

DRAFT

MINUTES – 22 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 – 22 November 2016, commencing at 5.30pm.

PRESENT:

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

	There were no apologies received.
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335	Councillor Steve Tucker Councillor Chris Doohan It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 8 November 2016 be confirmed.
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MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016
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	Cr Paul Le Mottee declared a conflict of interest in Items 1 and 2. The nature of the interest is that the Le Mottee Group have performed survey works on both sites.
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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

**FILE NO: 16/454768
RM8 REF NO: PSC2016-00013**

NOVEMBER 2016 BUSHFIRES

THAT COUNCIL:

- 1) Coordinate an event that officially recognises the efforts of the Rural Fire Service volunteers involved in fighting the bushfires across Port Stephens Local Government Area in November 2016.
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ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016 MOTION

336	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council coordinate an event that officially recognises the efforts of the Rural Fire Service volunteers involved in fighting the bushfires across Port Stephens Local Government Area in November 2016.
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BACKGROUND

The purpose of this report is to propose to Council that an event be coordinated to officially recognise the efforts of the Rural Fire Service volunteers involved in fighting the bushfires that destroyed 9,500 hectares of bushland, private and Council owned property and threatened the townships of Twelve Mile Creek, Limeburners Creek, Karuah, Swan Bay and Medowie.

MERGER PROPOSAL IMPLICATIONS

There are no merger proposal implications.

ATTACHMENTS

Nil.

COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016

It should be noted that Council did not move into Committee of the Whole for this meeting.

Councillor Paul Le Mottee left the meeting at 5:33pm prior to Item 1.

ITEM NO. 1

FILE NO: 16/436079
RM8 REF NO: 16-2016-212-1

DEVELOPMENT APPLICATION 16-2016-212-1 FOR DEMOLITION WORKS, A SERVICE STATION, RESTAURANT, TAKE AWAY FOOD AND DRINK PREMISES, ALTERATIONS AND ADDITIONS TO EXISTING MOTEL, AND ANCILLARY SITE WORKS AT 2283 AND 2285 PACIFIC HIGHWAY, HEATHERBRAE.

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2016-212-1 for demolition works, a service station, restaurant, take away food and drink premises, alterations and additions to existing motel, and ancillary site works at 2283 and 2285 Pacific Highway, Heatherbrae (LOTS:1011 and 1012, DP: 1225318) subject to the conditions contained in **(ATTACHMENT 3)** to this report.

ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016 MOTION

337	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council approve Development Application 16-2016-212-1 for demolition works, a service station, restaurant, take away food and drink premises, alterations and additions to existing motel, and ancillary site works at 2283 and 2285 Pacific Highway, Heatherbrae (LOTS:1011 and 1012, DP: 1225318) subject to the conditions contained in (ATTACHMENT 3) to this report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for determination development application DA16-2016-212-1 for:

- Demolition;
- Service Station;
- Restaurant;
- Take Away Food and Drink Premises;
- Alterations and Additions to Existing Motel; and
- Ancillary Works on the site of the existing Motto Farm Motel.

The application is reported to Council due to a high level of community interest in the development.

The land has been the subject of a planning proposal which was recently gazetted (listed in Schedule 1 of the Port Stephens Local Environmental Plan 2013). The planning proposal related to an additional permitted use on the subject site, which specifically enables the proposed service station and take away food and drink premises.

The existing Motto Farm Motel retains a liquor licence for the sale of alcohol to restaurant diners. However no changes are proposed to the existing liquor licence as part of the proposed development. In addition, the application was referred to the Port Stephens Local Area Command who did not raise any objections in relation to the proposed development.

Proposal

The land is currently utilised as the Motto Farm Motel, which will continue to occupy the majority of the site following the completion of works.

The application proposes to carry out the development in two stages, with the service station and take away food and drinks premises representing Stage 1. Stage 2 works relate to alterations and additions to the existing motel.

The stage 1 works will involve demolishing a tennis court, swimming pool and motel unit block and constructing a service station and two food and drink premises in their place. One of the food and drink premises will include a drive-through facility. The development is oriented to the south-east of the site, adjacent to the Pacific Highway and will be directly accessible from this road.

A number of ancillary works including signage, acoustic barriers, stormwater drainage works, landscaping and car parking are also proposed to support the development.

The stage 2 works include the construction of a carport, entry awning, conference room (also to be used for additional bistro seating area), internal reconfiguration to increase the size of the existing kitchen, additional offices and the conversion of the existing first floor manager's residence to office space.

Assessment

The application has been considered against the requirements of the *Port Stephens Local Environmental Plan 2013*, *Port Stephens Development Control Plan 2014*, and other relevant legislation. The key matters considered in the development have been summarised below.

- 1) Storm water drainage and water quality – The subject site contains an existing Council storm water drainage line in the locality of the proposed service station. Following discussions with the applicant, a revised design was submitted which reduces the impact of the development on the pipeline and provides for on-going access for Council to the easement.

In addition, the development site is located within close proximity to the Tomago Sandbeds drinking water catchment. The applicant provided sufficient information to demonstrate that storm water captured from the development will be directed away from the drinking water catchment. Hunter Water Corporation raised no objections to the proposal.

