERVES .....7

**COUNCIL REPORTS..... 9**

1. DA16-2013-626-2 - SECTION 96(2) MODIFICATION TO TOURIST FACILITY (STAGED PHASING OF CONSTRUCTION WORKS AND AMENDMENT TO A PROPORTION OF UNITS TO LONG TERM OCCUPANCY) AT MAGNUS STREET, NELSON BAY (MARINA RESORT) .....10
2. POLICY REVIEW - DOG NOISE POLICY .....25
3. POLICY REVIEW - MOSQUITO MANAGEMENT POLICY .....41
4. PLANNING PROPOSAL TO AMEND ZONING AND MINIMUM LOT SIZE PROVISIONS AT BOUNDARY RD MEDOWIE (LOTS 93-96 DP 753194) .....49
5. QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2016.....57
6. FINANCIAL ASSISTANCE REQUEST FROM PORT STEPHENS KOALA AND WILDLIFE PRESERVATION SOCIETY LIMITED .....78
7. ANNUAL FINANCIAL REPORTS - ATTENDANCE OF AUDITORS.....82
8. AUDIT COMMITTEE MEMBERSHIP.....85
9. INFORMATION PAPERS .....88

**INFORMATION PAPERS ..... 89**

1. INJURY MANAGEMENT WHS ANNUAL REPORT 2015-2016.....90

**NOTICES OF MOTION..... 105**

1. PUBLIC WIFI SYSTEM FOR MAIN TOWN CENTRES IN PORT STEPHENS.....106

# MAYORAL MINUTES



**MAYORAL MINUTE**

**ITEM NO. 1**

**FILE NO: 16/451950  
RM8 REF NO: PSC2011-03571**

**WOMEN'S REFUGE HOUSING PROVISION IN RAYMOND TERRACE**

---

**THAT COUNCIL:**

- 1) Provide an appropriate accommodation space in Raymond Terrace to be used for the purposes of refuge housing for the victims of domestic violence.
- 

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>323</b>	<p><b>Mayor Bruce MacKenzie Councillor Peter Kafer</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Provide an appropriate accommodation space in Raymond Terrace to be used for the purposes of refuge housing for the victims of domestic violence.</li><li>2) That the facility be known as the Bruce MacKenzie Centre for victims of domestic violence.</li></ol>
------------	--

**BACKGROUND**

The purpose of this report is to propose that Council contributes to the provision of an accommodation facility in Raymond Terrace for victims of domestic violence.

Unfortunately, there is an increasing need for refuge housing for the victims of domestic violence. In serving the community, Port Stephens Council has an opportunity to provide much needed safe housing assistance for the people of Raymond Terrace.

An agreement has been reached with the Raymond Terrace Police and Raymond Terrace Men's Shed to supply an appropriate dwelling for safe, short term sheltered housing for victims of domestic violence. This initiative includes the provision of a Council owned premises in Raymond Terrace that, with the assistance of the local Police, Men's Shed, businesses and volunteers, will be refurbished and fitted out to an as new standard. The refuge accommodation will include two bedrooms, living and dining spaces, a bathroom and kitchenette. A Development Application has been prepared and lodged to complete these works.

At the completion of these works, the accommodation will be handed over to a local service provider and will be readily available for people in need within our local community. The provision of the space to the provider will be enabled via an appropriate lease arrangement.

In the lead up to White Ribbon Day on 25 November 2016, the proposed project is considered to be a great opportunity to provide a much needed refuge accommodation facility and raise local awareness of domestic violence.

#### **MERGER PROPOSAL IMPLICATIONS**

There are no issues or implications associated with any proposed merger.

#### **ATTACHMENTS**

Nil.

**MAYORAL MINUTE**

**ITEM NO. 2**

**FILE NO: 16/452142  
RM8 REF NO: PSC2005-2811**

**REPLACE TREES ON COUNCIL FOOTPATHS AND RESERVES**

---

**THAT COUNCIL:**

- 1) Embark on a program to replace trees on Council footpaths and Council reserves where trees that are over four metres high and have the potential to cause damage to dwellings are removed and replaced with appropriate tree species.
- 

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>324</b>	<b>Mayor Bruce MacKenzie Councillor Peter Kafer</b>  It was resolved that Council embark on a program to replace trees on Council footpaths and Council reserves where trees that are over four metres high and have the potential to cause damage to dwellings are removed and replaced with appropriate tree species.
------------	---

**BACKGROUND**

The purpose of this report is to provide information relating to the management of trees on Council footpaths and reserves.

At present Council manages trees in public spaces through a variety of legislation, guidelines, policies, procedures and controlled documents. Removal and pruning of trees on Council footpaths and reserves is undertaken in order of priority largely on the risk to people and property based on the condition of each individual tree.

Current legislation and policy does not allow for removal of trees as prescribed in the Mayoral Minute. However, works are being undertaken to review Council procedures against legislative requirements to allow for the removal of trees based on threat or future threat to property or Council infrastructure, irrespective of the tree condition.

Until such time that this assessment has been completed the time frame and cost is unknown.

**MERGER PROPOSAL IMPLICATIONS**

If a merger is proclaimed all policies and guidelines would need to be reviewed in the context of the new entity.

**ATTACHMENTS**

Nil.

# COUNCIL REPORTS

**ITEM NO. 1**

**FILE NO: 16/426932  
RM8 REF NO: 16-2013-626-2**

**DA16-2013-626-2 - SECTION 96(2) MODIFICATION TO TOURIST FACILITY  
(STAGED PHASING OF CONSTRUCTION WORKS AND AMENDMENT TO A  
PROPORTION OF UNITS TO LONG TERM OCCUPANCY) AT MAGNUS STREET,  
NELSON BAY (MARINA RESORT)**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application DA No. 16-2013-626-2 for a modification to a tourist facility to stage phasing of construction works and an amendment to a proportion of units to long term occupancy at 29 to 45 Magnus Street, Nelson Bay (Lots 41 to 44, DP 15998) subject to the reasons for refusal contained in **(ATTACHMENT 3)** to this report.

---

**ORDINARY COUNCIL MEETING – 8 NOVEMBER 2016  
MOTION**

	Council did not move into Committee of the Whole during the meeting.
--	--

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>325</b>	<b>Councillor Ken Jordan Councillor Steve Tucker</b>  It was resolved that Council refuse Development Application DA No. 16-2013-626-2 for a modification to a tourist facility to stage phasing of construction works and an amendment to a proportion of units to long term occupancy at 29 to 45 Magnus Street, Nelson Bay (Lots 41 to 44, DP 15998) subject to the reasons for refusal contained in <b>(ATTACHMENT 3)</b> to this report.
------------	---

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, Ken Jordan, Peter Kafer, Paul Le Mottee and Steve Tucker.

Those against the Motion: Nil.

## **BACKGROUND**

The purpose of this report is to present to Council for determination, development application DA16-3013-626-2, a modification application to an approval for the demolition of a tourist facility (Marina Resort) and construction of a new tourist facility. The application is called to Council following a call-up from Councillor Nell on the basis of community interest. A copy of the call-up form is included as **(ATTACHMENT 4)** to this report.

The existing approval includes the demolition of the existing Marina Resort and the construction of a new tourist facility. The new development consists of a common semi-underground car park, a common entry concourse including function rooms and guest amenities, and two tower buildings utilised for tourist accommodation. The two towers make up the central and western tower of the overall redevelopment of the site, complimented by an eastern tower approved separately under DA16-2014-782-1.

It is important to note the assessment does not raise significant concerns with the merits of the proposal itself, rather the process followed for approval. Officers submit that a new DA is required as opposed to consideration of this proposal as a Section 96 as submitted by the applicant. The applicant was advised of this and chose to proceed with the Section 96 path.

### Proposal

The applicant seeks to modify the existing consent in two ways:

- To introduce phasing of construction works so as to carry out the development in two distinct stages; and
- To change the tenancy type of a number of units in the western tower to allow for permanent occupancy.

The first phase of works includes the construction of the western tower as well as intermediate/linking construction to the existing Marina Resort building. In addition, upgrade works are proposed to the existing Marina Resort building so as to achieve a more contemporary look consistent with the new western tower building. The second phase of works involves the demolition of the existing Marina Resort building and the construction of the new central tower.

The proposed change in tenancy type (to make permanent) applies to the top four floors of the western tower, representing 20 of the 32 accommodation units in this tower.

Assessment

In consideration of any modification application, a test of 'substantially the same development' under Section 96 of the *Environmental Planning & Assessment Act 1979* must be considered. There are accepted principles in how to apply this test and a number of case law examples that have given particular regard to applications introducing phasing of construction works. The following matters were noted as requisite considerations:

- Whether any intermediate stage would be representative of the completed development.
- Whether there was certainty that the development will be completed.

In this instance, the proposal does not meet the above criteria as the intermediate stage will include the existing Marina Resort building remaining in place of the approved central tower for an unknown period of time. The existing Marina Resort building has a fundamentally different layout and configuration to the approved central tower as described below:

- The existing building provides single hotel rooms, rather than two to four bedroom holiday apartments as approved in the central tower.
- The footprint of the building is significantly different in terms of location and size.
- The existing building is five storeys in height compared to the nine storeys of the approved central tower.
- The external facades of the existing building are reminiscent of designs from the time of construction and do not represent the contemporary facades of the new central tower – no information has been provided as to how façade treatments will address this issue however the basic elements of the existing building are considered to be unsurmountable in terms of proportioning and break-up elements.
- The existing building does not provide a basement car-park level as has been approved for the central tower.
- The existing building includes a top-floor restaurant which is not included in the central tower.

Further, following the completion of the first phase of construction works, there is no certainty of the timing of the second phase of construction works or if the works will be completed at all. As a result of the proposed modification, the intermediate stage will be fundamentally different from the existing approval and there is no certainty that this will not endure indefinitely.

The proposal to change the tenancy type of the top four floors of the western tower from short-term holiday accommodation to permanent occupancy is also considered to result in a significantly different development that does not meet the substantially the same development test. The use of the building would be primarily for urban housing as defined under the *Port Stephens Local Environmental Plan 2000* which



## MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016

does not primarily provide for tourist accommodation – a substantial difference from the existing approval as a tourist facility.

The proposed modification does not meet the test of substantially the same development and accordingly is recommended for refusal.

It is noted that Council staff have provided the applicant with an alternative option to achieve the desired outcome by way of a new development application. This would allow the impacts of the desired outcome to be properly considered against the relevant legislation and Council policy, an option that is not available under the Section 96 process. In this instance, the applicant has expressly chosen to not pursue this pathway.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Sustainable Development.	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		
Reserve Funds	No		
Section 94	Yes		The total number of units will not change as a result of the S96, however as the proposal would modify a number of units from tourist use to permanent occupancy, conditions relating to Section 94 would need to be altered to reflect the changed use.
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is inconsistent with Section 96 of the *Environmental Planning and Assessment Act 1979*.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that if the application is refused, the applicant will appeal the determination to the Land and Environment Court.	Medium	Support the recommendation and refuse the development application. This report outlines Council's position.	Yes
There is a risk that if the application is approved, an objector to the development will appeal the determination to the Land and Environment Court.	Low	Support the recommendation and refuse the development application.	Yes
There is a risk that if the application is approved, Council will fail to comply with the requirements of S96 of the Act and will lose credibility/open to legal challenge.	Medium	Support the recommendation and refuse the development application.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The proposed modification will result in an intermediate stage with partially completed works that does not represent the existing approved development. This intermediate stage is not in the public interest as it does not give certainty as to the completion of works, and does not embody the development anticipated by the public to be carried resulting from the initial advertising and assessment process.

An assessment of the proposed modification has been carried out against the requirements of the *Environmental Planning and Assessment Act 1979* and has been included as **(ATTACHMENT 2)** to this report.

**MERGER PROPOSAL IMPLICATIONS**

There are no anticipated implications as the result of any merger proposal.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken, including through the public notification and advertising process.

### Internal

The application was referred to Councils development engineer, building surveyor and S94 officer who each assessed the relevant portion of the application. No objections were raised by any internal staff in relation to the proposed modification.

### External

The application was publicly notified and advertised for a period of 14 days. As a result of this process nine submissions were received objecting to the proposed modification. The relevant matters raised in the submissions include:

- The modification will result in increased construction work timeframe, and consequently increased construction vehicle movements and noise.
- The change in tenancy type is not consistent with the existing approval.
- The change in tenancy type will increase privacy impacts for adjoining properties.
- Stage 1 of the proposal is not consistent with the existing approval.
- The applicant has provided justification on financial grounds, increasing the likelihood that the development will not be completed.
- The justification for the building height variation in the original assessment was based on incentive for tourist facilities and the change to permanent occupancy removes this justification.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Locality Plan.
- 2) Assessment Report.
- 3) Reasons For Refusal.
- 4) Call To Council Form.

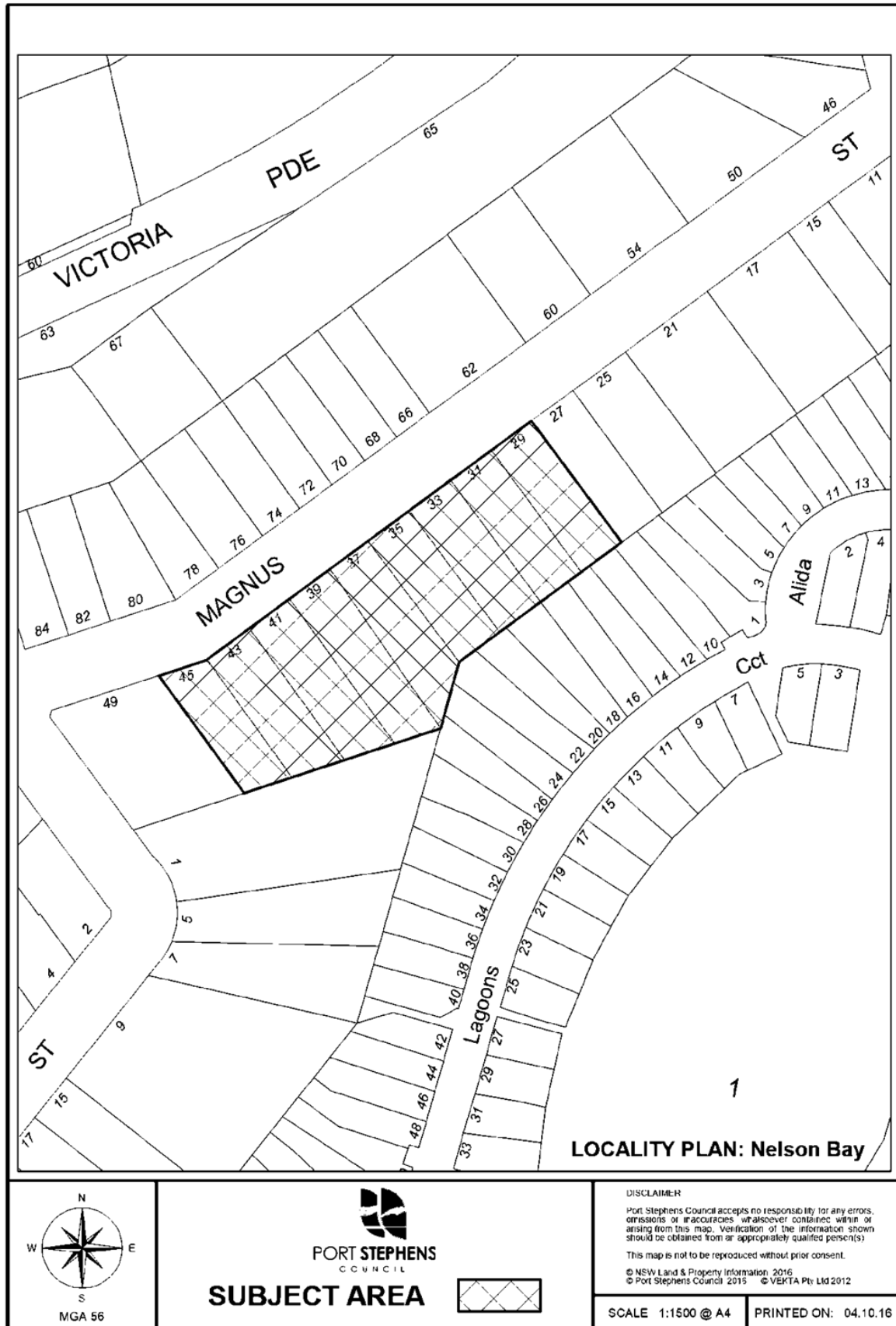
## **COUNCILLORS ROOM**

- 1) Development Plans (provided under separate cover).

## **TABLED DOCUMENTS**

Nil.

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



**ITEM 1 - ATTACHMENT 2 ASSESSMENT REPORT.**



**APPLICATION DETAILS**

<b>Modification Application Number</b>	16-2013-626-2
<b>Development Description</b>	Tourist Facility
<b>Modification Description</b>	S96(2) Modification to Tourist Facility (Marina Resort) – Staged Phasing of Construction Works and Amendments to a proportion of Units to Long Term Occupancy
<b>Applicant</b>	CHAN INDUSTRIAL PTY LIMITED
<b>Date of Lodgement</b>	22/06/2016

**Modification Proposal**

The application proposes to modify the existing consent by:

1. Introducing phasing of construction works, which will involve construction of the development in two stages:
  - a. Stage one will consist of the construction of the approved western building along with linking elements to the existing tourist facility on the site, as well as cosmetic improvements to the existing building; and
  - b. Stage two will include the demolition of the existing building and construction of the approved central building to complete the development.
2. Changing of a number of units in the western tower from short-term visitor accommodation, to long term occupancy units. The application states that it is intended to sell approximately 50% of these units, however no subdivision has been proposed as part of this application.

**PROPERTY DETAILS**

<b>Property Address</b>	33 Magnus Street NELSON BAY, 29 Magnus Street NELSON BAY, 31 Magnus Street NELSON BAY, 35 Magnus Street NELSON BAY, 37 Magnus Street NELSON BAY, 39 Magnus Street NELSON BAY, 41 Magnus Street NELSON BAY, 43 Magnus Street NELSON BAY, 45 Magnus Street NELSON BAY
<b>Lot and DP</b>	LOT: 38 DP: 15998, LOT: 36 DP: 15998, LOT: 37 DP: 15998, LOT: 39 DP: 15998, LOT: 40 DP: 15998, LOT: 41 DP: 15998, LOT: 42 DP: 15998, LOT: 43 DP: 15998, LOT: 44 DP: 15998
<b>Zoning</b>	R3 MEDIUM DENSITY RESIDENTIAL
<b>Site Constraints That Affect</b>	Nil

**ITEM 1 - ATTACHMENT 2 ASSESSMENT REPORT.**

16-2013-626-2

**The Modification**

---

**ASSESSMENT SUMMARY**

---

<b>Designated Development</b>	The application is not designated development
<b>Integrated Development</b>	The application does not require additional approvals listed under s.91 of the EP&A Act
<b>Concurrence</b>	The application does not require the concurrence of another body

**Internal Referrals**

The proposed modification was referred to the following internal specialist staff. The comments of the listed staff listed have been used to carry out the assessment against the S79C Matters for Consideration below.

**Development Engineer** – The development engineer considered the traffic and drainage impacts of the proposed modification and noted that modified conditions could address access and drainage issues that may result from the phased construction works.

**Building Surveyor** – The building surveyor considered the ability of the development to comply with relevant building standards including the Building Code of Australia. It was noted that the proposed modification did not negatively impact on the ability of the building to comply.

**S94 Officer** – The S94 officer noted did not raise any comments in relation to the proposed modification except to note that the existing condition relating to S94 would need to be re-worded to accommodate phasing, should a modified consent be issued.

**External Referrals**

The proposed modification was not referred to any external agencies.

---

**OTHER MODIFICATIONS – S96(2)**

---

**S96(2)(a) – Substantially The Same Development**

The modification application proposes changes to the existing consent so as to allow the development to be implemented in stages. The applicant has argued that the modified completed development remains consistent with the existing approval and therefore is substantially the same development.

However following a review of the information submitted and other relevant case law, it was found that the introduction of phasing results in an intermediate outcome (following completion of stage one works), on which the test of 'substantially the same development' must also be considered. The development at the intermediate step is required to be consistent with the existing approved development, which in this case requires the demolition of the existing building and construction of the central tower. This key element of the development is specifically proposed to be excluded from stage one works and instead would retain the existing Marina Resort building in place of the approved central tower. However the existing building is substantially different from the approved central tower as described below and shown in figures 1 and 2:

- The existing building provides single hotel rooms, rather than two to four bedroom holiday

Page 2 of 6

ITEM 1 - ATTACHMENT 2 ASSESSMENT REPORT.

16-2013-626-2

- apartments as approved in the central tower;
- The footprint of the building is significantly different in terms of location and size;
  - The existing building is 5 storeys in height compared to the 9 storeys of the approved central tower;
  - The external facades of the existing building are reminiscent of designs from the time of construction and do not represent the contemporary facades of the new central tower – no information has been provided as to how façade treatments will address this issue however the basic elements of the existing building are considered to be unsurmountable in terms of proportioning and break-up elements;
  - The existing building does not provide a basement car-park level as has been approved for the central tower; and
  - The existing building includes a top-floor restaurant which is not included in the central tower.

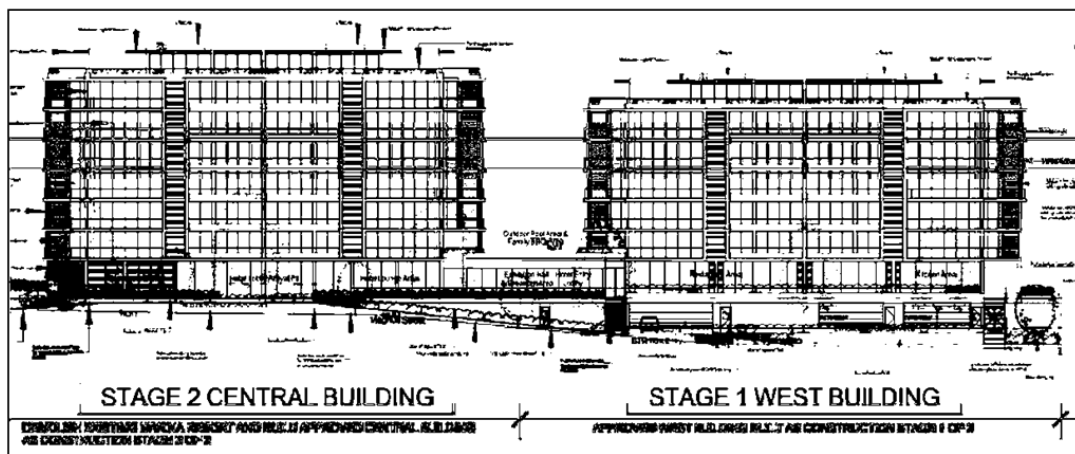


Figure 1 - Existing approval showing new central and western towers

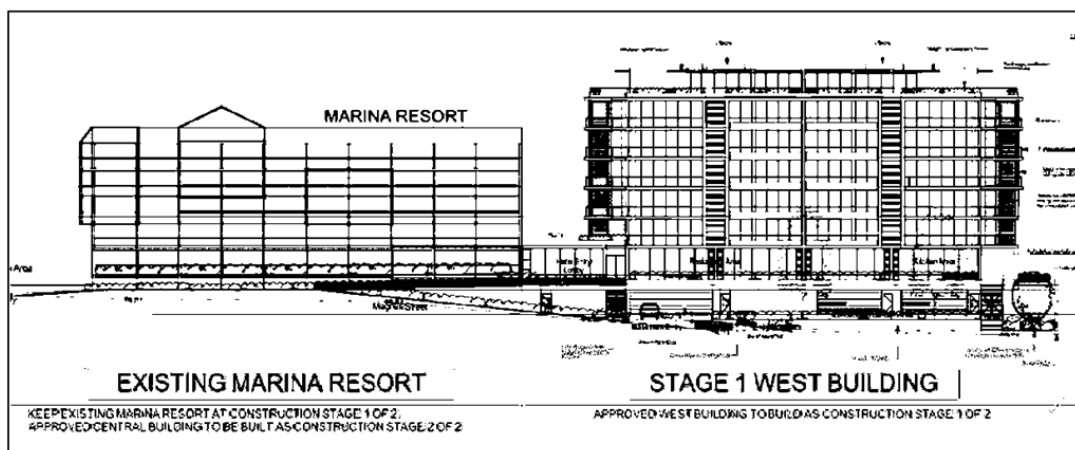


Figure 2 - Proposed stage 1 outcome showing existing Marina Resort building and western tower

**ITEM 1 - ATTACHMENT 2 ASSESSMENT REPORT.**

16-2013-626-2

Further, following the completion of stage one works, there is no certainty as to how long this intermediate outcome will endure for, and no certainty that the second phase of works will be completed. These are fundamental considerations in the test of 'substantially the same development' and have featured in the relevant cases.

The proposal to modify the majority of units in the western tower from short term to permanent occupancy is not considered to be consistent with the existing approval, which is defined as a 'tourist facility'. As a result of the proposed modification, the western tower would become predominantly 'urban housing' as defined under the Port Stephens Local Environmental Plan 2000. Urban housing does not primarily provide tourist accommodation and so is substantially different from the existing approval.

For the reasons outlined above, the modified development is not substantially the same as the initial approval and therefore cannot be approved under section 96. It is noted that the appropriate mechanism for assessment of a development reflecting the modified proposal is via the lodgement of a new development application with the consent authority.

**S96(2)(b) – Concurrence and Integrated Development**

There are no concurrence or approval bodies relevant to the development.

**S96(2)(c) – Notification**

The application has been notified in accordance with Councils Development Control Plan. As a result of this process, nine submissions were received objecting to the development.

**S96(2)(d) – Submissions**

Nine submissions were received relating to the proposed modification, however the majority of the issues raised relate to matters which are not applicable to the current proposed modification. Such issues include the height variation of new buildings and traffic resulting from the completed development. These issues were addressed during the assessment of the existing approval and are not relevant to the current modification application.

The matters raised in the submissions objecting to the development and relevant to the modification application are discussed in the table below.

<b>Objection</b>	<b>Comments</b>
The modification will result in increased construction work timeframes and consequently will result in greater impacts by construction vehicles and noise.	It is acknowledged that the proposed modification could result in an extension to construction time frames, however existing conditions of consent require construction works to be undertaken during the hours of 7am to 6pm Monday to Friday, and 8am to 1pm on Saturdays. This is within normal industry limits for noise producing works. Further, vehicle movements related to the proposed development will be required to operate within normal road rules.
The change from short term to long term units is not consistent with the existing approval.	The proposed permanent occupancy is considered to fundamentally change the operation of the western tower, such that this building would constitute 'urban housing' rather than a 'tourist facility'. Urban housing is not consistent with the existing approval and accordingly forms one of the arguments to justify that the modified development is not substantially the same as

Page 4 of 6



**ITEM 1 - ATTACHMENT 2 ASSESSMENT REPORT.**

16-2013-626-2

	the existing approval.
The change from short term accommodation to permanent occupancy units will increase privacy impacts to adjoining properties.	The initial application assessment considered the impact of the development on privacy, and found that there was not an unacceptable impact. The initial assessment did not rely on short term accommodation occupants spending less time in the apartments to supplement the justification and accordingly there are no anticipated additional impacts as a result of the change of occupancy type.
The stage one works are not consistent with the existing approval.	It is agreed that at the completion of stage one works the development will not be representative of the existing approval, which is a key consideration in whether a modification is substantially the same development. As outlined above Council staff are satisfied that the development is not substantially the same development and the modification application cannot be approved.
The applicant's argument that financial pressure has caused the requested modification also supports that the second stage may not be completed.	The need for certainty of completion of the development is critical in determining if a modified development will be substantially the same as the initial approval. In this instance there is no certainty that the development will be completed and so there is uncertainty that a development that is substantially the same will eventuate. Council staff are satisfied that this contributes to the reasons as to why the modified development is not substantially the same development and cannot be approved.
The justification for the original height variation was based on the encouragement of a tourist facility. If the development will no longer be a tourist facility the height variation should not be granted.	The impact of the height of the development has been assessed under the original application and found to be acceptable in terms of impact on surrounding developments and public places. The proposed modification would not result in a development that is identifiably different in terms of impacts on views, overshadowing, vistas or built lines and so is not considered to be an adequate ground to refuse the modification in its own right.

**S96(3) – Relevant Matters under S79C(1)**

There are a number of relevant matters for consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979*, which have been described below. An assessment of the matter listed has been undertaken and it is considered that any impacts can be addressed by way of modified conditions of consent where required:

- The height limit under clause 4.3 the Port Stephens Local Environmental Plan 2013 (the original application was lodged under the Port Stephens LEP 2000 and so the current LEP must be considered as a draft instrument) – the application does not propose a change to the height of the approved buildings and so there are no necessary changes to the existing consent conditions;
- The Port Stephens Development Control Plan 2014, including in relation to stormwater drainage – the application was referred to relevant internal staff and it was determined that

Page 5 of 6

**ITEM 1 - ATTACHMENT 2      ASSESSMENT REPORT.**

16-2013-626-2

the modifications proposed do not impact the ability of the development to comply with the DCP; and

- Clause 94 of the *Environmental Planning and Assessment Regulations 2000* – relevant clauses of the regulations such as clause 94 relating to fire safety can be addressed by way of additional conditions on the consent.

---

**REASONS FOR REFUSAL**

---

1. The proposed modified development is not substantially the same as the existing approved development.

---

**DETERMINATION**

---

The modification application is recommended to be refused, subject to the reason for refusal shown above.

BRETT GARDINER  
SENIOR EXECUTIVE PLANNER

ITEM 1 - ATTACHMENT 3 REASONS FOR REFUSAL.



PORT STEPHENS  
COUNCIL

## REASONS FOR REFUSAL

### REASONS FOR REFUSAL

1. The proposed modification is not substantially the same as the original consent (Section 96 of the *Environmental Planning & Assessment Act 1979*).

ITEM 1 - ATTACHMENT 4 CALL TO COUNCIL FORM.



CALL TO COUNCIL FORM  
DEVELOPMENT APPLICATION



I, Councillor John Nell.....  
require Development Application Number.....  
for Section 96 Modification - Marina Resort Hotel Redevelopment, Nelson  
Bay.....  
.....  
at Magnus Street, Nelson Bay.....  
.....  
to be subject of a report to Council for determination by Council.

**Reason:**

The reason for this call-up to Council is .....  
Community Interest .....  
.....  
.....  
.....

**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? ~~Yes~~/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:

[Redacted signature]

.....Date: 31/8/16.....

**ITEM NO. 2**

**FILE NO: 16/433274  
RM8 REF NO: PSC2013-00406**

**POLICY REVIEW - DOG NOISE POLICY**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Dog Noise Policy shown at **(ATTACHMENT 1)**.
  - 2) Place the Dog Noise 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 Dog Noise Strategy Policy dated 13 August 2013 (minute no. 216) **(ATTACHMENT 2)**, should no submissions be received.
- 

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>326</b>	<p><b>Councillor Peter Kafer Councillor Steve Tucker</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Endorse the revised Dog Noise Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>2) Place the Dog Noise Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.</li><li>3) Revoke the Dog Noise Strategy Policy dated 13 August 2013 (minute no. 216) <b>(ATTACHMENT 2)</b>, should no submissions be received.</li></ol>
------------	--

**BACKGROUND**

Council has a policy framework for the management and regulation of barking dog noise complaints in the Port Stephens local government area (LGA).

The purpose of this report is to advise Council of the changes recommended after the review of the Dog Noise Policy and seek a resolution to place the updated policy on public exhibition.

Council is committed to resolving dog noise problems having regard to legislative requirements and can only do so when persons who lodge complaints about barking dogs provide a level of information to support the complaint and enable efficient investigation. An integral part of the investigation process includes persons lodging complaints being willing to provide evidence and appear as a witness if necessary. This has always been a key challenge as the community are often unwilling to commit to completing multiple barking dog diaries.

At the ranger conference this year, one of the key note speakers suggested a more efficient, yet equally legally robust manner to investigate barking dog complaints. These changes, detailed below, have been included in the updated policy and a number of council's are now considering this more efficient path.

The new Dog Noise Policy has undergone some significant changes and the way complaints are dealt with by council staff has been revised. The way complaint, non-compliance and subsequent enforcement is escalated has also been refined. The policy has shifted the focus away from the previous 'nuisance order' pathway available under the *Companion Animals Act 1998*, to pursuing the matter as an "offensive noise" matter under the *Protection of the Environment Operations Act 1997*. Approaching the majority of barking dog matters in this manner enables more definitive decision making and requires the submission of only one (1) barking dog diary in comparison to the three (3) previously required, the absence of which more often than not, led to complaints remaining unresolved.

The new barking dog diary and fact sheet attached to the new policy are more prescriptive than the previous policy and are more effective in assisting the rangers obtaining the critical evidence required to satisfy the "offensive noise" legislative criteria.

The proposed approach is available under the current legislation; it is just carried out the former way as that's how councils have typically completed the task. We are currently in a trial period of using the new method to obtain data as to its success and so far the results have been very favourable from all parties e.g. staff and the public.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Community Safety.	Use Council's regulatory powers and Government legislation to enhance public safety.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no direct financial implications.

There are indirect financial savings from savings in staff time via the new and more efficient method of barking dog complaint investigation.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no significant legal, policy or risk implications.

The proposed method of handling barking dog complaints is available to council currently under the legislation and are both legitimate ways of investigation such complaints. This policy position simply formalises such.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that barking dog complaints will continue to be unresolved as complainants will not provide multiple barking dog diaries as suitable evidence.	Med	Adopt the revised policy.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no direct sustainability implications.

**MERGER PROPOSAL IMPLICATIONS**

There are no implications on a future merger as a result of this policy. A new entity will be required to consider existing policies of both organisations regardless and this new approach is considered leading practice.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Development Assessment and Compliance Section.

### Internal

The Ranger and Compliance Unit discussed the proposed policy changes with other areas of Council associated with the policy which is limited to the Environmental Health Unit. The purpose of this liaison was to ascertain if the new approach would present any issues and it was determined not to be the case.

### External

The proposed policy changes have been discussed informally with the Environmental Protection Agency (EPA) and a Barrister (who presented at the ranger conference) and the public via a trial period. The discussions were in relation to the suitability and success of the approach, all of which were favourable.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Dog Noise Policy (revised).
- 2) Dog Noise Strategy (current).
- 3) Dog Noise Fact Sheet.
- 4) Dog Noise Diary Statement.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.



**ITEM 2 - ATTACHMENT 1 DOG NOISE POLICY (REVISED).****Policy**

**FILE NO:** PSC2013-00406

**TITLE:** DOG NOISE POLICY

**POLICY OWNER:** COORDINATOR ENVIRONMENTAL HEALTH & COMPLIANCE

**PURPOSE:**

The purpose of this policy is to provide a formal framework for the management and regulation of barking dog noise complaints in the Port Stephens local government area (LGA). The Policy also provides an efficient and cost effective method of gathering the information and evidence required to resolve dog noise control issues.

**CONTEXT/BACKGROUND:**

The previous Dog Noise Strategy was first adopted by Council on 3 June 1997 and was most recently amended on 13 August 2013. The policy sets out to provide Council operational staff with an improved cost effective method of dealing with noise complaints in relation to barking dogs as well as enabling a sufficient amount of evidence to be obtained in dog noise control matters.

The new Dog Noise Policy has undergone some significant changes and the way complaints are dealt with by Council staff has been revised. The way complaint, non-compliance and subsequent enforcement is escalated have also been refined. The policy has shifted the focus away from the previous "nuisance order" pathway available under the *Companion Animals Act 1998*, to pursuing the matter as an "offensive noise" matter under the *Protection of the Environment Operations Act 1997*. Approaching the majority of barking dog matters in this manner enables more definitive decision making and requires the submission of only one barking dog diary in comparison to the three (3) previously required, the absence of which more often than not led to complaints remaining unresolved. The new barking dog diary and fact sheet attached to the new policy are more prescriptive than the previous policy and are more effective in assisting the Rangers to obtain the critical evidence required to satisfy the "offensive noise" legislative criteria.

Council is committed to resolving dog noise problems having regard to legislative requirements and can only do so when persons who lodge complaints about barking dogs provide a level of information to support the complaint and enable efficient investigation. An integral part of the investigation process includes persons lodging complaints being willing to provide evidence and appear as a witness if necessary.

**Policy**

**WARNING:** This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date: 03/06/1997

Printed: xx/xx/xxxx

Review Date: xx/xx/xxxx

Page: 1 of 5

ITEM 2 - ATTACHMENT 1 DOG NOISE POLICY (REVISED).

## Policy



The new policy will set Port Stephens Council apart in terms of how other peer councils manage nuisance dogs and continues to demonstrate a consistent and transparent approach to the community.

### SCOPE:

The role of Council's Ranger team in this regard is to manage and regulate complaints about barking dogs in the Port Stephens LGA where the complainant is able to provide evidence demonstrating the noise created is "offensive noise" as defined by the *Protection of the Environment Operations Act 1997*.

### DEFINITIONS:

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

Nuisance Dog	A dog that makes a noise, by barking or otherwise, that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.
Offensive Noise	Interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted.

### POLICY STATEMENT:

- 1) Prior to the matter being investigated complainants will be requested to complete and sign a dog noise nuisance complaint form. The form requires certain information and undertakings such as willingness to appear as witness in Court and assistance in assessment.

Completion of the complaint form will assist in reducing vexatious complaints.

- 2) A Council approved offensive noise diary and statement form needs to be completed by the complainant giving times and duration of barking and signed as a statement. Complainants are encouraged to obtain audio recordings of noise episodes where possible, to accompany the diary.
- 2) On submitting the diary to Council, if the noise is deemed offensive then a Council officer will visit the dog owner and issue a noise abatement direction and which remains in force for twenty eight (28) days.

## Policy

**WARNING:** This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date: 03/06/1997

Printed: xx/xx/xxxx

Review Date: xx/xx/xxxx

Page: 2 of 5

ITEM 2 - ATTACHMENT 1 DOG NOISE POLICY (REVISED).

## Policy



- 4) If further offensive noise is caused in the twenty eight (28) days the complainant is to complete a further offensive noise diary and take recordings where possible. A Council Officer may issue infringements to the owner of the dog.
- 5) After the expiry of the twenty eight (28) days Council staff may take the following action:
  - a) if multiple offensive noise diaries and statements have been received, issue a Prevention Notice under the Protection of the Environment Operations Act 1997; or
  - b) if multiple offensive noise diaries and statements have been received, issue a Nuisance Order under *The Companion Animals Act 1998*.
- 6) In response to the dog owner being uncooperative additional diaries may be submitted and infringement notices may be issued.
- 7) The definition of "offensive noise" is set out in the Protection of the Environment Operations Act 1997. For the purposes of dog barking noise, it is accepted that dogs may bark for various reasons and this alone does not make the noise offensive. As a guide to dog barking noise interfering unreasonably with comfort or repose, the dog noise would need to meet one or more of the following:
  - a) Barking before 7am or after 8pm. or
  - b) Repeated barking of more than three episodes of 4-5 barks per day. or
  - c) Interrupted normal home activity such as conversations, phone calls, watching television, study etc.
- 8) Should additional completed diaries be received, a decision will be made, having consideration to Council's legal procedures policy as to further action.
- 9) If the matter is not resolved following the above process Council may issue a Court Attendance Notice.

### POLICY RESPONSIBILITIES:

- 1) Coordinator Environmental Health and Compliance.
- 2) Ranger Team Leader.
- 3) Ranger Team.

## Policy

**WARNING:** This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date: 03/06/1997

Printed: xx/xx/xxxx

Review Date: xx/xx/xxxx

Page: 3 of 5

# Policy



## RELATED DOCUMENTS:

- 1) Councils Local Companion Animals Management Plan.
- 2) Council's Local Orders Policy.
- 3) *Companion Animals Act 1998* (Nuisance Orders).
- 4) *Protection of the Environment Operations Act 1997* (Prevention Notice, Noise Abatement Order).

## CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a>			
<b>RM8 container No</b>	PSC2013-00406	<b>RM8 record No</b>	16/414601
<b>Audience</b>	Staff, public		
<b>Process owner</b>	Ranger Team Leader		
<b>Author</b>	Coordinator Environmental Health and Compliance		
<b>Review timeframe</b>	Two years	<b>Next review date</b>	xx November 2018
<b>Adoption date</b>	03/06/1997		

## VERSION HISTORY:

Version	Date	Author	Details	Minute No.
V1	3/6/1997		Policy adopted by Council	1083
V2	30/1/2001		Amended	016
V3	19/10/2004		Amended	375
V4	13/8/2013		Amended	216

# Policy

**WARNING:** This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date: 03/06/1997

Printed: xx/xx/xxxx

Review Date: xx/xx/xxxx

Page: 4 of 5

## Policy



V5		Coordinator Environmental Health and Compliance.	Changes to policy and approach based on Protection of Environmental Operations Act offensive noise rather than Companion Animals New noise diary and supplementary fact sheet. Provides for a robust yet effective way to manage noise.	
----	--	--	---	--

## Policy

**WARNING:** This is a controlled document. Hardcopies of this document may not be the latest version.  
Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date: 03/06/1997

Printed: xx/xx/xxxx

Review Date: xx/xx/xxxx

Page: 5 of 5

# *Port Stephens*

## C·O·U·N·C·I·L

### **POLICY**

Adopted: 3/6/97  
Minute No: 1083  
Amended: 30/01/2001  
Minute No: 016  
Amended: 19/10/2004  
Minute No: 375  
Amended: 13/08/13  
Minute No: 216

**FILE NO:                      PSC2013-00406**

**TITLE:                         DOG NOISE STRATEGY 2013**

**RESPONSIBLE OFFICER:   COORDINATOR ENVIRONMENTAL HEALTH AND  
COMPLIANCE**

#### **BACKGROUND**

Council first adopted the Dog Noise Strategy on 3/6/97.

#### **OBJECTIVE**

1. To provide an efficient and cost effective method of dealing with noise complaints relating to barking dogs.
2. To enable a sufficient level of information and evidence to be obtained in dog noise control issues.

#### **PRINCIPLES**

1. Council will act to resolve dog noise problems having regard to legislative requirements.
2. Persons who lodge complaints about barking dogs must provide a level of information to support the complaint and enable efficient investigation.
3. Persons who make complaints shall be willing to provide evidence and appear as a witness if necessary.

**ITEM 2 - ATTACHMENT 2      DOG NOISE STRATEGY (CURRENT).**

**POLICY STATEMENT**

1. Prior to the matter being investigated complainants will be requested to complete and sign a Dog Noise Nuisance complaint Form. The form requires certain information and undertakings such as; willingness to appear as witness in Court and assistance in assessment.

Completion of the complaint form will assist in reducing vexatious complaints.

2. A seven (7) day diary needs to be completed by the complainant giving times and duration of barking.
3. On the return of the seven (7) day diary, Council staff will visit the dog owner to discuss the matter and seek a commitment to cause the barking to cease.
4. The dog owner will be given seven (7) days to consider a course of action.
5. After the expiry of the seven (7) days Council staff will take the following action-

a) if the owner is co-operative – defer action and contact the complainant after thirty (30) days to see if the problem still exists.

Or

b) If the dog owner is unco-operative , issue a Nuisance Order under *The Companion Animals Act 1998*.

6. In response to the dog owner being uncooperative three (3) additional seven (7) day diaries may be provided to the complainant. The additional diaries are to be completed in Order to secure additional evidence to support the Nuisance Order.

Three (3) copies of the diary are sent with a recommendation that the complainant arrange for other affected persons to complete them. If the additional diaries cannot be obtained the complainant will be referred to the Community Justice Centre.

7. Should additional completed diaries be received, a decision will be made, having consideration to Council's legal procedures policy as to further action.
8. Options in the matter include;
  - a) Issue Penalty Infringement Notice
  - b) Issue second Penalty Infringement Notice

**ITEM 2 - ATTACHMENT 2      DOG NOISE STRATEGY (CURRENT).**

Alternatively, where the above enforcement options do not achieve compliance the matter may be escalated under the *Protection of the Environment Operations Act 1997* by way of a Prevention Notice.

9. If the matter is not resolved following the above process Council may issue a Court Attendance Notice.

**RELATED POLICIES**

The Dog Noise Strategy is referred to in Councils Local Companion Animals Management Plan.

Council's Local Orders Policy has provisions for the keeping of Animals on Private Property

**REVIEW DATE**

1 July 2016

**RELEVANT LEGISLATIVE PROVISIONS**

Companion Animals Act 1998 - Nuisance Orders

Protection of the Environment Operations Act 1997

Prevention Notice  
Noise Abatement Order

**IMPLEMENTATION RESPONSIBILITY**

Environmental Health and Compliance



# Fact sheet



PORT STEPHENS  
COUNCIL

## Do you have a dog noise problem?

### How can Council help?

Council does have a role in investigating and dealing with owners of dogs creating unreasonable levels of noise.

### What is unreasonable dog noise?

Nearly all dogs will bark for various reasons and this alone does not make the noise unreasonable or offensive. The noise needs to be at such a level and frequency as to have a detrimental effect on your normal daily activities.

**STEP 1:** Dog barks excessively. Talk to your neighbour. Council will assist once you have attempted to approach the dog owners. The dog owners may not be aware of the problem.

**STEP 2:** Complete an approved Council noise diary and statement. When completed, return it to Council (**ANY DIARIES RECEIVED MORE THAN 7 DAYS AFTER THE EVENT ARE NOT VALID**).

**Outcome:**  
Dog behaviour meets requirements for offensive noise/nuisance animal:

Council officers will visit the property and issue a Noise Abatement Direction (valid for 28 days) and give advice to owner on how to reduce barking.

**Does not meet unreasonable/offensive noise provisions:**  
No further action. Refer to the Community Justice Centre or private civil action.

**STEP 3:** Barking continues. Complete additional diary/s and submit to Council.

**Outcome:**  
Within 28 days: Council officers issue infringements for breach of the order. Consider issue of Nuisance Order or Prevention Notice.

After 28 days: consider issuing Nuisance Order or Prevention Notice.

**STEP 4:** Barking continues. Complete additional diary/s and submit to Council.

**Outcome:**  
Council officers escalate the level of fines issued. If the unreasonable barking continues Council will consider Court Action.

### IMPORTANT

You should always talk to your neighbour to try and resolve it first.

Council only has 7 days to issue noise abatement directions so return your diary as soon as it is complete.

Not all barking is unreasonable; it is only unreasonable if it affects your activities at home.

If your diary is not completed it will be returned pending more information.

If your diary has any false entries you may be fined for providing false and misleading information.

**ITEM 2 - ATTACHMENT 4 DOG NOISE DIARY STATEMENT.**



**STATEMENT - DOG NOISE NUISANCE**

To: Rangers – Environmental Health and Compliance, Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324  
Ph: 02 4980 0255 Fax: 02 4987 3612  
Email: council@portstephens.nsw.gov.au

I, \_\_\_\_\_ of \_\_\_\_\_  
(YOUR NAME) (YOUR ADDRESS)

Occupation \_\_\_\_\_

Phone (Home) \_\_\_\_\_ (Mobile) \_\_\_\_\_

Am making this statement in regard to nuisance dog noise.

This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything, which I know to be false or do not believe to be true.

The dog(s) creating the noise are:

(1) \_\_\_\_\_  
(Description of dog(s):

(2) \_\_\_\_\_  
Being kept at the premises of (address of dogs):

No/Street \_\_\_\_\_

Suburb \_\_\_\_\_ Postcode \_\_\_\_\_

The occupier of the premises is (name of owner/occupier if known):

Date of alleged offensive noise; (date from) \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
(date to) \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

That between the dates recorded the dog(s) did create offensive noise and unreasonably interfered with my comfort in my premises. I have attached a noise diary which was recorded by me and was made of my own free will.

Print name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**ITEM 2 - ATTACHMENT 4 DOG NOISE DIARY STATEMENT.**



**DOG NOISE DIARY**

*Noise Diary Requirements*

**IMPORTANT;** this is part of your statement, if any false or misleading information is supplied you could be liable to fines and or prosecution.

The diary should be logged chronologically over 7 days and in neat legible writing.

**REMEMBER** you may be required to testify in court how each noise episode impacted on your comfort and repose. **ALL** details must be completed for the diary to be valid.

**Audio Recording** is encouraged to be taken of each noise episode, so the recording can be used as evidence you should state your name location and time at the commencement of each recording. **Important;** you may commit an offence under the prescribed legislation if you audio record a person without their consent. It is not an offence to record animal noise.

**Date** log the date of each noise episode.

**Time** should be logged down to minutes when an episode occurs (eg 1.53am)

**Type of noise** should include the type of noise (eg bark, yelp, whine) and numbers of barks for each noise episode. An example of a noise episode could be "8 Barks" or "Whining 2 mins" or "12 yelps".

**Your location** is the location you are at when you heard the bark such as lounge room, kitchen, back yard, front yard. All recordings must be from the location marked (ie if you are in the lounge room, record from the lounge room (you can be prosecuted if you provide false information!))

**Activity** are the actions being undertaken at the time of the noise episode such as watching TV, phone conversation, reading, study, sleep etc.

**Y/N; Recording** you will need to mark Y or N to indicate if there is a recording for the event.  
EXAMPLE ONLY

Date	Time	Type of noise	Your location	Activity	Y/N*
15/1/16	9.20pm	12 Barks	lounge room	Watching TV	y
I was affected in that ...		Unable to hear the TV, had to turn it up very loud			
16/1/16	10.11pm	10 Barks	bedroom	sleeping	y
I was affected in that ...		Woken from sleep, tired next day			
17/1/16	8.40am	Whine 8 mins	Reading book	garden	y
I was affected in that ...		Stopped reading, unable to concentrate			
18/1/16	3.23pm	18 Barks	Back yard	Playing with kids	y
I was affected in that ...		Not affected			

**ITEM 2 - ATTACHMENT 4 DOG NOISE DIARY STATEMENT.**

**DOG NOISE DIARY**

Date	Time	Type of noise	Your location	Activity	Y/N*
I was affected in that ...					
I was affected in that ...					
I was affected in that ...					
I was affected in that ...					
I was affected in that ...					
I was affected in that ...					
I was affected in that ...					
I was affected in that ...					
I was affected in that ...					
I was affected in that ...					

I certify that the entries are true and correct (sign)\_\_\_\_\_ (date)\_\_\_\_/\_\_\_\_/\_\_\_\_

(If further pages are required, please copy this page and attach)

**ITEM NO. 3**

**FILE NO: 16/435346  
RM8 REF NO: PSC2005-2853**

**POLICY REVIEW - MOSQUITO MANAGEMENT POLICY**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT SECTION  
MANAGER  
GROUP: DEVELOPMENT SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the Mosquito Management Policy dated 27 March 2007 Minute No. 069 **(ATTACHMENT 1)**.
- 2) Continue to provide mosquito awareness information consistent with *Living With Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW* on Council's website and referenced when responding to any future enquiries.

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>327</b>	<p><b>Councillor Peter Kafer Councillor Chris Doohan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Revoke the Mosquito Management Policy dated 27 March 2007 Minute No. 069 <b>(ATTACHMENT 1)</b>.</li><li>2) Continue to provide mosquito awareness information consistent with <i>Living With Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW</i> on Council's website and referenced when responding to any future enquiries.</li></ol>
------------	---

**BACKGROUND**

The purpose of this report is to revoke the Mosquito Management Policy.

Historically the Policy provided context for the following:

- Mosquito monitoring and control management actions that are no longer being implemented.
- Mosquito awareness programs addressing public nuisance and health matters as well as ecological value of mosquitoes.

In 2005 the Premiers Department (Hunter) and Local and State Government agencies in the Hunter and Mid North Coast coordinated the development and publishing of Living With Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW (LWM). In 2009 a 2nd Edition of LWM was published which aimed to provide the most relevant information available on local mosquitoes, mosquito-borne disease, management strategies and personal protection measures for the region.

The Policy, and other Local Government mosquito considerations, relies heavily on LWM. Hunter New England Health states the intention that the information contained in the LWM be used to ensure a consideration of mosquito issues in urban planning and development, and wetland management plans; and that the community is informed of personal protection strategies available to minimise exposure to mosquitoes.

There is no legislative or community service requirements for ongoing mosquito management programs. The LWM itself states that it is not mandatory for local governments to control mosquito populations in NSW and NSW Health itself does not have a specific policy on mosquito control.

Consequently, mosquitoes or their management are no longer referenced in Council's DCP or LEP. Further, Council has not funded or carried out management actions for many years.

It appears to remain a choice for local government to provide communications on mosquitoes. Port Stephens Council has chosen to meet this obligation via information on its website.

## **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Environmental Sustainability.	Develop and implement catchment and biodiversity programs. Continue to implement initiatives that reduce Council's greenhouse gas emissions.

## **FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial implications. Existing resourcing will be used to maintain relevant information on Council's website.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	No		None required.
Reserve Funds	No		

**MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Any potential specific activities by Council or proponents would require further consideration under legislative, strategic and policy requirements, regardless of the Mosquito Management Policy being in effect.

The LWM itself states that it is not mandatory for local governments to control mosquito populations in NSW and NSW Health itself does not have a specific policy on mosquito control.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council operations could contribute to human health risks as a result of facilitating increases in mosquito populations.	Medium	Mosquito impacts are included in human health risk assessments for specific activities by Council.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The policy as it exists is redundant.

**MERGER PROPOSAL IMPLICATIONS**

Mosquito management could be reviewed following any potential merger. Not having a policy presents no implications to daily operations post merger.

**CONSULTATION**

Consultation with key internal stakeholders has been undertaken by the Strategy and Environment to understand the historical context of the policy, its relationship with local planning instruments and to identify any potential public health implications

### Internal

Invasive Species Officers confirmed active mosquito management occurred up until around 2008 whilst a monitoring program continued and ceased in 2012.

Environmental Health confirmed there are no implications of not having the existing policy.

Strategic Planning confirmed that mosquitoes are no longer referenced in the LEP or DCP.

### External

External consultation was not required due to there being no legislative or community service requirements for ongoing mosquito management programs.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Mosquito Management Policy - 27 March 2007 Min No 069.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.



**ITEM 3 - ATTACHMENT 1 MOSQUITO MANAGEMENT POLICY - 27 MARCH 2007 MIN NO 069.**

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

Adopted: 27/03/2007  
Minute No: 069  
Amended:  
Minute No:

**FILE NO: PSC2005-2853**

**TITLE: MOSQUITO MANAGEMENT POLICY**

**RESPONSIBLE OFFICER: GRAHAM PRICHARD**

**BACKGROUND**

Mosquitoes are not only nuisance biting pests but also have the potential to spread disease causing pathogens such as Ross River virus and Barmah Forest virus. While the number of reported cases fluctuates from year to year depending on factors such as seasonal conditions, Port Stephens Council area has on average 31 known cases of arbovirus per year. It is accepted this figure is an under representation of the situation due to the high numbers of visitors to the region and unreported cases.

Mosquitoes are an important component of wetland ecosystems, recycling nutrients and providing food for birds, bats, amphibians, fish and macroinvertebrates. The management and control of mosquitoes is a concern for council and the community, however any management strategies need to minimise adverse impacts on the environment and people. In Port Stephens mosquitoes are an integral part of the environment and regardless of control strategies, will always be locally active during the warmer months.

There are many different types of mosquito, each closely associated with particular habitats and representing a range of nuisance and public health risks. In Port Stephens and along the NSW coast, the Saltmarsh Mosquito (*Ochlerotatus vigilax*) is the major nuisance biting pest and vector of arthropod borne viruses (arboviruses). This particular mosquito breeds mainly in saltmarsh and mangrove areas where population increases are associated with summer high tides and moderate rainfall.

Port Stephens is the largest estuary (133 km<sup>2</sup>) of any type in New South Wales, contains the largest area of mangrove forest in New South Wales (27 km<sup>2</sup> or 21% of the state total) and has the largest area of saltmarsh in the state (14 km<sup>2</sup> or 13% of the state total) (Reference: Breen, D.A. Avery, R.P. and Otway N.M. 2004. Broad-scale biodiversity assessment of the Manning Shelf Marine Bioregion. NSW Marine Parks Authority). Saltmarsh and other coastal wetlands, which are the dominant mosquito breeding habitats in Port Stephens Council, are protected by the NSW Threatened Species Conservation Act 1995 and the control of mosquitoes in those

**ITEM 3 - ATTACHMENT 1 MOSQUITO MANAGEMENT POLICY - 27 MARCH 2007 MIN NO 069.**

habitats by any means requires approval by the NSW Department of Environment and Conservation.

Another complicating factor is that extensive breeding habitats that contribute to seasonal mosquito plagues are present in neighbouring council areas. With Salt Marsh mosquitoes able to fly up to twenty kilometres in pest numbers this means that even if Port Stephens Council were able to control or minimise the breeding of mosquitoes within Port Stephens, mosquitoes would remain an issue because of these neighbouring breeding areas.

In addition to these estuarine environments, mosquitoes also breed in and occupy freshwater and brackish water habitats. The Port Stephens Wetland Mapping Identification and Prioritisation Study identified and classified over 17,820 Hectares (or 18.3 % of the Local Government Area) as wetland.

Given the extent of breeding habitats and the social, economic, environmental, legal and other constraints, mosquitoes will always be present and will continue to cause seasonal plagues regardless of the intent and control activities that Council may implement.

**OBJECTIVE**

To work closely with the State government, regional councils and the community to raise awareness of mosquitoes, their role in the environment, the issues of nuisance biting and to minimise public health risks and to investigate sustainable methods of mosquito management.

**PRINCIPLES**

1. Continue to encourage regional involvement and cooperation in the implementation of the regional strategy.
2. Implement Port Stephens Council consolidated Development Control Plan mosquito control requirements and provide mosquito related information to state agencies regarding significant projects as appropriate.
3. Monitor both adult and larval mosquito populations in conjunction with the NSW Arbovirus Monitoring Program.
4. Develop and implement a community education program to raise awareness of mosquitoes role in the environment, their potential to affect public health and amenity and the personal measures recommended to reduce the impacts of mosquitoes.
5. Continue to research sustainable and progressive management options to reduce the impacts of mosquitoes.
6. Conduct control programs (pending obtaining required approvals).

**ITEM 3 - ATTACHMENT 1 MOSQUITO MANAGEMENT POLICY - 27 MARCH 2007 MIN NO 069.****POLICY STATEMENT**

Council will adopt procedures that align with the 'Living With Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW' strategy 2005, and the Port Stephens Council consolidated Development Control Plan 2006. This includes undertaking regional community education, mosquito monitoring and research, cost effective control programs that are in accordance with the principles of sustainability.

A three year action plan will be developed to implement priority actions from the regional strategy. This will incorporate components from the mosquito awareness program subgroup which has been formed to develop and oversee a regional community awareness program.

**RELATED POLICIES**

This policy is in accordance with the "Living With Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW" strategy 2005, the Port Stephens Council consolidated Development Control Plan 2006 and the Statement of Cooperation 2006 developed with the Prescribed Ports Sub-group of the Living With Mosquitoes focus group.

**SUSTAINABILITY IMPLICATIONS**

Community education programs offer a sustainable, effective method of ameliorating the negative impacts of mosquitoes without disrupting the ecosystems in which they play a keystone role.

**SOCIAL IMPLICATIONS**

The nuisance and public health risks associated with mosquitoes can have an impact on the health and lifestyle of residents and visitors to the area. Implementation of the policy will contribute to reducing negative social impacts associated with mosquitoes.

**ECONOMIC IMPLICATIONS**

Public health and nuisance problems associated with mosquitoes may detrimentally impact local economies through deterring tourists and visitors and potentially reducing residential property values. Implementation of the policy will contribute to reducing negative economic impacts associated with mosquitoes.

**ENVIRONMENTAL IMPLICATIONS**

Mosquitoes are an important component of the wetland ecosystem, providing food for birds, bats, amphibians, fish and macro invertebrates. The environmental values of wetlands also mean that modification of such environments (eg draining or filling) to control mosquito breeding may be no longer acceptable due to community attitudes and environmental legislation. The policy recognises the importance of protecting these environments in attempting to implement mosquito management initiatives.

**ITEM 3 - ATTACHMENT 1 MOSQUITO MANAGEMENT POLICY - 27 MARCH 2007 MIN NO 069.**

**CULTURAL IMPLICATIONS**

Mosquitoes can have a detrimental impact on cultural events and activities via the nuisance they cause to participants. Implementation of the regional strategy will contribute to reducing the negative impact of mosquitoes on such events and activities.