- 2) Traffic – Issues relating to access to and from the Pacific Highway were raised. Council's traffic engineer reviewed the proposed development and considered the proposed traffic arrangements would allow for safe access to and egress from the development, as well as the safe operation of the Pacific Highway. In addition, Roads and Maritime Services (RMS) were satisfied with the development and provided their concurrence.
- 3) Noise – An acoustic impact assessment was submitted with the proposed development which detailed proposed measures to address the impact of noise on surrounding properties, including the construction of an acoustic barrier. Council staff reviewed the report and requested a peer review be undertaken by an independent organisation with suitable experience in acoustic impact assessment. The peer review confirmed that subject to the implementation of the acoustic measures the development was acceptable and would not have an unreasonable acoustic impact.
- 4) Heritage – Two fig trees are located within the road reserve in close proximity to the proposed development and are listed as items of local heritage significance. An arborists report submitted with the application confirmed that the proposal is unlikely to have any additional impact on the trees.

- 5) Potentially hazardous industry – An assessment was carried out under *State Environmental Planning Policy 33 – Hazardous and Offensive Industry*. It was determined that the proposed development was acceptable subject to a number of conditions relating to the installation of vapour recovery systems.
- 6) Remediation of land – A contamination assessment submitted with the application confirmed that there is no existing contamination on the site and no impacts are anticipated.

The application suitably addresses relevant legislation and policies. The proposed development is considered suitable for the site.

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		Section 94A applies to the development .
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Section 79C of the *Environmental Planning and Assessment Act 1979*.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
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 approve the development application.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development is anticipated to generate viable employment and economic activity through both the construction and ongoing operation of the development. The development is consistent with surrounding developments and is in keeping with the light industrial context of the locality.

Appropriate mitigation measures such as acoustic barriers and fuel vapour recovery systems have been employed to reduce the potential impact on surrounding properties (including nearby residential properties).

The development also includes appropriate stormwater management systems and acceptable access arrangements to the Pacific Highway.

The development is not anticipated to have significant adverse impacts on the locality, surrounding properties or public places.

A detailed assessment of the proposed development 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, Traffic Engineer, Building Surveyor, Environmental Health Officer, Economic Development Officer, Social Planner, Heritage Officer, Vegetation Management Officer, Property Officer

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and Section 94 Officer. Each internal staff member assessed the relevant portion of the original application and where necessary requested additional information.

Following receipt of amended plans and additional information, the application was referred back to the internal staff members for review. No further objections were raised by any internal staff to the amended design and relevant conditions have been incorporated into the Schedule of Conditions provided at **(ATTACHMENT 3)**.

External

The application was publicly notified and advertised for a period of fourteen (14) days when first received and again for a further fourteen (14) days following the submission of the amended plans and additional information. As a result of this process, nine (9) separate submissions were received from twelve (12) people, objecting to the proposed modification. In addition, three (3) petitions were received objecting to the development. The petitions were signed by a number of individuals who made their own submission, however the petitions also contained a total of seventy seven (77) signatures. The relevant matters raised in the submissions have been summarised below:

Issue	Response
Noise	An acoustic assessment has been submitted with the application and has been peer reviewed by an experienced third party. The report suitably demonstrates that the acoustic impact of the development is within acceptable limits.
Air pollution	Vapour recovery systems are to be installed in the development to capture fumes resulting from the service station development and are in accordance with best practice standards.
Light Spill	The proposed development will include the use of outdoor lighting, however the site is sufficiently separated from surrounding residential properties and it is considered that subject to conditions, the development will not cause nuisance light spill.
Anti-social behaviour	There is no evidence that the proposed development will result in an increase to anti-social behaviour. The proposal was referred to both Council's social planner and the police, neither of whom raised concerns with potential increased anti-social behaviour. The design allows for passive surveillance and includes other safety measures.
Character and context	The surrounding locality is populated with similar land uses which are consistent with the proposed use. In addition, the development is largely shielded from residential areas by the existing motel buildings. As outlined in the assessment report, the proposed development is considered to be in context with the existing character of the locality.
Heritage	An arborist report submitted with the application satisfactorily demonstrates that the proposed development is unlikely to result in any further impact to the nearby fig trees that are listed as items of local heritage significance.

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Issue	Response
Storage of fuel and dangerous goods	The applicant has provided details that demonstrate that fuel will be stored on the site in accordance with the relevant Australian Standard.
Road network safety	The application was assessed by Council's Traffic Engineer, and was also referred to the RMS for approval. No concerns were raised by either body in relation to a negative impact on road safety.
On-site sewage management system	The applicant provided sufficient details to demonstrate that adequate capacity exists on the site to handle the anticipated waste water.
Drinking water catchment	The development proposes to drain water away from the Tomago Sand Beds drinking water catchment, which has been confirmed as satisfactory by Hunter Water.
Hotel expansion	A number of submissions relate to the conversion of the existing motel to a hotel. There is no detail within the application that alludes to the conversion of the motel to a hotel. Such a change of use would require consent and would be subject to a separate application.
Business competition	The proposed development is located on a major traffic route and it is considered that sufficient traffic exists in the locality to support the proposed and existing developments. Irrespective, market competition is generally not a planning consideration.