**RELEVANT LEGISLATIVE PROVISIONS**

Environmental Planning and Assessment Act 1979  
Threatened Species Conservation Act 1995  
Marine Parks Act 1997  
Pesticides Act 1999  
Protection of Environment operations Act 1997  
Fisheries Management Act 1994  
National Parks and Wildlife Act 1974  
Public Health Act 1991  
State Environmental Planning Policy 14 – Coastal Wetlands

**IMPLEMENTATION RESPONSIBILITY**

Sustainable Planning  
Facilities and Services

**REVIEW DATE**

2009

**ITEM NO. 4**

**FILE NO: 16/427156  
RM8 REF NO: PSC2016-01959**

**PLANNING PROPOSAL TO AMEND ZONING AND MINIMUM LOT SIZE  
PROVISIONS AT BOUNDARY RD MEDOWIE (LOTS 93-96 DP 753194)**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT SECTION  
MANAGER  
GROUP: DEVELOPMENT SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the planning proposal (**ATTACHMENT 2**) for the purpose of section 55 of the *Environmental Planning and Assessment Act 1979* (NSW) to amend the *Port Stephens Local Environmental Plan 2013* in respect of part of lots 93-96 DP 753194 to:
  - a) amend the Land Zone Map to rezone the subject land from R5 Large Lot Residential to R2 Low Density Residential;
  - b) amend the Lot Size Map to reduce the minimum lot size from 1,000m<sup>2</sup> to 500m<sup>2</sup> within the proposed R2 Low Density Residential zone;
  - c) amend the Height of Buildings Map to apply a corresponding height limit of 9m within the proposed R2 Low Density Residential zone; and
  - d) amend the boundary of the E2 Environmental Conservation zone located within the subject land.
- 2) Submit the planning proposal to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.

---

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>328</b>	<p><b>Councillor Chris Doohan Councillor Steve Tucker</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Adopt the planning proposal (<b>ATTACHMENT 2</b>) for the purpose of section 55 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) to amend the <i>Port Stephens Local Environmental Plan 2013</i> in respect of part of lots 93-96 DP 753194 to:<ol style="list-style-type: none"><li>a) amend the Land Zone Map to rezone the subject land from R5 Large Lot Residential to R2 Low Density Residential;</li><li>b) amend the Lot Size Map to reduce the minimum lot size from 1,000m<sup>2</sup> to 500m<sup>2</sup> within the proposed R2 Low Density Residential</li></ol></li></ol>
------------	---

## MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016

	zone;
c)	amend the Height of Buildings Map to apply a corresponding height limit of 9m within the proposed R2 Low Density Residential zone; and
d)	amend the boundary of the E2 Environmental Conservation zone located within the subject land.
2)	Submit the planning proposal to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.

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, Ken Jordan, Peter Kafer, Paul Le Mottee and Steve Tucker.

Those against the Motion: Nil.

### BACKGROUND

The purpose of this report is to recommend that Council prepare a planning proposal to amend the *Port Stephens Local Environmental Plan 2013* to land within the new residential estate at Boundary Road, Medowie, from R5 Large Lot Residential to R2 Low Density Residential and amend lot size and building height maps to reflect the proposed zone change. A minor amendment to the E2 zone boundary is also proposed as part of the planning proposal to better align with survey data.

A summary of the planning proposal is below:

Subject Land:	<b>(ATTACHMENT 1)</b> Part of Lot 93 DP 753194 (63 Boundary Rd) Part of Lot 94 DP 753194 (65 Boundary Rd) Part of Lot 95 DP 753194 (67 Boundary Rd) Part of Lot 96 DP 753194 (69 Boundary Rd)
Subject Land Area:	38 hectares (approximate)
Existing Zoning:	R5 Large Lot Residential
Recommended Zoning:	R2 Low Density Residential
Existing Minimum Lot Size:	1,000m <sup>2</sup>
Recommended Minimum Lot Size:	500m <sup>2</sup>
Recommended Planning Proposal:	<b>(ATTACHMENT 2)</b>
Proponent Planning Proposal:	<b>(ATTACHMENT 3)</b>
Proponent:	McCloy Group Pty Ltd

### Recommended Planning Proposal

The planning proposal applies to approximately 38 ha of existing R5 zoned land within the new residential estate at Boundary Road as shown at **(ATTACHMENT 1)**. Development consent has been granted for a 345 lot residential subdivision under DA 16-2015-336-1 on part of the subject land. The site is under single ownership facilitating a coordinated and master-planned development.

The planning proposal seeks rezoning of part of the developable area from R5 Large Lot Residential to R2 Low Density Residential and to amend the respective minimum lot size from 1,000m<sup>2</sup> to 500m<sup>2</sup>. Both minimum lot sizes reflect the objective of the proposed R2 zone to provide for the housing needs of the community within a low density residential environment.

The effect of the planning proposal is an overall indicative increase in lot yield at the estate from 345 to approximately 480 lots (135 lot increase). It presents an effective approach to increasing the supply of land for housing in Medowie on land that is comparatively unconstrained. It will make more efficient use of infrastructure which will be provided under the existing development consent (subject to confirmation of any further upgrades e.g. sewer and water). It will also support a greater range of residential development to be delivered (e.g. seniors housing and multi-dwelling housing).

In addition, a strip of existing R5 zoned land between Boundary Rd and the proposed R2 zone will be retained to provide a transition from existing approved larger lots to the proposed smaller housing lots within the proposed R2 zone. The aim is to maintain the existing character at the interface between the new and existing approved housing areas.

A further and minor component of the planning proposal is to amend the boundary of a 0.9ha pocket of land zoned for environmental conservation within the developable area. The purpose is to create a more accurate and regular-shaped zone boundary without reducing its size or the number of affected koala feed trees.

Additional information to support the planning proposal will be required from the proponent as part of a conditional gateway determination (to be requested from the NSW Department of Planning and Environment). This information is to confirm site suitability for potential increased future development under the planning proposal and to update existing studies for public exhibition to reflect the planning proposal for the following key issues: bushfire; traffic and transport; servicing infrastructure (sewer and water provision) and flora and fauna.

The planning proposal as lodged by the proponent **(ATTACHMENT 3)** sought to retain a greater portion of land zoned large lot residential with a minimum lot size of 1,000m<sup>2</sup> around the periphery of the subject land. However the recommended planning proposal is desirable to achieve a further increase the supply of land for housing with limited or no additional comparative environmental effect.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Sustainable Development.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial or resource implications if Council resolves to proceed with the planning proposal.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	No		Not applicable.
Reserve Funds	No		Not applicable.
Section 94	Yes		Future subdivision will be subject to local infrastructure contributions in accordance with the <i>Port Stephens Development Contributions Plan 2007</i> .
External Grants	No		
Other	Yes	5,250	Category B Stage 1 – Lodgement (up to Gateway) rezoning fee in accordance with <i>Port Stephens Fees and Charges Schedule 2016-2017</i> .

**LEGAL, POLICY AND RISK IMPLICATIONS**Environmental Planning and Assessment Act 1979 (NSW)

Council is the relevant planning authority for the preparation of the planning proposal under the *Environmental Planning and Assessment Act 1979* (NSW). If Council resolves to adopt the planning proposal it will be forwarded to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.

Regional Planning

The site was previously rezoned to facilitate development following consideration under the *Lower Hunter Regional Strategy*. The *Hunter Regional Plan* and *Plan for Growing Hunter City* (both draft) indicatively show the site as an urban area. The



recommended planning proposal is consistent with the relevant direction and action to investigate opportunities for housing growth including to identify opportunities for development in Medowie that do not affect water quality. The site is identified as an urban area and is not located within the Grahamstown Dam Drinking Water Catchment.

#### Local Planning

The recommended planning proposal is in effect consistent with the *Port Stephens Planning Strategy* (2011) and the *Medowie Strategy* (2009). The site is included in the *Medowie Strategy* as large lot residential with a minimum lot size of 1,000m<sup>2</sup>. Existing approved development will effectively present as low density residential development (i.e. residential dwellings on quarter-acre lots). Both the existing and proposed minimum lot size (500m<sup>2</sup>) are consistent with the objective of the proposed R2 zone to provide for the housing needs of the community within a low density residential environment. The revised draft *Medowie Planning Strategy* accordingly identifies the subject land as residential.

#### Port Stephens Local Environmental Plan 2013

The planning proposal will be implemented through the amendment of *Port Stephens Local Environmental Plan 2013* mapping for land zoning, building height and minimum lot size as recommended.

#### Port Stephens Development Control Plan 2014

If the planning proposal receives a gateway determination permitting further investigation, it will be recommended at a later date that Council also review the site-specific chapter of the *Port Stephens Development Control Plan 2014* for the site to ensure the controls remain relevant with particular regard to setbacks and tree retention within residential lots.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that increasing lot yield will effect infrastructure servicing provision (traffic, drainage, sewer and water provision).	Low	Proponent to prepare updated supporting studies for review following gateway determination and prior to public exhibition.	Yes

**MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that tree retention within residential lots will be further reduced.	Low	Proponent to prepare updated supporting flora and fauna report following gateway determination and prior to public exhibition. Prepare a revised updated site-specific development control plan.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are positive social and economic implications in proceeding with the planning proposal by increasing the overall total potential residential lot yield at the estate from 345 to 480 lots. Environmental implications that may result are minimal, with no significant increase in size or change in location of urban lands resulting from the proposal. The objective of amending the boundary of the pocket of environmental conservation land within the subject land is to create a regular-shaped and accurate zone boundary. There will be a slight indicative increase in its area from 0.9 ha to 1.0 ha and no reduction in the number of koala feed trees affected.

**MERGER PROPOSAL IMPLICATIONS**

There are no merger implications.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section. The objective of the consultation was to review the proponent's planning proposal prior to recommending whether Council should resolve to prepare a planning proposal for the subject land.

**Internal**

Facilities and Services Group advises that the potential lot yield under the recommended planning proposal is unlikely to have any significant impact on the operation of the local road network. Preliminary modelling indicates that a high level of service would be maintained at key intersections. No objections were raised for rezoning in relation to flooding and drainage.

Development Assessment and Compliance Team advised DA 16-2015-336-1 was referred to the NSW Rural Fire Service (RFS) and concerns related to the 'bottle neck' access point at Boundary Road raised. As a result the applicant was required to provide an alternate access point to fire trail standard from the eastern part of the development and through the electricity easement and connecting with County Close.

Given previous access concerns the planning proposal will be referred to the RFS for comment. Development Assessment and Compliance Team also recommend reviewing outcomes achieved by retention of the 'pocket' of land zoned E2 Environmental Conservation, however it is recommended to retain this particular area in the planning proposal because it comprises a concentration of koala feed trees.

#### External

Formal consultation requirements will be set by a gateway determination issued by the NSW Department of Planning and Environment. It is intended to consult with: Hunter Water Corporation; NSW Roads and Maritime Services; NSW Rural Fire Service; NSW Office of Environment and Heritage. If the planning proposal proceeds past gateway determination it will be placed on public exhibition and adjoining landowners will be notified of any public exhibition period.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Subject Land.
- 2) Recommended Planning Proposal. (Provided under separate cover)
- 3) Proposed Planning Proposal. (Provided under separate cover)

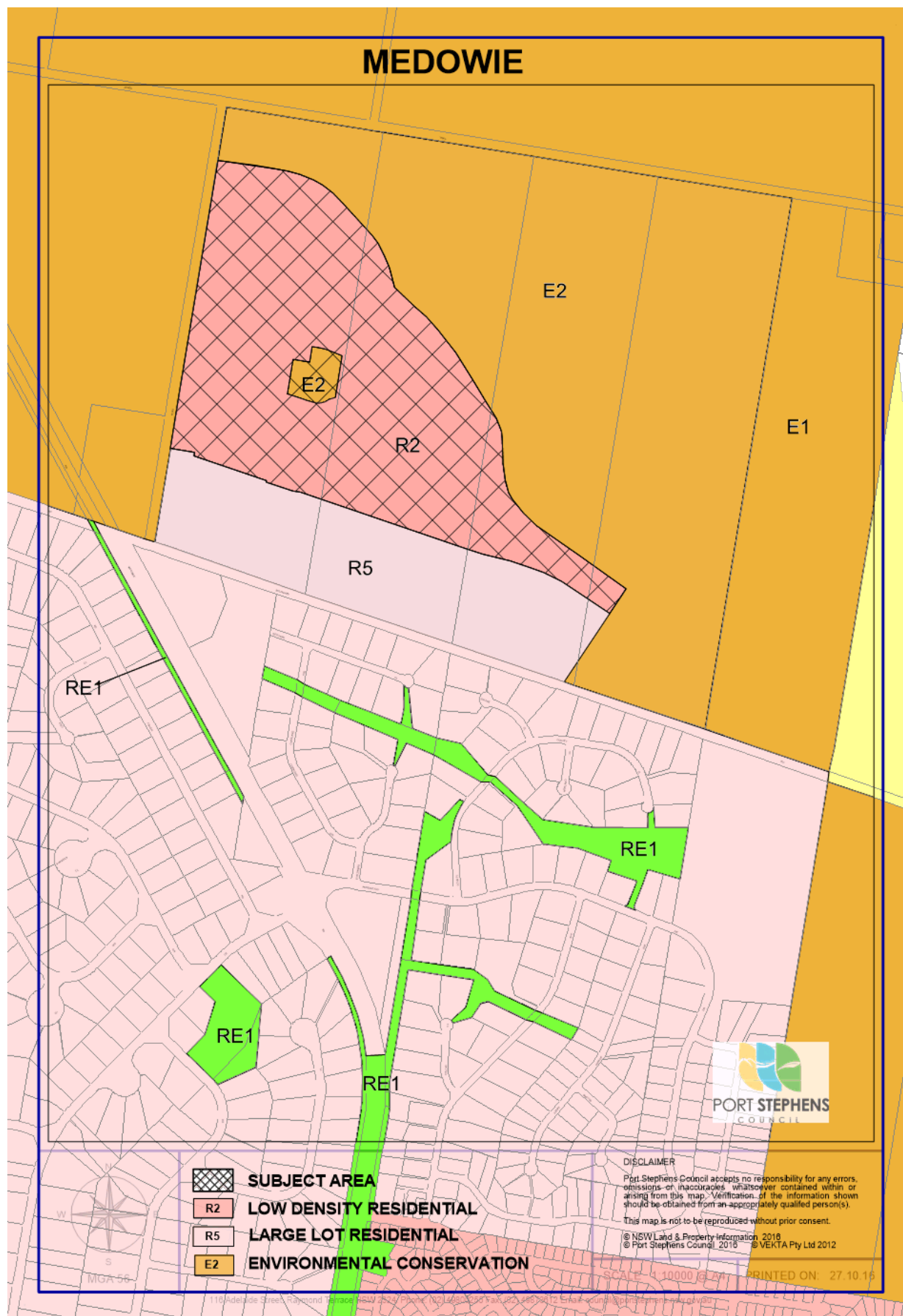
### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

ITEM 4 - ATTACHMENT 1 SUBJECT LAND.



**ITEM NO. 5****FILE NO: 16/431048  
RM8 REF NO: A2004-0242****QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2016****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 2016-2017 Quarterly Budget Review Statement - September 2016.
- 

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>329</b>	<b>Councillor Paul Le Mottee Councillor Peter Kafer</b>  It was resolved that Council approve the discretionary changes to the adopted budget as detailed in <b>(ATTACHMENT 1)</b> presented as the 2016-2017 Quarterly Budget Review Statement - September 2016.
------------	---

**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 2016-2017 budget that are detailed in the Quarterly Budget Review Statement - September 2016. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the September Quarterly Budget Review.

Council considered its Integrated Strategic Plans on 24 May 2016 (Minute No. 142) and these plans include the budget estimates for the 2016-2017 financial year.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
A Sustainable Council.	Council will maintain its underlying financial performance to budget at break even or better. Council will increase its revenue from non-rates sources. Manage risks across Council.

**MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016**

	Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.
--	---

**FINANCIAL/RESOURCE IMPLICATIONS**

Council's anticipated underlying result is as follows:

	<b>Surplus (\$)</b>	<b>Deficit</b>
Budget 2016-2017	1,017,000	
September Review	666,000	
December Review		
March Review		

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

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

**MERGER PROPOSAL IMPLICATIONS**

There are no known merger proposal implications.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Finance Section to discuss the overall financial result for the quarter.

### Internal

- Group Managers via email in October 2016 to provide an update on the overall financial result for the quarter.
- Executive Leadership Team and Executive Team during formal meetings in October 2016 to discuss the overall financial result for the quarter.

Formal communication and meetings have been held and the recommendation to submit to Council for formal adoption was accepted.

### External

Nil.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) 2016-2017 Quarterly Budget Review Statement - September 2016.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.



**"A great lifestyle in a treasured environment"**

**2016 – 2017  
Quarterly Budget Review Statement  
September 2016**



**TABLE OF CONTENTS**

1. EXECUTIVE SUMMARY	1
2. INTRODUCTION	3
3. RESPONSIBLE ACCOUNTING OFFICER'S STATEMENT	4
4. INCOME & EXPENSES BUDGET REVIEW STATEMENT	5
5. CAPITAL BUDGET REVIEW STATEMENT	9
6. CASH FLOW STATEMENT & ANALYSIS	13
7. BUDGET REVIEW CONTRACTS AND OTHER EXPENSES	14

**1) Executive Summary**

Categorising the changes by Group:

**Corporate Services:** The operating budget changes in this group were \$480k (Favourable). Income was increased by \$700k to account for the gain on sale of assets in the Property Services area. This was offset by a reduction in grant income by \$220k as a result of a reduction in the federal assistance grant given to Council. Capital budget changes were \$8.4M (Unfavourable). These changes predominately relate to property development at 155 Salamander Way, holiday park capital works being brought forward in the cluster plan and the purchase of IT equipment.

**Development Services:** The net changes within this group amounted to \$39k (Favourable). The main driver of this net increase in the Group related to revised forecasts on development fees. Grant income and related expenditure were also increased as a result of successful applications for environmental projects.

**Facilities & Services:** The operating budget changes in this group were \$66k (Unfavourable). Changes in the operating expenditure budget were as a result of lower expenditure in relation to service contracts for the pools.

Changes in the capital budget were \$2.8M (Unfavourable) which consists and an increase in capital grants for \$1.4M and an increase in capital expenditure of \$4.2M. The capital expenditure adjustment mainly relates the following projects:

- Construction of the new fire station at Tanilba Bay - \$800k.
- Drainage works around the LGA - \$1M.
- Recreational area improvements around the LGA - \$700k.
- Library resource tracking system - \$100k.
- Capping of Raymond Terrace former landfill site - \$1.8M

**General Manager's Office:** No changes to the September budget have been made however a total of \$104k for budget revotes was adjusted for. These revotes relate to the rollover of unspent ward funds from the prior year.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

Page 1 of 16

# MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016

## ITEM 5 - ATTACHMENT 1 2016-2017 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2016.

Operating Budget	2017 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	2017 Revised Budget Full Year \$000	2017 YTD Actuals \$000
Corporate Services	37,529	-	480	-	-	-	38,009	35,962
Development Services	(7,359)	-	39	-	-	-	(7,320)	(1,811)
General Manager's Office	(2,794)	(104)	-	-	-	-	(2,898)	(753)
Facilities & Services	(26,669)	-	(66)	-	-	-	(26,736)	2,469
Newcastle Airport	2,352	-	-	-	-	-	2,352	-
<b>Operating Surplus/(Deficit) before capital grants</b>	<b>3,059</b>	<b>(104)</b>	<b>453</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3,408</b>	<b>35,867</b>
Less: Gain on sale	(250)	-	(700)	-	-	-	(950)	-
Less: Fair value gains	(615)	-	-	-	-	-	(615)	-
Less: Newcastle Airport	(2,352)	-	-	-	-	-	(2,352)	-
Add: NAP Dividend	1,175	-	-	-	-	-	1,175	-
<b>Underlying Operating Surplus/(Deficit)</b>	<b>1,017</b>	<b>(104)</b>	<b>(247)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>666</b>	<b>35,867</b>

Capital Budget	2017 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	2017 Revised Budget Full Year \$000	2017 YTD Actuals \$000
Corporate Services	(2,379)	(1,238)	(8,453)	-	-	-	(12,070)	(1,371)
Development Services	3,000	-	-	-	-	-	3,000	1,173
General Manager's Office	-	-	-	-	-	-	-	-
Facilities & Services	(5,489)	(8,325)	(2,895)	-	-	-	(16,709)	(2,862)
<b>Total</b>	<b>(4,868)</b>	<b>(9,563)</b>	<b>(11,348)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(25,779)</b>	<b>(3,060)</b>

Note - + = inflow ( ) = outflow

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRS.

## **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 30/9/2016 and should be read in conjunction with other documents in the QBRS.

Page 3 of 16

**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 30/9/2016 indicates that Council's projected financial position at 30/9/2016 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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRS.

Page 4 of 16

4) Income & Expenses Budget Review Statement

Consolidated	2017 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	2017 Revised Budget Full Year \$000	2017 YTD Actuals \$000
Rates & Annual Charges	52,778	-	-	-	-	-	52,778	53,169
User Charges & Fees Income	37,702	-	102	-	-	-	37,804	4,334
Interest & Investment Income	1,680	-	-	-	-	-	1,680	178
Other Income	5,909	-	221	-	-	-	6,130	1,442
Grants and Cont.	12,814	-	210	-	-	-	13,024	2,341
Grants and Cont (Capital)	8,003	-	1,312	-	-	-	9,314	1,048
Gain on Sale	250	-	700	-	-	-	950	-
<b>Total Revenue</b>	<b>119,136</b>	-	<b>2,545</b>	-	-	-	<b>121,682</b>	<b>62,513</b>
Employee Costs	40,822	-	646	-	-	-	41,467	10,460
Borrowing Costs	818	-	-	-	-	-	818	108
Materials & Contracts	39,084	-	227	-	-	-	39,311	8,595
Other Expenses	12,638	104	(92)	-	-	-	12,650	3,282
Depreciation	14,713	-	-	-	-	-	14,713	3,153
<b>Total Expenditure</b>	<b>108,075</b>	<b>104</b>	<b>781</b>	-	-	-	<b>108,960</b>	<b>25,598</b>
<b>Operating Surplus/(Deficit) after capital grants</b>	<b>11,061</b>	<b>(104)</b>	<b>1,764</b>	-	-	-	<b>12,722</b>	<b>36,915</b>
<b>Operating Surplus/(Deficit) before capital grants</b>	<b>3,059</b>	<b>(104)</b>	<b>453</b>	-	-	-	<b>3,408</b>	<b>35,867</b>
Less: Gain on sale	(250)	-	(700)	-	-	-	(950)	-
Less: Fair value gains	(615)	-	-	-	-	-	(615)	-
Less: Newcastle Airport	(2,352)	-	-	-	-	-	(2,352)	-
Add: NAP Dividend	1,175	-	-	-	-	-	1,175	-
<b>Underlying Operating Surplus/(Deficit)</b>	<b>1,017</b>	<b>(104)</b>	<b>(247)</b>	-	-	-	<b>666</b>	<b>35,867</b>

Notes:

1. Revised Budget = Original Budget +/- approved budget changes in previous quarters.

Council's original operating budget for 2016-2017 was incorporated as part of the Integrated Plans and was adopted by Council on 24 May 2016.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

**ITEM 5 - ATTACHMENT 1 2016-2017 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2016.**

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 \$1,017,000 to a projected surplus of \$666,000.

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

<b>REVENUE</b>	<b>Budget Change \$'000</b>	<b>F/U</b>
<b>Rates and Annual Charges</b>	-	-
No Change		
<b>User Charges and Fees</b>	<b>102</b>	<b>F</b>
User charges have been increased to account for the re-forecasted income from development application fees.		
<b>Grants and Contributions provided for Operating Purposes</b>	<b>210</b>	<b>F</b>
Grant income has been revised to account for the following which have a net impact as follows:		
1. The income budgeted from the federal assistance grant has been decreased by \$240k as a result of a reduction in the allocation given to Council.		
2. Grant income from environmental projects was increased as a result of successful applications for \$450k.		
<b>Interest and Investment Revenue</b>	-	-
No Change		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRS.

---

<b>Other Revenues</b>	<b>221</b>	<b>F</b>
-----------------------	------------	----------

There has been an increase in other revenue mainly as a result of the following:

1. Employee secondment and cadetship income \$140k.
  2. A contribution from NSW Treasury to assist in the establishment of the Emergency Services Levy \$73k.
- 

<b>Grants and Contributions provided for Capital Purposes</b>	<b>1,312</b>	<b>F</b>
---	--------------	----------

Capital income has been increased mainly as a result of the following:

1. \$116k for Little Beach ramp access and Karuah oval fence.
  2. \$115k for drainage studies.
  3. \$112k for Library resource tracking.
  4. \$130k for Lakeside Reserve and Boomerang Park recreational activities.
  5. \$818k contribution from RFS for the construction of the new Tanilba Bay fire station.
- 

<b>Net Gains from the Disposal of Assets</b>	<b>700</b>	<b>F</b>
--	------------	----------

An adjustment has been made to reflect the net profit from the sale of land.

---

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.



<b>EXPENDITURE</b>	<b>\$'000</b>	<b>Budget Change F/U</b>
<b>Borrowing Costs</b>	-	-
No Change		
<b>Depreciation and Amortisation</b>	-	-
No Change		
<b>Employee Benefits and On-Costs</b>	<b>646</b>	<b>U</b>
The increase in employee costs is as a result of a reallocation from materials and contracts. Budget votes previously used for labour hire are now being used by internal labour.		
<b>Materials and Contracts</b>	<b>227</b>	<b>U</b>
Increased expenditure on Contractor & Materials is mainly due to the following areas:		
1. \$450k was added to match the income due to be received from the environmental grants.		
2. \$73k was added in order to match the expenditure of income due to be received from the NSW Treasury for the Emergency Services Levy.		
3. \$100k was added in order to match the additional resources required in relation to re-forecasted income from development applications.		
4. \$100k was added in order to continue the dangerous tree moratorium program		
5. \$500k was reallocated to employee benefits in order to align the budgeted expenditure with the actual expenditure.		
<b>Other Expenses</b>	<b>(92)</b>	<b>F</b>
Other expenses have decreased due to reallocations to materials and contracts.		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

5) Capital Budget Review Statement

Consolidated	2017 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	2017 Revised Budget Full Year \$000	2017 YTD Actuals \$000
Grants and Cont (Capital)	8,003	-	1,312	-	-	-	9,315	1,048
<b>Total Receipts</b>	<b>8,003</b>	<b>-</b>	<b>1,312</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>9,315</b>	<b>1,048</b>
Capital Materials & Contracts	11,801	9,563	7,141	-	-	-	28,505	3,924
Capital Acquisition & Development	1,070	-	5,518	-	-	-	6,588	184
<b>Total Payments</b>	<b>12,871</b>	<b>9,563</b>	<b>12,659</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>35,093</b>	<b>4,108</b>
Add back changes supported by cash reserves	-	-	-					
<b>Capital Surplus/(Deficit)</b>	<b>(4,868)</b>	<b>(9,563)</b>	<b>(11,398)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(25,779)</b>	<b>(3,060)</b>

This statement sets out the details of variations between Council's revised capital budget and the June Quarterly Budget Review. There are budgetary changes proposed which result in an increase within capital expenditure of \$12.6M for September and \$9.5M in budget revotes from the prior financial year.

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

INCOME	\$'000	Budget Change F/U
<b>Capital Grants</b>	<b>1,312</b>	<b>F</b>

Capital income has been increased mainly as a result of the following:

1. Little Beach ramp access and Karuah oval fence - \$116k.
2. Drainage studies - \$115k.
3. Library resource tracking - \$112k.
4. Lakeside Reserve and Boomerang Park recreational activities - \$130k.
5. Contribution from RFS for the construction of the new Tanilba Bay fire station - \$818k.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

<b>EXPENDITURE</b>	<b>\$'000</b>	<b>Budget Change F/U</b>
<b>Capital Acquisition and Development</b>	<b>5,518</b>	<b>U</b>
Capital Acquisitions and Development relates to the following projects:		
<ol style="list-style-type: none"><li>1. Development of 155 Salamander Way \$5.1M. This project is being funded by an external bank loan until the proceeds from the development are fully realised early in the 2017 financial year. These costs are being funded from an external bank loan which will be extinguished in 2017 once all land sales are realised.</li><li>2. \$400k was added for planning costs for other development projects. These costs are being funded from the property development reserve.</li></ol>		
<b>Capital Materials and Contracts</b>	<b>7,141</b>	<b>U</b>
Capital materials and contracts was increased mainly as a result of the following:		
<ol style="list-style-type: none"><li>1. Construction of the new fire station at Tanilba Bay - \$800k. This project is funded by a contribution from the RFS.</li><li>2. Holiday Park development projects brought forward - \$2.9M. This work is funded by the Property and Crown reserve.</li><li>3. Drainage works around the LGA - \$1M. This work is funded from the drainage reserve and external grants.</li><li>4. Recreational area improvements around the LGA - \$700k This work is funded by internal reserves and grants.</li><li>5. Library resource tracking system and IT equipment - \$150k. This work is funded by internal reserves and grants.</li><li>6. Capping of Raymond Terrace former landfill site - \$1.8M. This work is funded by the external waste reserve.</li></ol>		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

Page 10 of 16

# MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016

## ITEM 5 - ATTACHMENT 1 2016-2017 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2016.

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-Sep-16 \$'000
<b>Capital Funding</b>							
Capital Grants & Contributions	8,003	-	1,312	-	-	9,315	1,048
<b>Total Capital Funding</b>	<b>8,003</b>	<b>-</b>	<b>1,312</b>	<b>-</b>	<b>-</b>	<b>9,315</b>	<b>1,048</b>
<b>Capital Expenditure</b>							
<b>Corporate Services Group</b>							
<b>Commercial Property</b>							
Fingal Bay Holiday Park	525	652	711	-	-	1,888	250
Halifax Holiday Park	430	122	654	-	-	1,206	311
Shoal Bay Holiday Park	305	129	863	-	-	1,297	552
Thou Walla Sunset Retreat	49	-	300	-	-	349	20
TreEscape	-	-	303	-	-	303	-
Office and Chambers	-	-	-	-	-	-	-
Property Development	-	-	5418	-	-	5,418	183
Property Services Section Manager	-	-	164	-	-	164	54
Property Investments	-	-	-	-	-	-	-
<b>Commercial Property Total</b>	<b>1,309</b>	<b>903</b>	<b>8,413</b>	<b>-</b>	<b>-</b>	<b>10,625</b>	<b>1,371</b>
<b>Business System Support</b>							
Business Improvement Technology	1,070	335	40	-	-	1,445	-
<b>Business System Support Total</b>	<b>1,070</b>	<b>335</b>	<b>40</b>	<b>-</b>	<b>-</b>	<b>1,445</b>	<b>-</b>
<b>Corporate Services Total</b>	<b>2,379</b>	<b>1,238</b>	<b>8,453</b>	<b>-</b>	<b>-</b>	<b>12,070</b>	<b>1,371</b>

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

# MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016

## ITEM 5 - ATTACHMENT 1 2016-2017 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2016.

	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-Sep-16 \$'000
<b>Facilities and Services</b>							
<b>Civil Assets</b>							
Community and Recreational Assets	-	100	-	-	-	100	-
Drainage	-	156	102	-	-	258	8
<b>Civil Assets Total</b>	-	<b>256</b>	<b>102</b>	-	-	<b>358</b>	<b>8</b>
<b>Community and Recreation</b>							
Library Services	250	-	112	-	-	362	82
<b>Community and Recreation Total</b>	<b>250</b>	-	<b>112</b>	-	-	<b>362</b>	<b>82</b>
<b>Capital Works</b>							
Capital Works Construction	9,272	8,050	3,992	-	-	21,314	2,506
<b>Capital Works Total</b>	<b>9,272</b>	<b>8,050</b>	<b>3,992</b>	-	-	<b>21,314</b>	<b>2,506</b>
<b>Public Domain and Services</b>							
Building Trades	-	-	-	-	-	-	-
Depots	-	19	-	-	-	19	-
Fleet Maintenance	970	-	-	-	-	970	142
<b>Public Domain and Services total</b>	<b>970</b>	<b>19</b>	-	-	-	<b>989</b>	<b>142</b>
<b>Facilities and Services Total</b>	<b>10,492</b>	<b>8,325</b>	<b>4,206</b>	-	-	<b>23,023</b>	<b>2,738</b>
<b>Total Capital Expenditure</b>	<b>12,871</b>	<b>9,563</b>	<b>12,659</b>	-	-	<b>35,093</b>	<b>4,108</b>
<b>Net Outlay</b>	<b>4,868</b>	<b>9,563</b>	<b>11,398</b>	-	-	<b>25,779</b>	<b>3,060</b>

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

# MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016

## ITEM 5 - ATTACHMENT 1 2016-2017 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2016.

<b>6) Cash Flow Statement (Consolidated)</b>	<b>Original Budget</b>	<b>Revotes Carried Forward</b>	<b>Budget Revision Sept</b>	<b>Budget Revision Dec</b>	<b>Budget Revision Mar</b>	<b>Revised Budget</b>
<b>Cash Flows from Operating Activities</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
<b>Receipts:</b>						
Rates & Annual Charges	52,066	-	-	-	-	52,066
User Charges & Fees	36,430	-	102	-	-	36,532
Interest & Investment Revenue Received	1,680	-	-	-	-	1,680
Grants & Contributions	21,366	-	1,522	-	-	22,888
Other	5,827	-	221	-	-	6,048
<b>Payments:</b>						0
Employee Benefits & On-Costs	(41,124)	-	(646)	-	-	(41,770)
Materials & Contracts	(36,568)	(104)	(227)	-	-	(36,899)
Borrowing Costs	(841)	-	-	-	-	(841)
Other	(14,479)	-	92	-	-	(14,387)
<b>Net Cash provided (or used in) Operating Activities</b>	<b>24,357</b>	<b>(104)</b>	<b>1,064</b>	<b>-</b>	<b>-</b>	<b>25,317</b>
<b>Cash Flows from Investing Activities</b>						
<b>Receipts:</b>						
Proceeds from disposal of Property Plant & Equipment	250	-	6,000	-	-	6,250
<b>Payments:</b>						
Purchase of Infrastructure, Property, Plant & Equipment	(12,871)	(9,563)	(12,659)	-	-	(35,093)
<b>Net Cash provided (or used in) Investing Activities</b>	<b>(12,621)</b>	<b>(9,563)</b>	<b>(6,659)</b>	<b>-</b>	<b>-</b>	<b>(28,843)</b>
<b>Cash Flows from Financing Activities</b>						
<b>Receipts:</b>						
Proceeds from borrowings	-	1,000	4,970	-	-	5,970
<b>Payments:</b>						
Repayment of Borrowings & Advances	(3,767)	-	-	-	-	(3,767)
<b>Net Cash Flow provided (used in) Financing Activities</b>	<b>(3,767)</b>	<b>1,000</b>	<b>4,970</b>	<b>-</b>	<b>-</b>	<b>2,203</b>
Net Increase/(Decrease) in Cash & Cash Equivalents	7,969	(8,667)	(625)	-	-	(1,323)
plus: Cash & Investments - beginning of year	*33,891	-	-	-	-	*33,891
<b>Cash &amp; Investments - end of the year</b>	<b>**41,860</b>	<b>(8,667)</b>	<b>(625)</b>	<b>-</b>	<b>-</b>	<b>**32,568</b>

\* - The opening balance has been affected by the April 2015 storm which is yet to be reimbursed \*\* - Opening and closing cash includes restricted cash from NAL of \$11,052

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

**Cash Flow Statement Funding Reconciliation**

The 'Recommended Changes to Budget' in the September QBR constitute an overall decrease in Council's Cash Flow position by \$625k after external funding is factored in. These changes are split across the Operating budget of \$247k (Unfavourable) and Capital Budget of \$11,398M (Unfavourable) which are netted off against \$6M in proceeds from land development sales and \$4.9M in new bank loans. The bank loan relates to 155 Salamander Way which will be repaid once all land sales are realised.

The budget revotes represent an overall decrease in Council's Cash Flow position of \$8,667M. These changes are funded from the following areas.

Sourced from current year operating result:	104
Transfer from internally restricted cash:	7,661
Transfer from externally restricted cash:	902
Sourced from external borrowings:	<u>1,000</u>
	<u>9,667</u>

The external borrowing relates to the construction of Ferodale Sports Complex.

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 Sept was \$31.8M.

**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 30 Sept 2016; and
- Have a value equal to or more than \$50,000.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.

Page 14 of 16

**ITEM 5 - ATTACHMENT 1 2016-2017 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2016.**

Part B of the report shows expenditure as at 30 September 2016 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.

**Part A**  
**Contracts Listing**

No	Contractor	Contract Details and Purpose	Contract Value (\$)	Commencement date	Duration of contract (weeks)	Contract end date	Contract Status
RFQ03-2016	MARIJAN CONSTRUCTIONS PTY LTD	Seaham boat ramp upgrade	67,500	16/08/2016	7	4/10/2016	Active
RFQ04-2016	ECOPROJECTS AUSTRALIA	Soldiers Point revetment wall	83,770	11/08/2016	2	29/08/2016	Complete
RFQ05-2016	AQUA LINE POOL RENOVATORS	Fingal Bay Holiday Park pool refurbishment	106,250	18/07/2016	4	18/08/2016	Complete
RFQ11-2016	UMWELT AUSTRALIA PTY LTD	One Mile - consultancy for review of environmental factors – Gan Gan road	74,683	8/08/2016	3	30/08/2016	Complete
RFQ12-2016	NORTHROP CONSULTING ENGINEERS	Karuah boat ramp – car park upgrade	66,390	10/08/2016	8	5/10/2016	Active
RFQ13-2016	BARKER RYAN STEWART PTY LTD	Tanilba Bay - consultancy for engineering design – Lemon Tree Passage rd roundabout	105,730	25/08/2016		TBA	In Progress
RFQ15-2016	J & J KILLALEA CONSTRUCTION PTY LTD	Mallabula Athletics Club store room	86,754	21/09/2016	10	TBA	Active

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRs.



**Part B  
Consultancy & Legal Expenses**

<b>Expense</b>	<b>Annual Budget (\$)</b>	<b>Expenditure YTD (\$)</b>	<b>Budgeted (Y/N)</b>
Consultancies	444,718	33,714	Y
Legal Fees	572,393	71,201	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2016 and should be read in conjunction with other documents in the QBRS.

Page 16 of 16

**ITEM NO. 6****FILE NO: 16/446460  
RM8 REF NO: PSC2016-01484****FINANCIAL ASSISTANCE REQUEST FROM PORT STEPHENS KOALA AND  
WILDLIFE PRESERVATION SOCIETY LIMITED****REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES**

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the request for financial assistance to be placed on public exhibition for a period of 28 days and should no submissions be received, approve the funding contribution.
- 

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>330</b>	<b>Councillor Peter Kafer Councillor Chris Doohan</b>  It was resolved that Council endorse the request for financial assistance to be placed on public exhibition for a period of 28 days and should no submissions be received, approve the funding contribution.
------------	---

**BACKGROUND**

The purpose of this report is to recommend that Council provide a financial contribution to Port Stephens Koala & Wildlife Preservation Society Limited (formerly Hunter Koala Preservation Society) for the purchase of a 4WD rescue vehicle.

Port Stephens Koala & Wildlife Preservation Society Limited made a representation to Council on 15 October 2016 with regards to their operational needs for a utility vehicle for the purposes of accessing remote and off road areas for koala rescues. Port Stephens Koala & Wildlife Preservation Society Limited currently relies on the various emergency service agencies or local contractors such as arborists to assist with rescues where access is restricted to 4WD vehicles.

The current situation is not operationally effective with rescues ordinarily being time critical, and the provision of off road vehicle assistance only being provided at the convenience of the various agencies. Recent instances of this occurrence are following storm or fire events where access to affected areas is only by 4WD tracks or across bushland.

Port Stephens Koala & Wildlife Preservation Society Limited currently only has a single vehicle, a 2WD transport van, which is often utilised in the six hour round trip transporting koalas between Port Stephens and Port Macquarie. The second vehicle will also ensure that Port Stephens Koala & Wildlife Preservation Society Limited has the ability to respond to rescue situations at all times.

Port Stephens Koala & Wildlife Preservation Society Limited has sought competitive quotes from a number of local vehicle dealerships and has provided the most favourable offer to Council for consideration. The amount of the requested contribution from Council is \$16,000 and is a one off contribution. The balance of the purchase price is made up of contributions from Port Stephens Koala & Wildlife Preservation Society Limited, Hunter Water Corporation and a generous dealer discount from Port Stephens Toyota. In return for the financial sponsorship Council will receive signage decal on the vehicle to the approval of Council.