The matters raised have been addressed in greater detail in the assessment included as **(ATTACHMENT 2)** to this report.

The proposed development is considered to suitably address the requirements of the relevant legislation. Mitigation measures proposed in the application, in addition to the proposed conditions of consent are anticipated to adequately address any potential impacts of the development.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment Report. (Provided under separate cover)
- 3) Conditions of Consent. (Provided under separate cover)
- 4) Hunter Water response. (Provided under separate cover)
- 5) RMS Response. (Provided under separate cover)

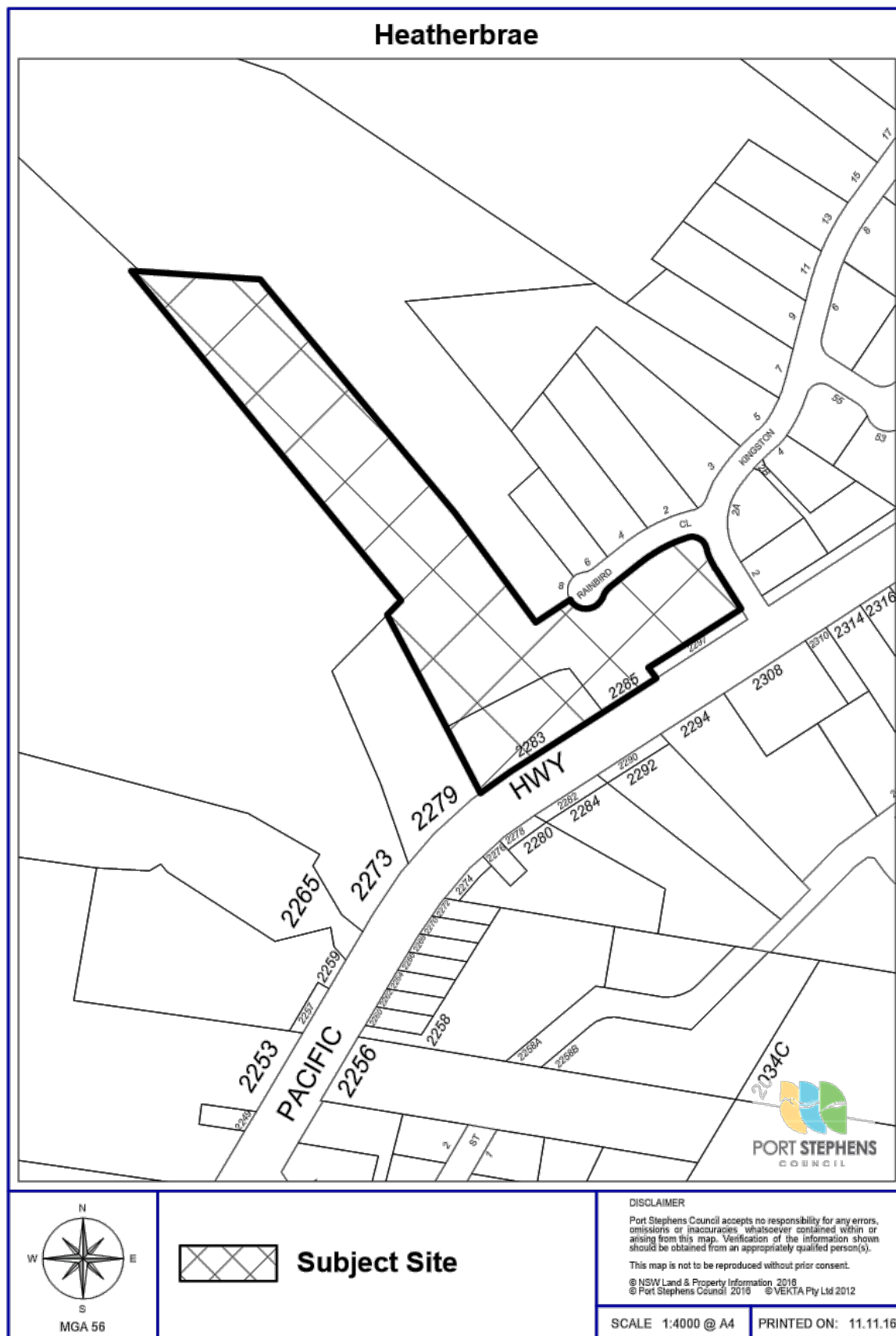
COUNCILLORS ROOM

- 1) Development Plans.
- 2) Acoustic report prepared by Muller Acoustic Consulting.
- 3) Acoustic report prepared by Spectrum Acoustics.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM NO. 2

**FILE NO: 16/434190
RM8 REF NO: 16-2014-392-1**

**SECTION 96 APPLICATION TO MODIFY DETERMINATION NO: 16-2014-392-1
FOR A SINGLE STOREY DWELLING AND ASSOCIATED EARTH MOUND AT
NO: 851 NEWLINE RD, EAGLETON**

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

RECOMMENDATION IS THAT COUNCIL:

1. Refuse the Section 96 application for DA 16-2014-392-2 (Dwelling, associated earth mound) for the following reasons:
 - a) The development is not in the public interest (s79C(e) *EP&A Act 1979*) given the likely significant adverse impacts on the flood behaviour, property and environment that may result.
 - b) The development fails to satisfy cl.7.3 *Port Stephens Council Local Environmental Plan 2013* (LEP) as the development is not compatible with the flood hazard of the land (s.79C(1)(a)(i) *EP&A Act 1979*).
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**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

338	Councillor Ken Jordan Councillor Chris Doohan It was resolved that Council approve the Section 96 application for DA 16-2014-392-2 (Dwelling, associated earth mound) subject to the conditions contained in (ATTACHMENT 2) to this report.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

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

BACKGROUND

The purpose of this report is to present the Section 96 (S.96) to Council. The development application (DA) relates to land located at No. 851 Newline Rd, Eagleton which is identified as Lot: 1 DP 1193826 ('the subject site').

The application is reported to Council for determination on the basis that the original consent was granted by Council with a recommendation of refusal by staff due to high hazard flooding classification of the site.

DA No. 16-2014-392-1 (original consent)

The original approval was assessed under *Port Stephens Council LEP 2013* and Development Control Plan (DCP) 2012. Approval was granted by elected Council (with a staff recommendation of refusal) for the construction of a four bedroom dwelling and associated earth mound. The dwelling is a single storey structure with a full length verandah on two elevations having a total footprint of 448.5m². The earth mound and dwelling are located approximately 108m from the banks of the Williams River and 179m from Newline Rd. The original proposal was approved with a Flood Planning Level (FPL) with a finished floor level (FFL) of 5.6m AHD.

16-2014-392-2 (the s96)

Although the flooding chapter of the DCP is currently being reviewed, it has not been exhibited or endorsed by Council as yet. The S.96 application is subject to the current DCP and has been assessed on merit.

The proposed modifications are permissible within the RU1 Primary Production zone however the key issues with the development relate to flooding as the site is classed as high hazard floodway. The high floodway classification of the property has not changed, however elected Council has already deemed it appropriate for a dwelling in this location by approving the original DA.

The S.96 application seeks to amend the dwelling design to significantly increase the footprint of the house and shed. The dwelling size and the fill mound have both been increased. The Flood Planning Level (FPL) of the dwelling via the S.96 is 6.1m AHD, 500mm higher to that previously approved by Council.

Architectural Modifications

The modifications to the approved dwelling incorporate an additional parents retreat, 2 x ensuites, stairwell, mud room and increased corridor/hall spaces. It is noted that the design remains as a four bedroom dwelling with no further increase in occupation.

The internal floor areas have been increased from 287.5m² to 623.73m² (116% increase), external areas are reduced from 161m² to 128m² (20% decrease), roof area increase from 448.5m² to 731.8m² (63% increase) resulting in a total dwelling footprint increase from 448.5m² to 752m² (68%) increase.

The application has been lodged under S.96(2) of the *EP&A Act 1979*. In accordance with Cl.96(2)(a) despite the significant increase in the footprint size of the dwelling, the architectural changes, the intent and the use of the proposed modifications are

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substantially the same development as the development for which consent was originally granted, hence the application can be assessed as a S.96.

The architectural design modifications to the house have been assessed against Section C4 (Dwelling houses, Dual Occupancy & Ancillary Development) of the PSC DCP 2013 under Cl.79C(1)(a)(iii). The design changes show a greater design articulation and responds well to the local environmental context. The location of the dwelling provides the opportunity for the increased building footprint to be supported without having any major visual, acoustic or privacy impacts on the local context environment.

The addition of the upper level will provided a flood refuge area as habitable space for events greater than the 1%AEP. The proposed first floor Finished Floor Level (FFL) is 9.16m AHD. Although this is less than the Probable Maximum Flood (PMF) level of 9.4m AHD the additional level provides a flood refuge that is significantly higher than the original approval providing a higher level of safety for the occupants during a major event.

Fill Mound Modifications

The S.96 application proposes that the fill mound has been increased in height of approximately 500mm due to the floor level increase. The height of the mound will assist in providing a higher FPL level for the dwelling, although minimal details have been provided showing the changes and the extent of the increase across the mound. The footprint of the fill mound will be unchanged. Under the current flooding data and policies the development would still be deemed unsuitable as dwellings in high hazard flood ways are not supported or viewed as good planning practice.

Minimal information in regards to the changed fill mound has been provided, and a full assessment against Cl. 7.3 Flood Planning of the LEP under (S.79C(1)(a)(i) *EP&A Act 1979*) cannot be undertaken to determine the impacts and risks associated with the increased fill mound until the additional information is provided to Council to support the development application assessment.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The determination could be challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		There is scope within Council's existing budget to defend Council's determination if challenged.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is not consistent with the relevant planning instruments, flood development guidelines and studies including; *The Environmental Planning and Assessment Act 1979 (EP&A Act)*, *PSC LEP2013*, *DCP2014*, the Port Stephens Council "Areas Affected by Flooding and/or Inundation" Policy, Floodplain Risk Management Policy the Paterson River Floodplain Risk Management Study and Plan 2001, and the NSW Floodplain Development Manual 2005.