### **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Environmental Sustainability.	Develop and implement catchment and biodiversity programs. Continue to implement initiatives that reduce Council's greenhouse gas emissions.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The total sum of the requested contribution is \$16,000 as a one off payment. Port Stephens Koala & Preservation Society Limited will be responsible for the ongoing costs associated with running the vehicle. The expense was not originally identified in the 2016-2017 budget, but following the public exhibition period will be made available from the general fund.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	No	\$16,000	Funds will be made available within existing resources from the general fund.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The request for a funding contribution to the purchase of a rescue vehicle has been assessed under Section 356 of the *Local Government Act 1993* and the correct process followed.

There are no identified legal risks in providing a financial contribution as requested. Port Stephens Koala & Wildlife Preservation Society Limited will provide proof of registration and insurances of vehicle to Council on request

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Port Stephens Koala & Wildlife Preservation Society Limited will continue to rely on ineffective rescue vehicle solutions.	Medium	Provide the requested funds so an appropriate vehicle can be purchased.	No
There is a risk that Council will make the contribution but a vehicle won't be purchased.	Low	Make the contribution conditional on the balance of the total required purchase price being secured by Port Stephens Koala & Wildlife Preservation Society Limited.	N/A

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no major social implications, but the pressure placed on emergency services agencies to assist with rescues will be removed allowing them to concentrate on core service delivery to the community.

Economic impacts for Council relate primarily to the financial contribution that will be sourced from redirecting budgeted funds from an existing allocation in the 2016-2017 budget. For Port Stephens Koala & Wildlife Preservation Society Limited, a volunteer based organisation, the contribution is significant and is the difference in being able to acquire such a vehicle.

The environmental implication is that Port Stephens Koala & Wildlife Preservation Society Limited will have a fit for purpose 4WD rescue vehicle that will enable the effective, timely, and safe rescue of koalas in off road locations. The vehicle will also serve as a secondary vehicle for Port Stephens Koala & Wildlife Preservation Society Limited who currently own a single rescue and transport vehicle

## **MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications associated with the request or recommendation.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Property Section. Council's approach to matters relating to koalas involving several sections, as an overall management strategy, is currently being developed.

### Internal

The Group Manager of Development Services, Strategy and Environment Section Manager and the Coordinator Natural Resources were made aware of the request and asked for input.

### External

There was no external consultation.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM NO. 7****FILE NO: 16/427938  
RM8 REF NO: PSC2005-4217****ANNUAL FINANCIAL REPORTS - ATTENDANCE OF AUDITORS****REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES**

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Exercises its option for the Auditor General, or their appointee, not to attend the meeting where the Annual Financial Reports will be considered.

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>331</b>	<b>Councillor Ken Jordan Councillor Steve Tucker</b>  It was resolved that Council exercises its option for the Auditor General, or their appointee, not to attend the meeting where the Annual Financial Reports will be considered.
------------	---

**BACKGROUND**

The purpose of this report is to notify Council that in accordance with Section 419 of the *Local Government Amendment (Governance and Planning) Bill 2016*, Council can invite the Auditor General, or their appointee, to attend the meeting at which Council considers the Annual Financial Reports.

Under the recent changes to the *Local Government Act*, the auditor General has been appointed as the auditor for all Local Government in NSW. It is understood that the Auditor General may be utilising existing audit firms to actually carry out the audit program of work.

The Annual Financial Reports are to be considered by Council on 22 November 2016 and the Auditor General, or their appointee, needs to be given at least seven days' notice should Council wish to have them attend the meeting.

Port Stephens Council has traditionally invited the external auditor to present a report to the Council via a two-way conversation prior to the consideration of the Annual Financial Reports. This conversation has been scheduled for 15 November 2016 where the auditor, Pitcher Partners, has indicated a willingness to attend and discuss with Council the Annual Financial Reports.

## COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
A Sustainable Council.	<p>Council will maintain its underlying financial performance to budget at break even or better.</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

There are no known financial/resource implications.

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 known legal or policy implications. The risk implications are listed in the table below.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may not comply with the provisions of the new <i>Local Government Act</i> .	Low	Consider the report.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no known sustainability implications.

### **MERGER PROPOSAL IMPLICATIONS**

There are no known merger proposal implications.

### **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Financial Services Section for consideration of this report.

### **OPTIONS**

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

### **ATTACHMENTS**

Nil.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.



**ITEM NO. 8****FILE NO: 16/443337  
RM8 REF NO: PSC2013-01255****AUDIT COMMITTEE MEMBERSHIP****REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE**

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Extend the term of the independent Audit Committee members to 30 June 2017.
- 

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>332</b>	<b>Councillor Peter Kafer Councillor Ken Jordan</b>  It was resolved that Council extend the term of the independent Audit Committee members to 30 June 2017.
------------	---

**BACKGROUND**

The purpose of this report is to seek Council's endorsement of the proposal to extend the term of the independent members of the Audit Committee.

The independent members are currently serving under an extended term granted by Council on 8 March 2016, Minute No.055 until 31 December 2016.

Given that Council is operating within a merger proposal period, it is proposed to extend the term of the independent members up until 30 June 2017.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
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**

A meeting allowance of \$200 per meeting is paid to each independent external representative of the Audit Committee.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no limitations on the term for independent members of an audit committee under the Office of Local Government guidelines.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would not comply with the Office of Local Government guidelines if independent members are not appointed.	Low	Adopt the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

It is considered that the Audit Committee with independent membership adds significant rigour to Council's governance framework, risk control, compliance and financial reporting and enhances Council's reputation, operations and financial sustainability.

**MERGER PROPOSAL IMPLICATIONS**

The extension of the independent members' term is considered appropriate given that Council remains in a merger proposal period. An extension until 30 June 2017 will ensure Council complies with the Office of Local Government guidelines during this period.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the General Manager's Office.

### Internal

Advice sought from Council's Governance Manager to ensure compliance with the Office of Local Government guidelines.

### External

The recommendation to extend the independent members' term was endorsed by the Audit Committee at its meeting on Thursday 27 October 2016.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM NO. 9****FILE NO: 16/442945  
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 8 November 2016.

---

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	Injury Management WHS Annual Report 2015-2016	90

---

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>333</b>	<b>Councillor Peter Kafer Councillor Paul Le Mottee</b>  It was resolved that Council receive and notes the Information Papers listed below being presented to Council on 8 November 2016. <hr/> <b>No:      Report Title</b> 1      Injury Management WHS Annual Report 2015-2016
------------	--

# INFORMATION PAPERS

**ITEM NO. 1**

**FILE NO: 16/434823  
RM8 REF NO: PSC2011-01809**

**INJURY MANAGEMENT WHS ANNUAL REPORT 2015-2016**

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

**BACKGROUND**

The purpose of this report is to present the Injury Management WHS Annual Report 2015-2016 to Council (**ATTACHMENT 1**).

For the last five years Council has made a concerted effort to improve its performance in the work health and safety area. Our ultimate goal is to ensure our staff go home in the same condition as they come to work each day. To achieve this we need to have a multi-faceted approach to safety which includes:

- a comprehensive work health and safety system;
- a Health and Wellness program;
- a Health Monitoring program;
- ongoing implementation of identified actions from safety observations, inspections and audits;
- continuing development of additional strategies to address identified risks.

In the 2015-16 year, Port Stephens Council was recognised by Safework NSW as having the best Workplace Health and Safety Management System (Public Sector/Not for Profit).

Over the last five years we have made significant improvements in our safety record which has resulted in less workplace injuries, less severity of injury and a reduction in Council's workers compensation premium from \$1.8m per annum to \$558,000 in the 2015-16 year, resulting in significant financial savings for Council.

Port Stephens Council has been advised that it is the best performing Council in the StateCover scheme for our category and our results are outlined in the 2015-2016 Workers Compensation & WHS Annual General Manager's Report (**TABLED DOCUMENT 1**). In recognition, Council's Organisation Development Manager, Michelle Gilliver-Smith, was recently appointed to the StateCover Advisory Committee which is assisting StateCover in managing its future direction.

**MERGER PROPOSAL IMPLICATIONS**

There are no merger proposal implications associated with this report.

**ATTACHMENTS**

- 1) Injury Management WHS Annual Report 2015-2016.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) 2015-2016 Workers Compensation & WHS Annual General Manager's Report.







Corporate Risk Management Team  
Lead & Lag Indicators  
Date: 29 September 2016

## Injury Management / Work Health & Safety Annual Report 2015/2016

### Executive Summary

#### Strengths

- The final premium for 2015/2016 was \$ 558,259 a 9% reduction compared to last year
- Our percentage of wages paid was 81% under the WorkCover Industry Rate for the Local Government Scheme
- There has been 72% reduction in the year 1 cost of claims for 2015/2016
- As an organisation we were 9% above the agreed annual target for safety observations completed during 2014/2015
- Each year a variety of health initiatives are run through the Health & Wellness Program to improve and maintain the health of our employees. Through this program 422 employees participated in health initiatives ran during 2015/2016 this has increased by 18% compared to last year. Some of these initiatives included health and wellness expo, flu vaccinations, skin cancer checks and yoga.

#### Weaknesses

- Lost time hours have doubled during 2015/2016 compared to last year. This is due to 4 employees requiring surgery and two existing complex claims with significant time off or on reduced hours

#### Opportunities for Improvement

- 45% of the workers compensation injuries sustained during 2015/2016 were employees over 45 years of age (YOA) this has decreased compared to last year. Only 1 of these claims resulted in lost time
- The average cost of claims for 45 YOA is \$3983 56% higher than claims aged under 45 YOA
- 78% of all injuries sustained during 2015/2016 were sprains and strains this has increased compared to last year. With 67% of these injuries caused by manual handling and or overuse injuries
- The average cost of sprain strain injuries have increased compared to last year however Council is 42% below the Statecover average for these claims

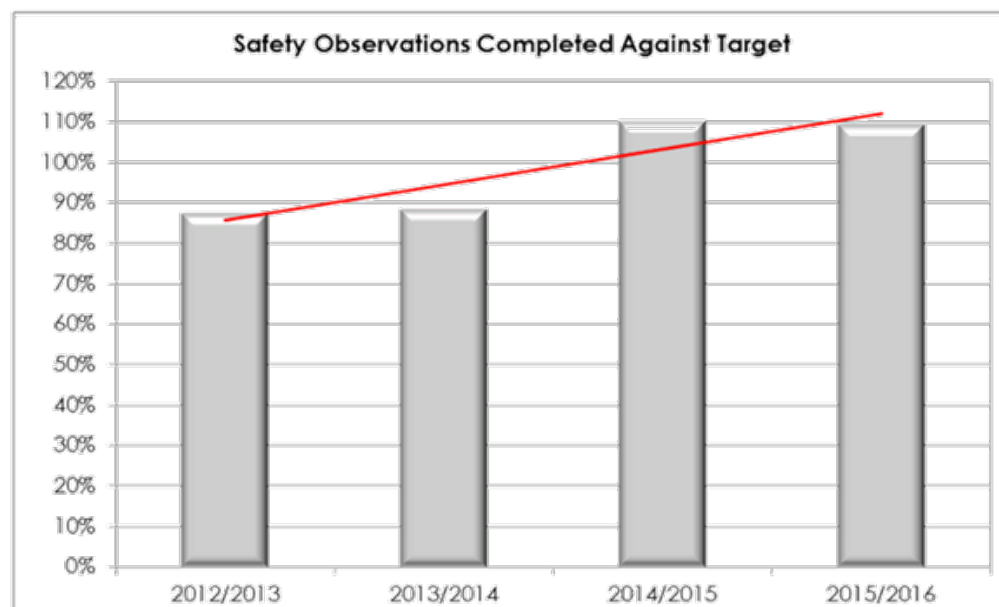
#### Actions

- Continue with Health & Wellness program and Health Monitoring program
- Continue with ergonomic assessment program for new employees and a systematic review of existing employees. This will help prevent overuse injuries due to poor work practices or poor workstation set up
- Ongoing implementation of identified actions from safety observations, inspections & audits
- Continue development of an ageing workforce strategy in conjunction with the human resources unit



**Corporate Risk Management Team**  
Lead & Lag Indicators  
Date: 29 September 2016

#### LEAD INDICATOR: Work Health & Safety



**Purpose/Outcome:** Provides a comparison of the percentage of safety observations completed against the annual target

**Data Source:** Safety Observation Register

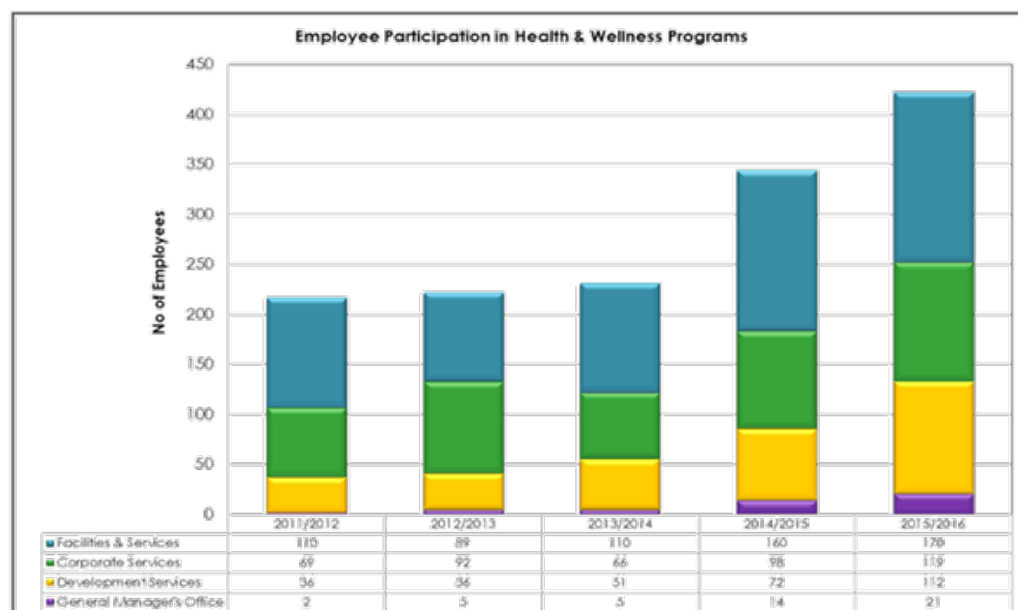
**Date:** July 2012 to June 2016

**Sample Size:** 4 Years

#### Observations

- As an organisation we were 9% above the agreed annual target for safety observations completed during 2015/2016
- Through the safety observation program 253 improvement actions were identified

#### LEAD INDICATOR: Work Health & Safety



**Purpose/Outcome:** Provides a comparison of participation of employees in the Health & Wellness Program by Group

**Data Source:** Health & Wellness Registrations

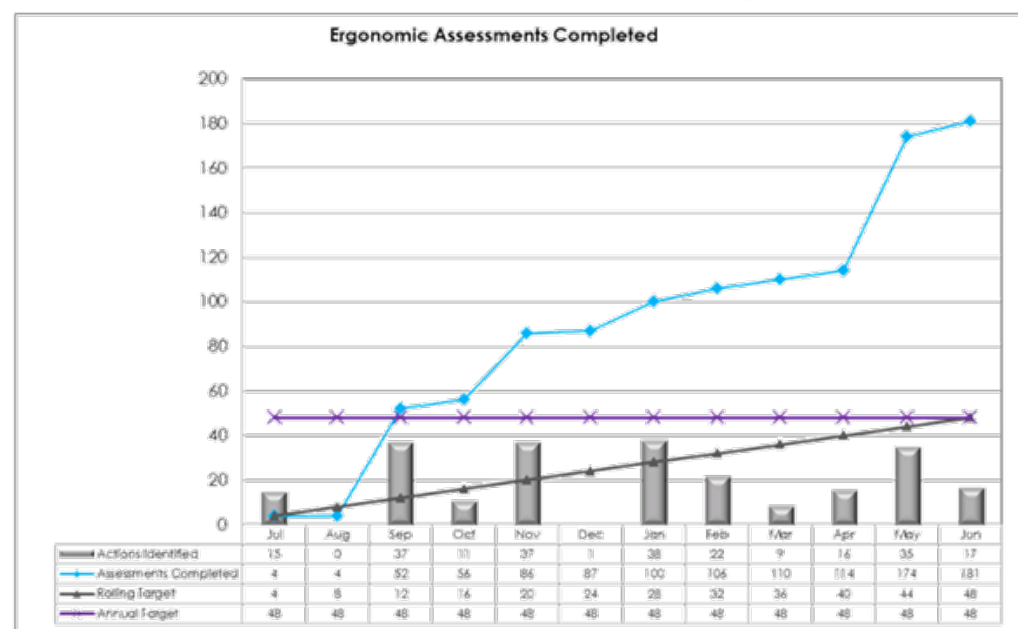
**Date:** July 2011 to June 2016

**Sample Size:** 5 Years

#### Observations

- Each year a variety of health initiatives are run through the Health & Wellness Program to improve and maintain the health of our employees
- 85% of the organisation participated in health initiatives ran during 2015/2016, this has increased by 18% compared to last year
- Some of these initiatives included Health and wellness expo, Yoga, flu vaccinations, skin cancer checks, mammograms etc.

#### LEAD INDICATOR: Work Health & Safety



**Purpose/Outcome:** Provides a rolling monthly total of ergonomic assessments completed to ensure we reach our annual target

**Data Source:** Ergonomic Assessment Register

**Date:** July 2015 to June 2016

**Sample Size:** 12 months

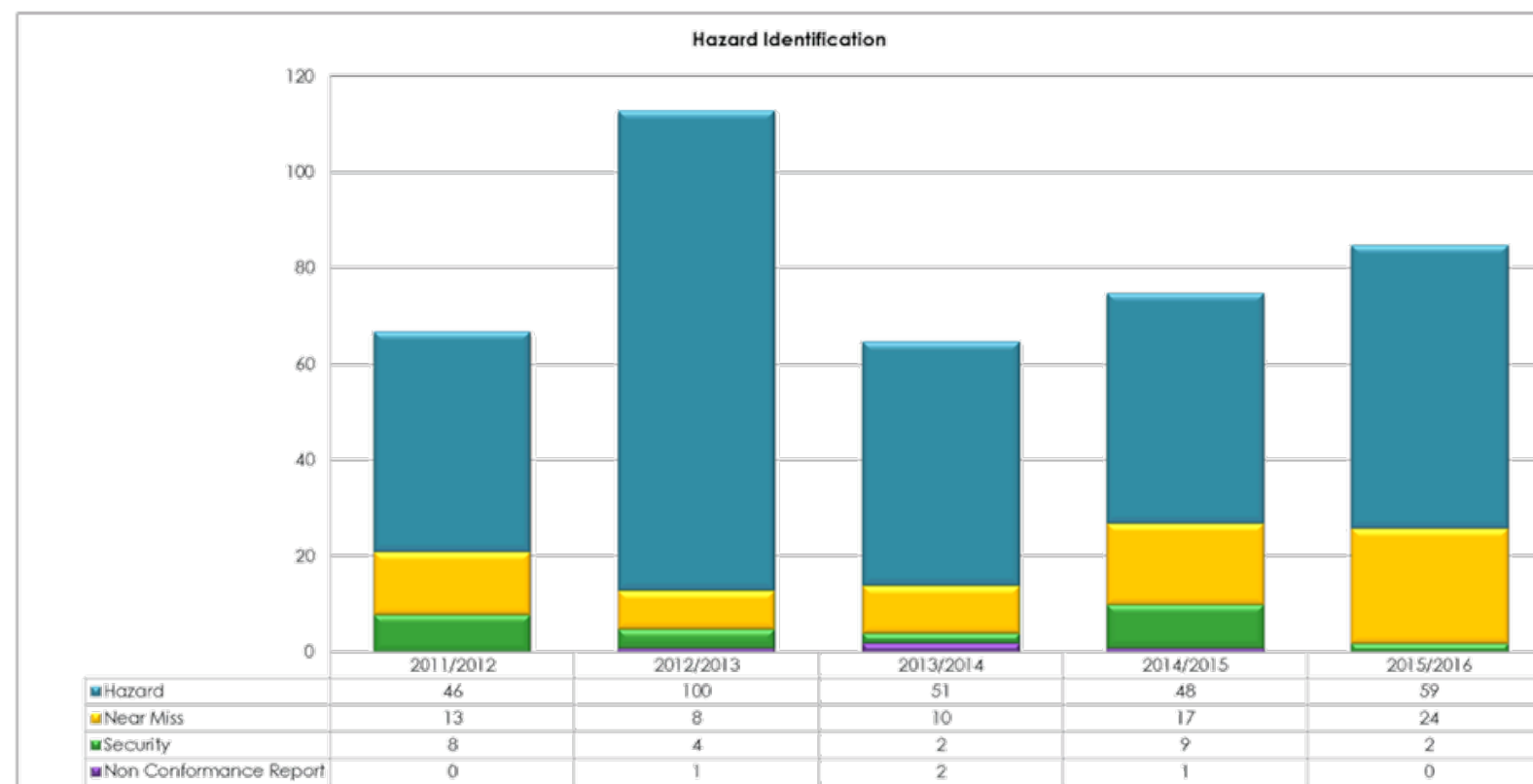
#### Observations

- 181 assessments were completed during 2015/2016 with 238 actions being recommended
- The actions identified were recommended to make improvements to the work environment to minimise risk of musculoskeletal injuries. Office ergonomics is important for an employee's health & wellbeing and can improve productivity

**Corporate Risk Management Team**

Lead &amp; Lag Indicators

Date: 29 September 2016

**LEAD INDICATOR: Work Health & Safety****Purpose/Outcome:** Provides a comparison of the types of work health and safety incidents reported**Data Source:** Authority**Date:** July 2011 to June 2016**Sample Size:** 5 Years**Observations**

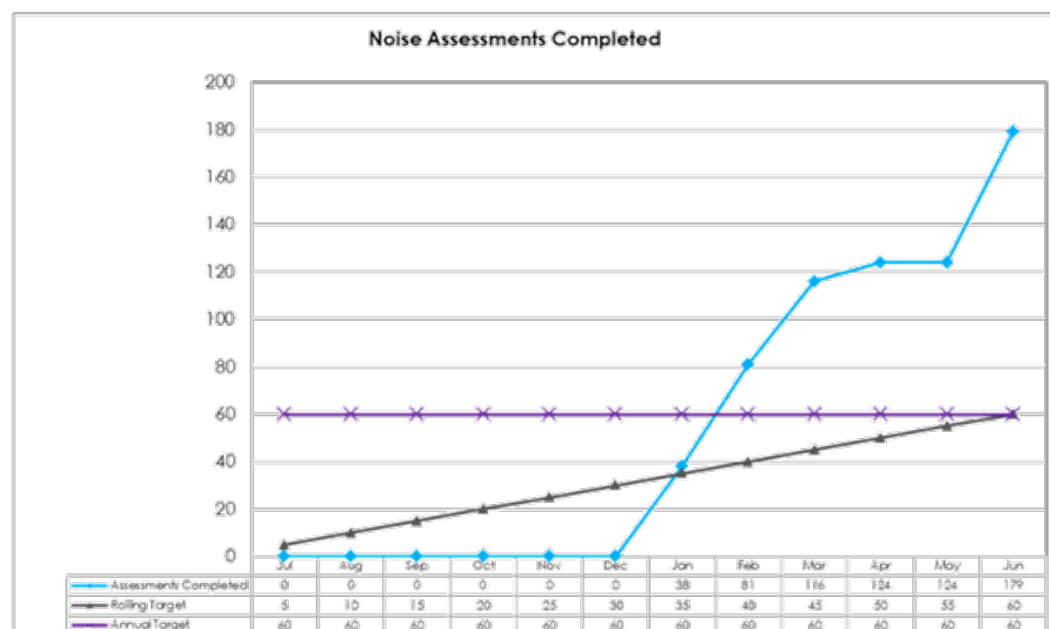
- There were a total of 85 work health and safety incidents reported during 2015/2016
- Only 15% of all incidents reported during 2015/2016 resulted in a workers compensation injury this has reduced compared to last year
- There has been a 19% increase in the number of near miss incidents reported compared to last financial year.





**Corporate Risk Management Team**  
Lead & Lag Indicators  
Date: 29 September 2016

#### LEAD INDICATOR: Work Health & Safety



**Purpose/Outcome:** Provides a rolling monthly total of noise assessments completed to ensure we meet our annual target

**Data Source:** Noise Assessment Register

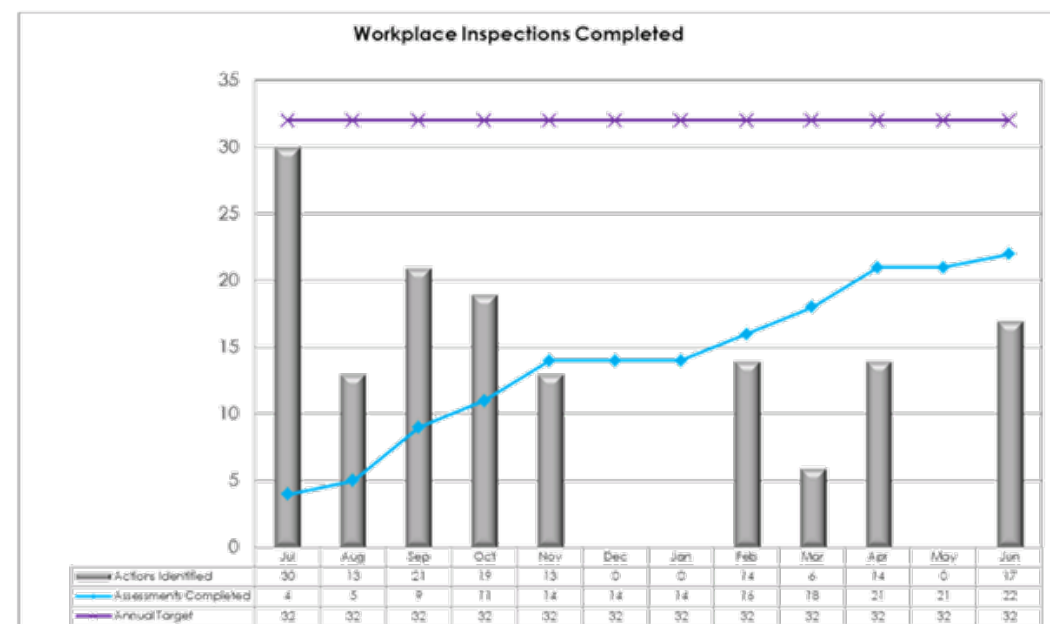
**Date:** July 2015 to June 2016

**Sample Size:** 12 months

#### Observations

- 179 Noise assessments were conducted during 2015/2016 21% more assessments complete than the same period last year
- The Noise Assessments assessed a variety of working environments and equipment to identify any activities with the potential to cause industrial deafness
- Through this process we were able to implement a number of controls in the attempt to minimise exposure of a noisy working environment

#### LEAD INDICATOR: Work Health & Safety



**Purpose/Outcome:** Provides a rolling monthly total of workplace inspections completed to ensure we reach our annual target

**Data Source:** Workplace Inspections Schedule

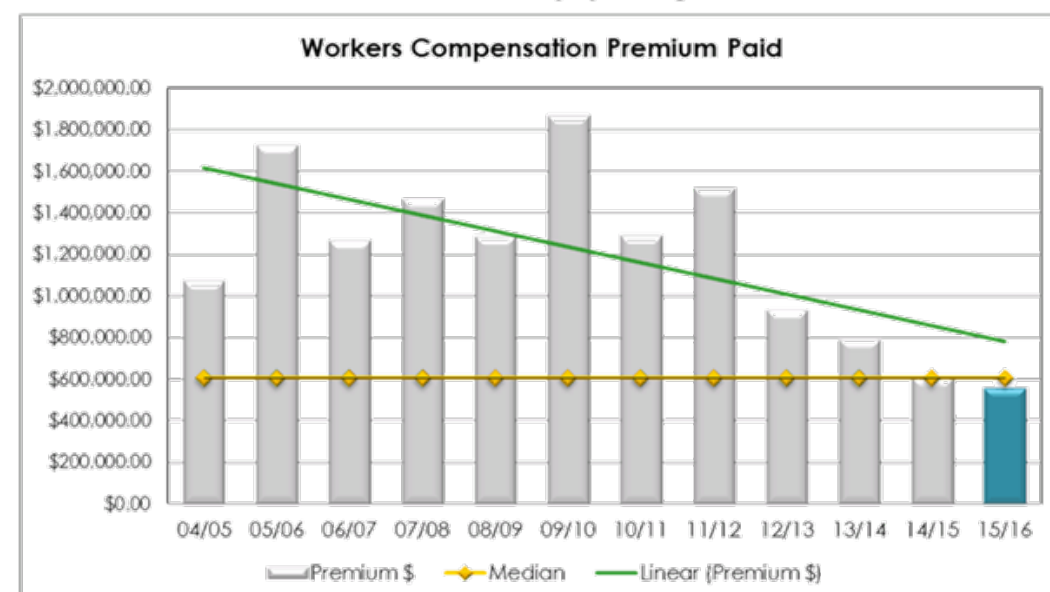
**Date:** July 2015 to June 2016

**Sample Size:** 12 months

#### Observations

- Workplace Inspections are undertaken by the HSR's most sites are inspected once per year but high risk sites are inspected twice per year
- 22 inspections were completed during 2015/2016 31% behind the annual target.
- 147 actions were recommended.

#### LAG INDICATOR: Injury Management



**Purpose/Outcome:** Provides a comparison of workers compensation premium performance

**Data Source:** Statecover

**Date:** July 2014 to June 2016

**Sample Size:** 12 Years

#### Observations

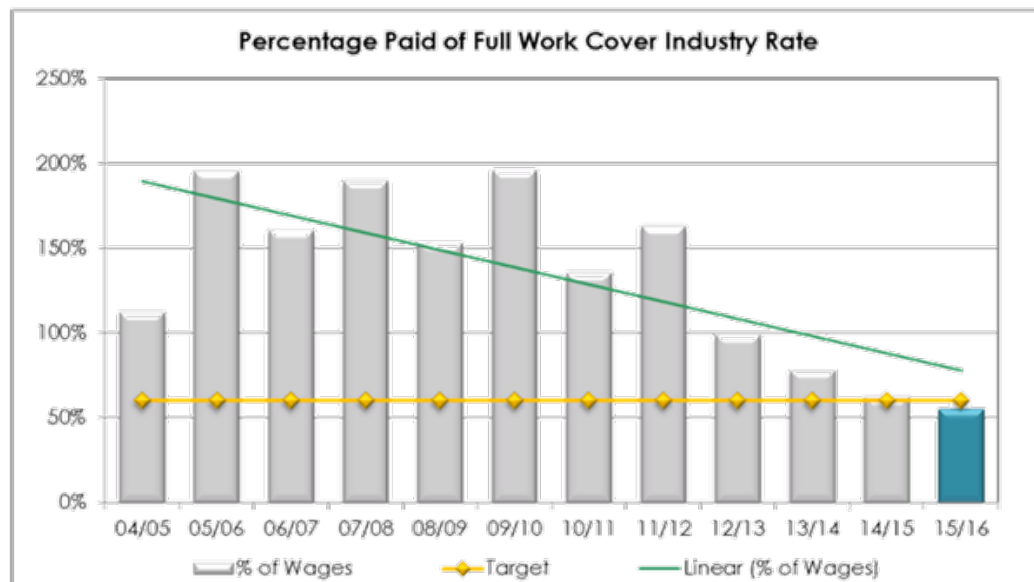
- This a key benchmark for the measurement of Council's workers compensation performance
- The final premium for 2015/2016 was \$ 558,259 9% reduction compared to 2014/2015
- The final premium is calculated based on actual wages paid and claims costs
- Due to the size of our organisation 70% of our premium is driven by our claims costs





**Corporate Risk Management Team**  
Lead & Lag Indicators  
Date: 29 September 2016

#### LAG INDICATOR: Injury Management



**Purpose/Outcome:** Provides a comparison of the percentage of wages paid compared to the WorkCover Industry Classification (WIC) rate for Local Government

**Data Source:** Statecover

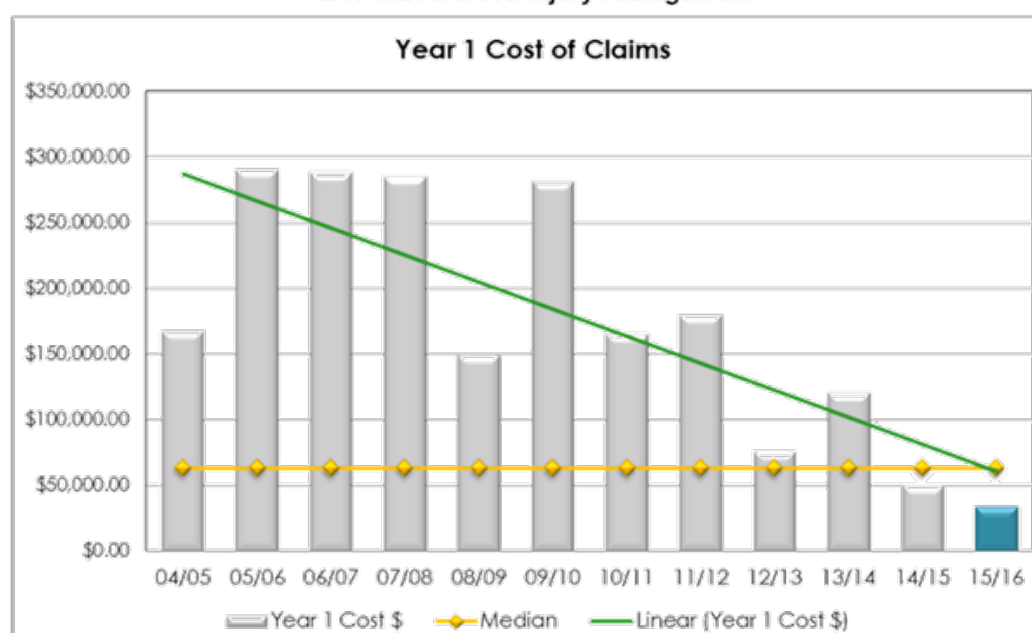
**Date:** July 2014 to June 2016

**Sample Size:** 12 Years

#### Observations

- This shows that Council paid 81% under the Local Government WIC rate in 2015/2016
- This is another key benchmark for workers compensation performance as it enables Council to measure their performance against the Local Government Scheme
- WIC rates are an indication of the risk level of the particular industry group and are based on five years' of claims and wages data of all the employers in the group
- The WIC rate is allocated by the scheme agent and is based on the business activity undertaken by the organisation

#### LAG INDICATOR: Injury Management



**Purpose/Outcome:** Provides a comparison of the total cost of workers compensation claims for the first year of the claim

**Data Source:** Statecover

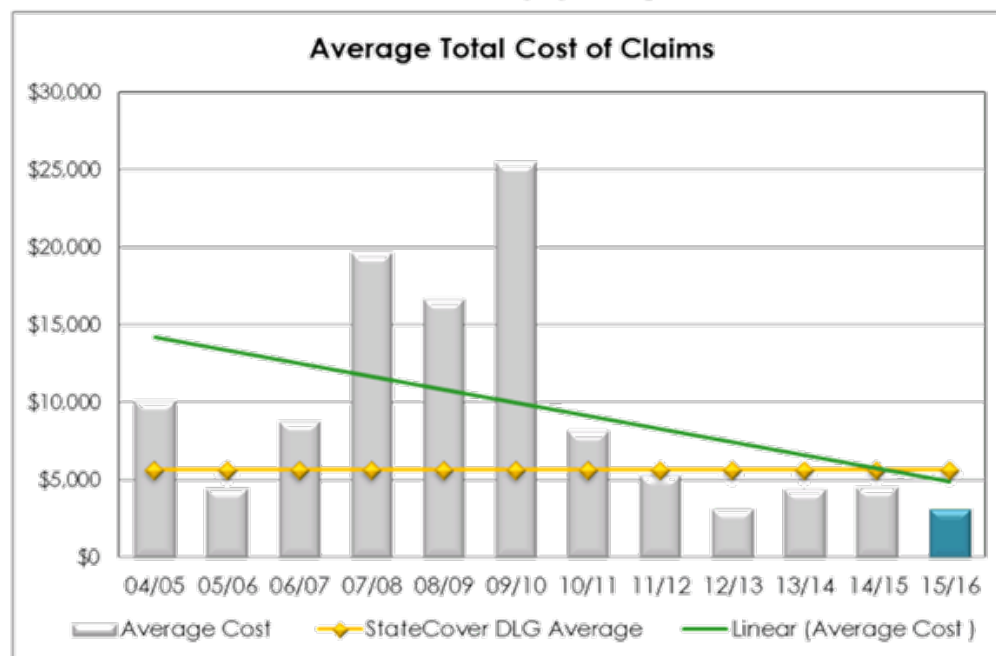
**Date:** July 2004 to June 2016

**Sample Size:** 12 Years

#### Observations

- The first year of the claim is usually where the majority of costs are accumulated due to the initial treatment required to rehabilitate a worker back to pre injury duties and hours. Most workers make a full recovery within 12 months
- There has been 72% reduction in the year 1 cost of claims for 2015/2016

#### LAG INDICATOR: Injury Management



**Purpose/Outcome:** Provides a comparison of the average total cost of workers compensation claims sustained

**Data Source:** Statecover

**Date:** July 2004 to June 2016

**Sample Size:** 12 Years

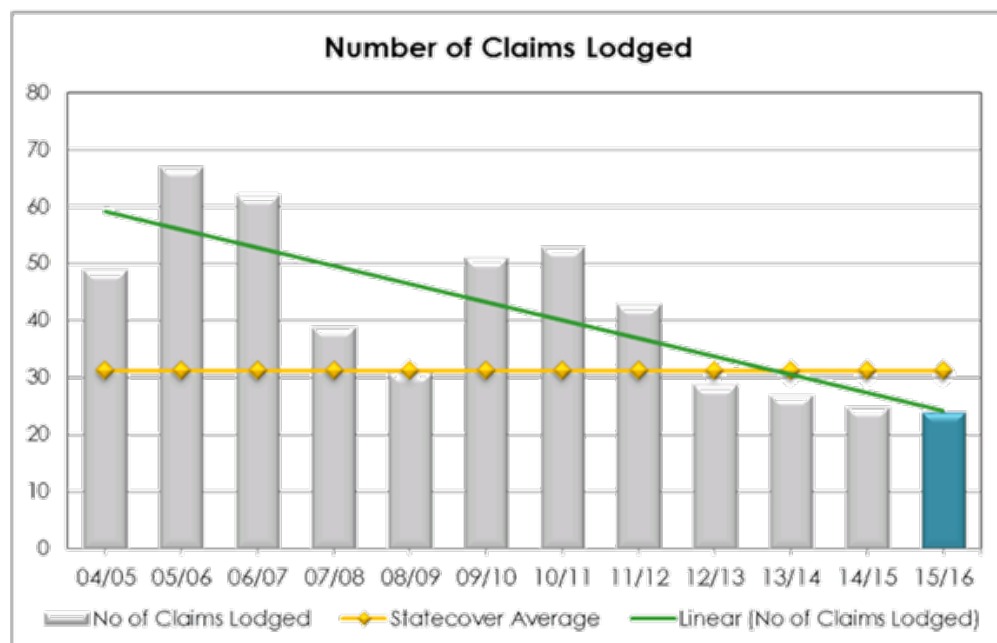
#### Observations

- The average claim cost for 2015/2016 has decreased by \$1494 compared to 2014/2015 with the number of claims reducing.
- Council are 44% below the StateCover average for cost of claims