Section 733 *Local Government Act 1993* provides Council with a general exemption from liability with respect to flood liable land only if the necessary studies and works are carried out in accordance with the principles contained in the NSW Floodplain Development Manual 2005. Endorsement of this development would be contrary to these principles.

A decision contrary the planning framework may negate the good faith immunity provisions in *Local Government Act 1993*. This could result in individual Councillors being personally accountable and responsible for any subsequent implications resulting from the decision. Further, in the event of any future claim Council's insurers may determine not to cover Council should the application be approved contrary to the recommendation.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that that if the Council's decision will be ultra-vires as Cl.7.3 LEP2013 has not been satisfied.	Medium	Determine the application in line with the recommendation and refuse the application.	Yes

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Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that in approving the application Council will be increasing the risk to life and property in flood events.	Medium	Determine the application in line with the recommendation refuse the application.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The architectural changes have no additional implications to the social, economic and local environment.

As previously stated property and life could be compromised as occupiers/property could potentially be exposed to floodwaters and/or isolated on or from the property for long periods of time.

MERGER PROPOSAL IMPLICATIONS

The determination of the S.96 application is not anticipated to have any implications upon the proposed Council merger.

CONSULTATION

Consultation with key stakeholders has been undertaken through public notification process and internal referral process.

Internal

The application was referred to Councils Flooding Engineers who assessed the relevant information in relation to the design changes. Revised recommendations were provided which have been noted in the attached assessment report.

External

The application was publicly notified for a period of (14) days. No letters of objection were received opposing the changes; one submission of support was received.

OPTIONS

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

ATTACHMENTS

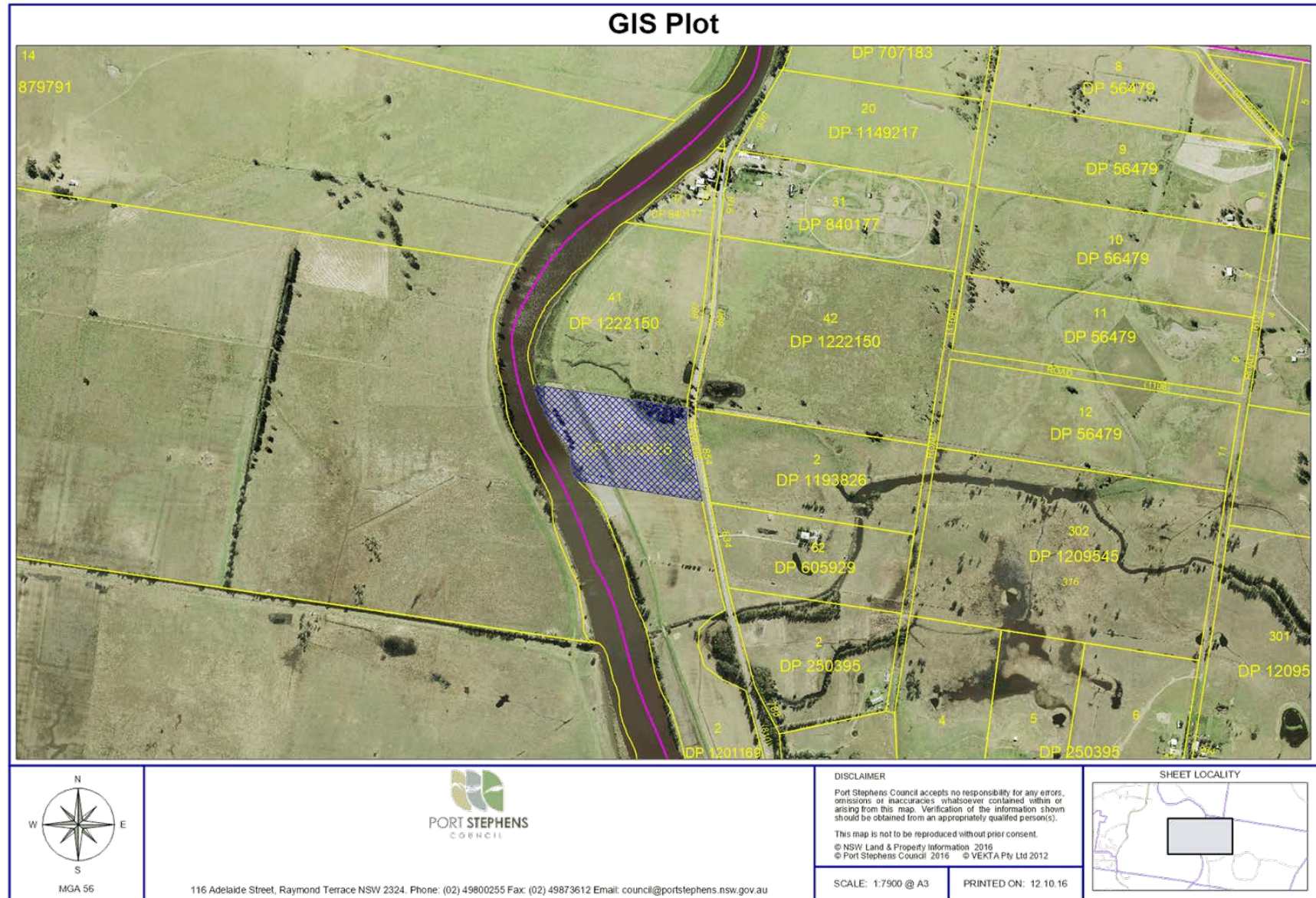
- 1) Location Plan.
- 2) Conditions of Consent.
- 3) Assessment Report.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Statement of Intent for Modification.