**Corporate Risk Management Team**  
Lead & Lag Indicators  
Date: 29 September 2016

## LAG INDICATOR: Injury Management



**Purpose/Outcome:** Provides a comparison of the number of workers compensation claims lodged

**Data Source:** Statecover

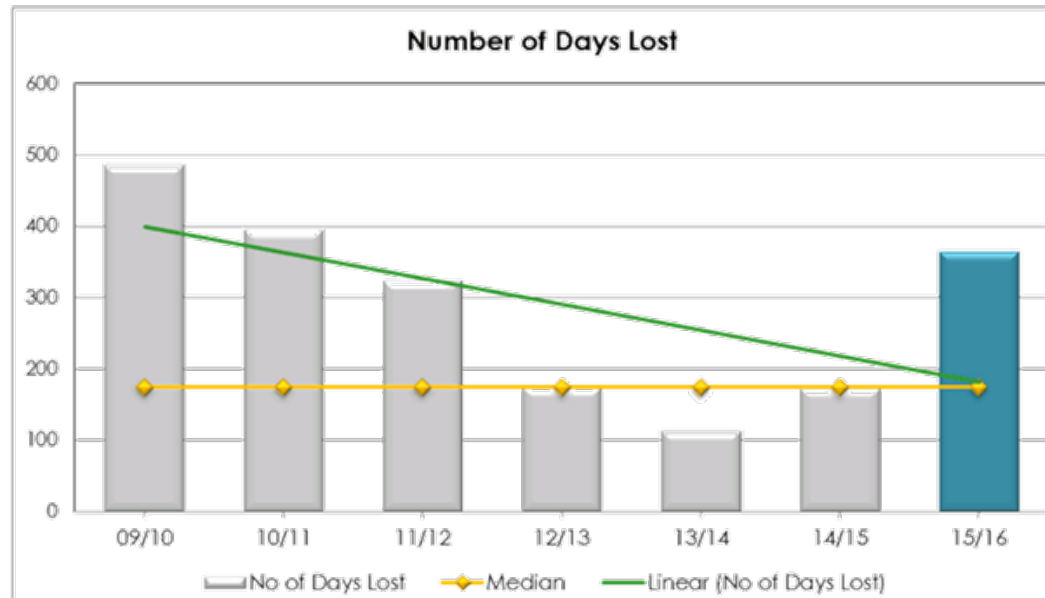
**Date:** July 2004 to June 2016

**Sample Size:** 12 Years

**Observations**

- There has been a 4% reduction in the number of claims lodged for 2015/2016 compared to last year and Council are 23% under the StateCover average
- This is the lowest recorded number of workers compensation claims lodged since Council joined Statecover

## LAG INDICATOR: Injury Management



**Purpose/Outcome:** Provides a comparison of the number of days lost due to workers compensation injuries

**Data Source:** Authority

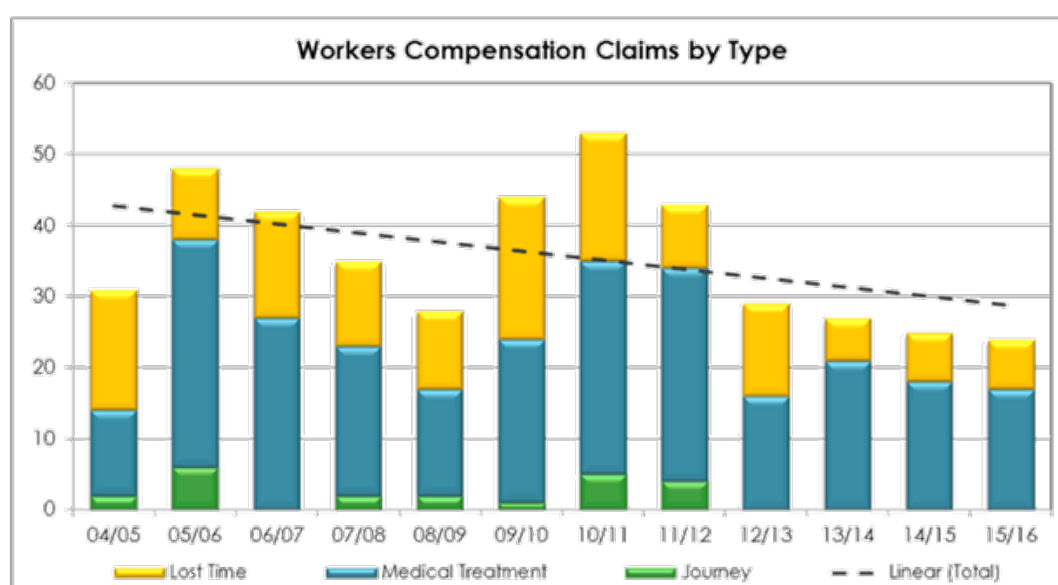
**Date:** July 2009 to June 2016

**Sample Size:** 7 Years

**Observations**

- The number of days lost due to workers compensation have doubled compared to last year
- The increase in the hours lost is due to 4 employees requiring surgery during 2015/2016 as a result of their injury and two pre-existing complex claims requiring significant periods of time unfit or on reduced hours
- The number of days lost includes any time lost as a result of a workers compensation injury or illness such as time lost to attend medical appointments or treatment

## LAG INDICATOR: Injury Management



\* NOTE: Journey claims were abolished in Oct 2012 from the workers compensation insurance scheme and are now covered under a separate insurance policy

**Purpose/Outcome:** Provides a comparison of the types of workers compensation claims sustained

**Data Source:** Statecover

**Date:** July 2004 to June 2016

**Sample Size:** 12 Years

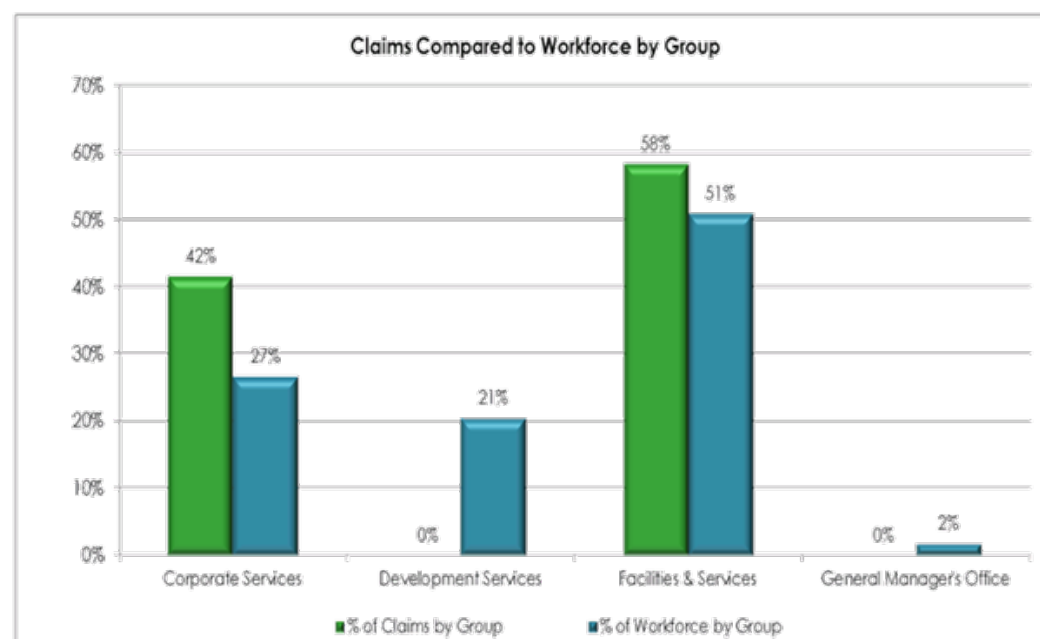
**Observations**

- There were 7 lost time injuries during 2015/2016 the same amount as last year however there has been a decrease in the number of claims



**Corporate Risk Management Team**  
 Lead & Lag Indicators  
 Date: 29 September 2016

#### LAG INDICATOR: Injury Management



**Purpose/Outcome:** Provides a comparison of workers compensation claims compared to workforce by Group

**Data Source:** Authority

**Date:** July 2015 to June 2016

**Sample Size:** 12 Months

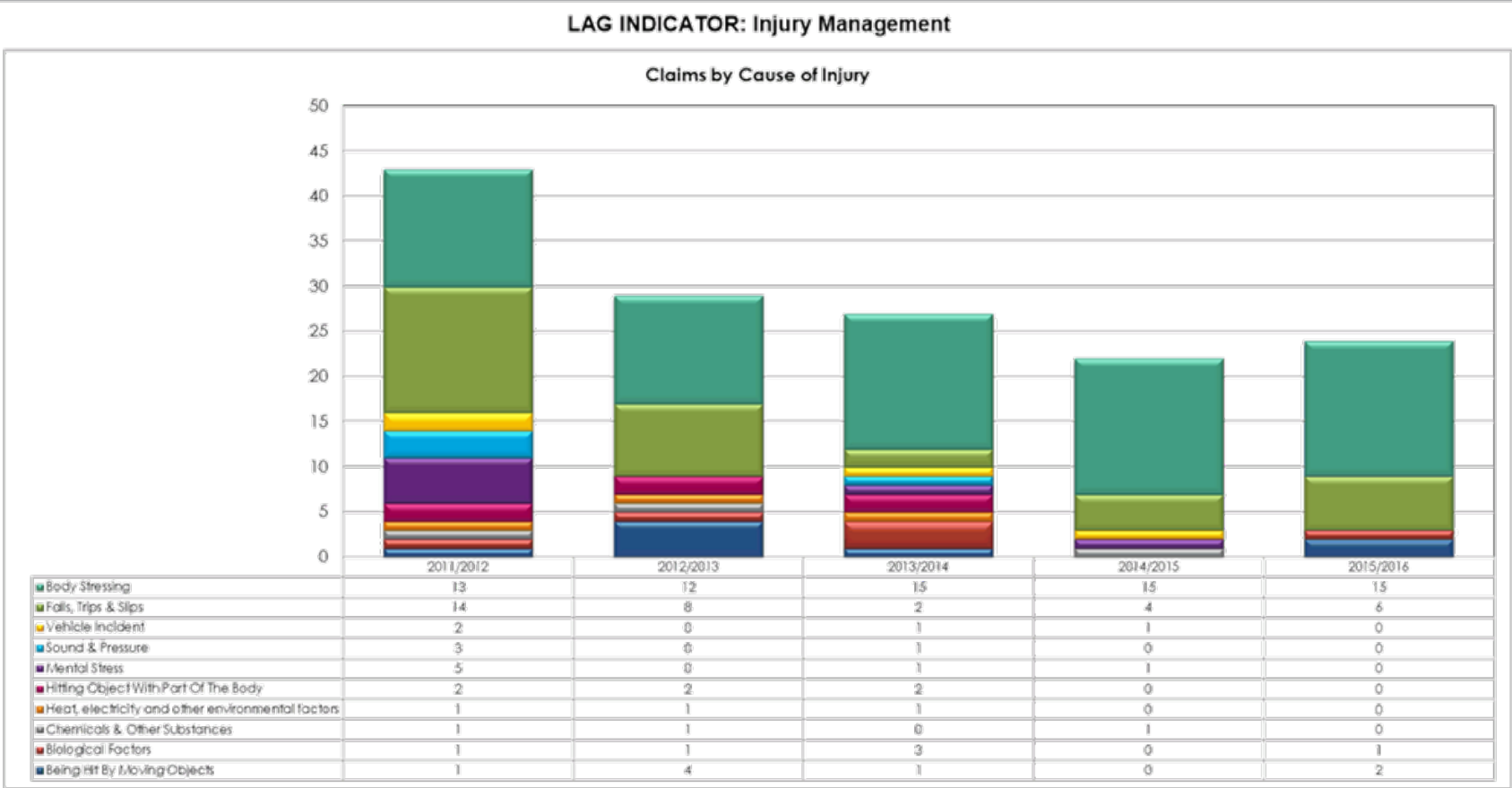
#### Observations

- 58% of all workers compensation injuries sustained during 2015/2016 were related to Facilities & Services Employees this has reduced compared to last year
- There has been a 20% increase in the number of workers compensation injuries related to Corporate Services Employees compared to last year





Corporate Risk Management Team  
Lead & Lag Indicators  
Date: 29 September 2016



**Purpose/Outcome:** Provides a comparison of workers compensation claims lodged by cause of injury

**Data Source:** Authority

**Date:** July 2011 to June 2016

**1/28\***

**Sample Size:** 5 Years

**Observations**

- 67% of injuries sustained during 2015/2016 were related to manual handling and repetitive type incidents. These types of injuries have increased compared to last year
- 91% of the hours lost for 2015/2016 were related to manual body stressing injuries this has increased compared to last year



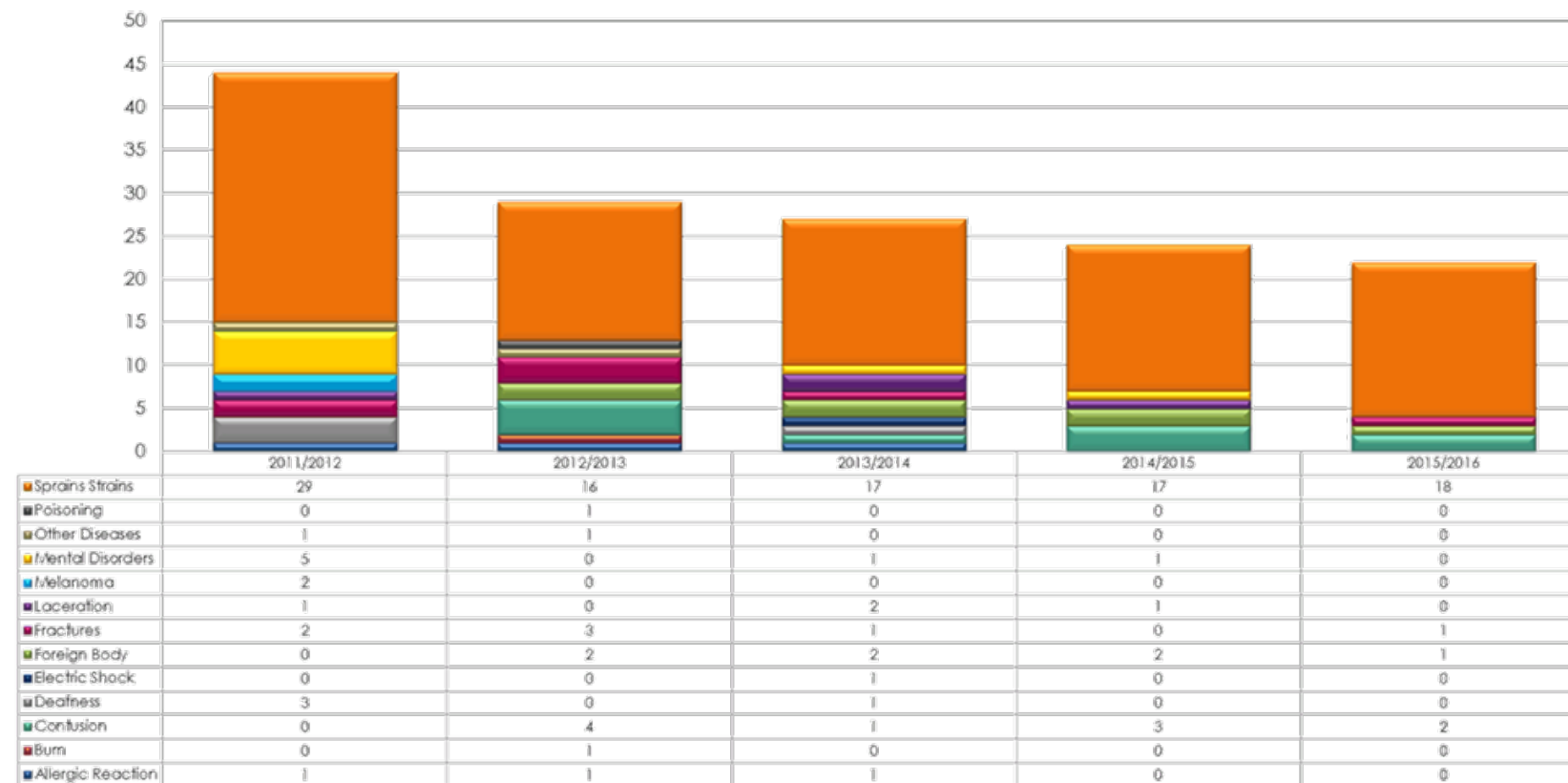
**Corporate Risk Management Team**

Lead &amp; Lag Indicators

Date: 29 September 2016

**LAG INDICATOR: Injury Management**

Claims by Nature of Injury

**Purpose/Outcome:** Provides a comparison of workers compensation claims lodged by nature of injury**Data Source:** Authority**Date:** July 2011 to June 2016**Sample Size:** 5 Years**Observations**

- 75% of all workers compensation injuries during 2015/2016 were sprains and strains this has increased compared to last year
- The average cost of sprain strain injuries have increased compared to last year however Council is 42% below the Statecover average for these claims
- 67% of all sprain strains were related to nature and condition of work (overuse injuries)



# NOTICES OF MOTION

**NOTICE OF MOTION**

**ITEM NO. 1**

**FILE NO: 16/443454  
RM8 REF NO: PSC2016-03130**

**PUBLIC WIFI SYSTEM FOR MAIN TOWN CENTRES IN PORT STEPHENS**

**COUNCILLOR: CHRIS DOOHAN**

---

**THAT COUNCIL:**

- 1) Determine whether the installation of a Public WiFi System for the main town centres within the Port Stephens Local Government Area (LGA) would be feasible and beneficial.
  - 2) Research to include what towns would benefit from this service, funding options, public interest and sustainability costs.
- 

**ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016  
MOTION**

<b>334</b>	<b>Councillor Chris Doohan Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Determine whether the installation of a Public WiFi System for the main town centres within the Port Stephens Local Government Area (LGA) would be feasible and beneficial.</li><li>2) Research to include what towns would benefit from this service, funding options, public interest and sustainability costs.</li></ol>
------------	---

**BACKGROUND REPORT OF: CARMEL FOSTER – GROUP MANAGER-  
CORPORATE SERVICES**

**BACKGROUND**

Providing wide area, free public access WiFi has been successfully implemented across numerous government, community and commercial enterprises.

Commercial enterprises (fast food outlets, cafes, shopping centres) increasingly are offering customers free WiFi on premise.

NSW Regional areas providing public WiFi include (not an exhaustive list):

- ALBURY - Countrytell, Dean & David Streets, free access along Dean Street, Albury Airport, Tallangatta, and High Street, Wodonga.
- ALBURY - The Lan Mine, 510 David Street, Albury, NSW 2640 - free access inside the building/carpark.
- CENTRAL COAST - Subway, Erina Fair near Woolworth's, no log in required.
- MARULAN - Marulan Hungry Jacks, next to the BP on the Hume Highway (south bound), no log in required.
- NEWPORT CBD - Sydney Barrenjoey Road.
- NARRABRI - Commercial Hotel, 170 Maitland Street, Narrabri, NSW 2390 - free access inside the pub.
- NARRABRI - Highway Tourist Caravan Park, Newell Highway, Narrabri, NSW, 2390, free access inside park.
- NEWCASTLE - Western Suburbs Leagues Club, 88 Hobart Road, New Lambton, NSW, 2305 - free access in general restaurant/cafe area.
- NEWCASTLE - Nesca Park - Cooks Hill - free WIFI in Nesca Park with strong signal on Brooks Street.
- NEWCASTLE - Beaumont Street – Hamilton - Continuous free WIFI coverage from between Maitland Road, Islington and Denison Street covering over eight city blocks.
- NEWCASTLE - Newcastle Airport - WIFI Coverage throughout Newcastle Airport Terminal.
- NEWCASTLE - Honeysuckle Precinct.
- NEWCASTLE - Newcastle East and CBD, provided by Newcastle NOW.
- NEWCASTLE - Westfield Kotara and Charlestown Square.

In areas with low uptake of private internet connections, free access to the internet from a variety of devices could have an obvious positive impact to the community.

Provision of free WiFi is, however, not a simple matter. Whoever takes on the task, whether it is Council, a local Business Chamber or Association, or businesses themselves must address:

- the security and maintenance of the system itself;
- the management of any private details provided by system users;
- the potential for unacceptable, inappropriate or illegal activities and possible liability as the host of the system;
- support and assistance to system users.

Should Port Stephens Council consider providing free public WiFi hotspots across the LGA, the implementation should be part of a broader digital strategy, addressing ongoing costs, the numerous risks and ongoing issues that any system creates. This is not a set-and-forget system. There will be an ongoing financial and human resource overhead.

WiFi providers should consider:

- privacy for users of the system to complete banking, tax returns etc;
- sufficient comfort for students to utilise the system for longer periods;
- ease of access and uninterrupted transition between zones if covering a wide area;
- management of downloads, download limits, connection limits etc.

## **MERGER PROPOSAL IMPLICATIONS**

Should a merger occur, the digital strategy may need to consider other CBDs in a merged entity.

## **ATTACHMENTS**

Nil.

There being no further business the meeting closed at 6.43pm.