TABLED DOCUMENTS

Nil.



ITEM 2 - ATTACHMENT 2 CONDITIONS OF CONSENT.**Conditions of Consent**

1. Prior to the commencement of any works consent from the Minister is to be obtained under Clause 256 of the Water Management Act 2000 for works adjacent levee banks.
2. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
3. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent.
4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
5. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
 - * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.
6. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
7. Approved toilet accommodation for all tradespersons on the building site is to be provided from the time work commences until the building is complete. The toilet shall not be placed on the road reserve, without separate approval from Council.
8. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced.
9. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.
10. Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.

ITEM 2 - ATTACHMENT 2 CONDITIONS OF CONSENT.

11. The development shall take place in accordance with the stated values of the BASIX certificate submitted with the application. Prior to the issue of any occupation certificate an appropriately qualified person shall certify compliance with these requirements, as applicable. Where minor changes to the development occur (eg. colours and the like) these changes shall be referred to Council prior to the changes being made.

12. Collected stormwater runoff shall be piped to designated onsite stormwater tanks. All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties.

The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.

13. **Prior to the issue of any Occupation Certificate** the proposed earth mound shall be fully turfed and be maintained for the life of the development.

14. Only Virgin Excavated Natural Material (VENM) in accordance with the Environmental Protection Agency NSW statutory definition shall be used for the approved land filling activities. The use of any material other than VENM for land filling purposes, without prior approval of council is prohibited.

15. Upon completion of the landfill activities, submit a survey plan prepared by a registered surveyor confirming that the landfilling has been undertaken in accordance with the approved plans and documentation. Council will insist on the removal of excessive fill.

16. **Prior to the issue of the Construction Certificate** a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).

17. **Prior to the issue of the Occupation Certificate** an Approval to Operate shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.

18. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005).

The Flood Planning Level for this development is 6.1 metres AHD.

The following design precautions must be adhered to:-

ITEM 2 - ATTACHMENT 2 CONDITIONS OF CONSENT.

- a. The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level.
 - b. In sewered areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge.
 - c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods.
 - d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible.
 - e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.
 - f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.
 - g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.
 - h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.
 - i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.
19. The Designated flood is the 1% AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.
- 19.1. The Structural Report is to be prepared by a Chartered Professional Engineer recognised under the National Engineers Register (NER) in the area of practice of Structural Engineering. The Report must certify that the proposed structural components can withstand the forces of floodwater in the PMF, including hydrostatic pressure, the hydrodynamic pressure, the impact of debris and buoyancy forces.

ITEM 2 - ATTACHMENT 2 CONDITIONS OF CONSENT.

20. A flood management plan which covers evacuation, a demonstrated practical understanding of predicted flood levels and impact to access to/from the site including flood level and duration of inundation, the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc. incorporating the State Emergency Services Business Floodsafe Toolkit, shall be submitted and approved by Council prior to the issue of the Construction Certificate.
21. Septic and holding tank lids, inspection openings and associated electrical equipment connections and switchgear must be located above the 1% AEP Flood level.
22. Any on-site effluent on site disposal must be carried out in an area above the 5% AEP

S.96 MODIFICATION – BUILDING SURVEYORS ASSESSMENT FORM

File No:	16-2014-392-2
Proposal:	S.96 Modification
Parcel No:	45884
Property:	LOT: 1 DP: 1193826 851 Newline Road EAGLETON
Applicant:	MRS S L LYDON CARE SORENSEN DESIGN & PLANNING 4/10 YACAABA STREET NELSON BAY NSW 2315

	YES	NO	See Comments
Is this additional detail/amended plan required by development consent PCA condition?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Have you superseded all copies of appropriate plans?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Is an Amended Construction Certificate required to be issued by Council?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Is an Amended Construction Certificate Required to be issued by Private Certifier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

COMMENTS

Proposed changes in relation the existing DA are as follows:

The proposed modifications are permissible within the RU1 Primary Production zone however the key issues with the development subject to review relate to flooding as the site is classed as high hazard floodway. The high floodway classification of the property has not changed, however elected Council has already deemed it appropriate for a dwelling in this location by approving the original DA.

The s.96 application seeks to amend the dwelling design to significantly increase the footprint of the house and shed. In association with the increased dwelling size, the fill mound has been increased along with the Flood Planning Level (FPL) of the dwelling to 6.1m AHD, 500mm higher to that previously approved by Council.

Dwelling

The modifications to the approved dwelling incorporate an additional parents retreat 2 x ensuites, stairwell, mud room and increased corridor/hall spaces. It is noted that the design remains as a four bedroom dwelling with no further increase in occupation. The internal floor areas have been increased from 287.5m² to 623.73m² (116% increase), external areas reduces from 161m² to 128m² (20% decrease), roof area increase from 448.5m² to 731.8m² (63% increase) resulting in a total dwelling footprint increase from 448.5m² to 752m² increase.

The design changes have be assessed against the current DCP controls in accordance with cl.79c(1)(a)(iii) of the EP&A Act 1979. The proposed design is of improved quality showing greater articulation and use of materials. The design responds well to the surrounding environment in relation to materials selection and visual appeal. The location of the dwelling provided the opportunity for the increased building footprint to be supported without having any major visual, acoustic or privacy impacts on the local context environment. I this regard

ITEM 2 - ATTACHMENT 3 ASSESSMENT REPORT.

the architectural changes would be support

Fill

The modifications indicated that the fill mound has been increased in height of approximately 500mm due to the floor level increase. The height of the mound will assist in providing a higher FPL level for the dwelling, although minimal details have been provided showing the changes. The footprint and extent of the fill mound will be unchanged.

Internal Flooding Referral notes

As stated in the original Council report, the proposed development is inconsistent with the provisions of Clause 7.3 of Port Stephens Local Environmental Plan 2013, in particular the objectives of this clause for development on flood prone land including minimising the flood risk to life and property, allowing development which is compatible with the land's flood risk and avoiding significant adverse impacts on the flood behaviour and environment.

However, the proposed development was approved against officer's recommendation with conditions including provision of a flood evacuation plan, the finished floor level of any habitable room to be above the Flood Planning Level and certification of the design by a structural engineer for forces up to the 1% AEP flood event.

The certification up to the 1% AEP flood level is a mistake and not of value for protecting life and property as the finished floor level is above the FPL anyway. As stated in Council's DCP, the certification should occur for flood events up to the probable maximum flood.

This DA is a Section 96 application to alter finished floor levels and provide a second storey, in part to improve the risk in floods (as mentioned in the Section 96 Statement from the applicant's designer).

This site is in a **High Hazard Floodway** area and the Flood Planning Level for this site is 6.1m AHD. The probable maximum flood level is 9.4m AHD.

Council's DCP highlights that flood refuges should be above the probable maximum flood level.

The Section 96 application changes the finished flood level of the ground floor to 6.1m AHD and proposes a second storey at a finished floor level of 9.14m AHD. For an adequate flood refuge the second storey should be at 9.4m AHD.

However, at the very least the building should be certified that it can withstand the appropriate flood forces up to the probable maximum flood level.

I suggest the following condition.

The Structural Report is to be prepared by a Chartered Professional Engineer recognised under the National Engineers Register (NER) in the area of practice of Structural Engineering. The Report must certify that the proposed structural components can withstand the forces of floodwater in the PMF, including hydrostatic pressure, the hydrodynamic pressure, the impact of debris and buoyancy forces.

The other flood-related conditions of consent should not be removed.

Under the current flooding data and policies the development would still be deemed unsuitable as dwellings in high hazard flood ways are not supported or viewed as good planning practice.

Reasons for refusal:

ITEM 2 - ATTACHMENT 3 ASSESSMENT REPORT.

1. Refuse the application for the determination of DA 16-2014-392-2 (Dwelling, associated earth mound) for the following reasons:

a) Given the likely significant adverse impacts on the flood behaviour, property and environment that may result from the approval, the development is not in the public interest (s79C(e) EP&A Act 1979).

b) The development fails to satisfy cl.7.3 Port Stephens Council (PSC) Local Environmental Plan 2013 (LEP) as the development is not compatible with the flood hazard of the land (s.79C(1)(a)(i) EP&A Act 1979).

AMEND / DELETE CONDITION/S

Additional Condition:

- The Structural Report is to be prepared by a Chartered Professional Engineer recognised under the National Engineers Register (NER) in the area of practice of Structural Engineering. The Report must certify that the proposed structural components can withstand the forces of floodwater in the PMF, including hydrostatic pressure, the hydrodynamic pressure, the impact of debris and buoyancy forces.
- Amend FPL from originally approved level of 5.6m AHD to the proposed level of 6.1m AHD.

APPROVED PLANS/DOCUMENTS TO BE INCLUDED IN THE CONSENT

Plan/Doc. Title	Ref. No.	Sheet.	Date	Prepared by	STAMP WITH	
					DA	CC
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

MODIFICATION RECOMMENDATION

Recommended that the Section 96 application be:

☐ Approved ☒ Refused

Assessing Officer:

Date:

MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016

Councillor Paul Le Mottee returned to the meeting at 5:42pm prior to Item 3.

ITEM NO. 3

FILE NO: 16/397228
RM8 REF NO: PSC2013-00406

POLICY REVIEW - ONSITE SEWAGE MANAGEMENT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised On-site Sewage Management Policy shown at **(ATTACHMENT 1)**.
 - 2) Place the On-site Sewage Management 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 On-site Sewage Management policy dated 28 February 2012 Minute No: 010 **(ATTACHMENT 2)**, should no submissions be received.
-

ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016 MOTION

339	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised On-site Sewage Management Policy shown at (ATTACHMENT 1).2) Place the On-site Sewage Management 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 On-site Sewage Management policy dated 28 February 2012 Minute No: 010 (ATTACHMENT 2), should no submissions be received.
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BACKGROUND

The purpose of this report is to advise Council of the review of the On-site Sewage Management Policy and recommend the updated policy be placed on public exhibition.

The policy continues to provide a formal framework for the management and regulation of On-site sewage systems in Port Stephens local government area (LGA). The policy aim is to minimise any potential for environmental damage and risk to public health.

Following the review there have been no changes to the intent of the policy itself however, the policy does contain a guideline document and there have been minor changes reflecting improvements or legislative amendments within the document. The changes are very minor to the guideline and are administrative only.

No changes to the On-site Sewage Management Policy are required as the policy is considered by many in the industry as 'best practice'. As recently as September 2016, at the state conference for environmental health professionals, the Port Stephens On-site Sewage Development Assessment Framework was mentioned by a few speakers as an example of what all Council's should do.

Within the Port Stephens Local Government Area there are approximately 4800 on-site sewage management systems (OSMS). The effective and successful management of domestic, commercial and industrial wastewater systems within the unsewered areas of Port Stephens is a non-discretionary role of Council to ensure protection of the area's pristine waterways, preserve the diverse environment, maintain public health and mitigate the risk to public health.

The regulation of on-site sewage management systems involves managing those with a capacity to treat less than 2500 equivalent persons or <750kL per day or systems that are not operating under a licence issued by the Office of Environment and Heritage (OEH). Council regulates all systems except three sewage treatment plants (STPs) operated by Hunter Water Corporation (HWC).

The *Local Government Act* and subordinate regulation are the key legislative instruments utilised for regulation of these systems. All owners and operators of functioning on-site sewage management systems are required to obtain an "Approval to Operate" for each system. Additionally, the installation, alteration or construction of a system of sewage management is an activity that requires the prior approval of Council.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	533,800	Revenue for the program is realised from Approval to Operate and application fees. Program expenditure totals approx. \$452,000.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing existing policies and determining the appropriateness and relevance of a policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk of making poor decisions as a result of outdated policy.	High	Repeal current policy and replace with amended policy.	Yes
There is a risk to the environment, waterways and public health from poorly operating on-site sewage management systems.	High	Repeal current policy and replace with amended policy. Implement revised policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy will provide stakeholders with a clear framework for the consistent, timely and effective management of existing and proposed on-site sewage management systems in the unsewered areas of Port Stephens. The community expectations regarding protection of the environment and waterways will be met through implementation of this policy.

There are no additional costs associated with the implementation of this policy. The OSMS program is neutrally funded through collection of scheduled fees linked to the approval to operate (annual renewal) and applications for new installations. These fees are reviewed annually.

For the majority of property owners, developers and installation companies seeking to develop land in areas identified as a low or medium risk, this policy will provide a simpler, cost effective and timely process for submitting and receiving an approval for the installation of a system of sewage management.

MERGER PROPOSAL IMPLICATIONS

Port Stephens Council's on-site sewage management program aligns with Dungog Council given that both have an onsite policy and operate under a Development Assessment Framework (DAF).

Port Stephens Council's Onsite Sewage Management Program is less likely to align with Newcastle Council given the majority of their LGA consists of urban areas and as a consequence have significantly less onsite systems.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Environmental Health and Compliance Section.

Internal

The internal stakeholders include the environmental health staff that will implement the policy on a day to day basis. The review included discussions with the applicable staff to ensure the policy was achieving what it was intended to do.

External

No external consultation has occurred at this stage given the policy is simply being updated. The updated policy will be placed on public exhibition for 28 days in accordance with the local government legislation.

OPTIONS

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

ATTACHMENTS

- 1) Revised On-site Sewage Management Policy. (Provided under separate cover)
- 2) Current On-site Sewage Management Policy - 28/2/2012 Min. No. 010.
(Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Port Stephens Council On-site Sewage Management Guidelines.
- 2) Port Stephens Council On-site Sewage Development Assessment Framework.

ITEM NO. 4

**FILE NO: 16/447501
RM8 REF NO: PSC2013-00406**

POLICY REVIEW - MOBILE FOOD VEHICLE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Mobile Food Vehicle Policy **(ATTACHMENT 1)**.
 - 2) Place the Mobile Food Vehicle 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 Mobile Food Vehicle Policy dated (minute no.225) **(ATTACHMENT 2)**, should no submissions be received.
-

**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

340	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Mobile Food Vehicle Policy (ATTACHMENT 1).2) Place the Mobile Food Vehicle 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 Mobile Food Vehicle Policy dated (minute no.225) (ATTACHMENT 2), should no submissions be received.
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BACKGROUND

A review has been undertaken of the Mobile Food Vehicle Policy. The purpose of this report is advise Council of the findings of the review of the policy and recommend it be adopted by Council for public exhibition.

The policy continues to provide a formal framework for the management and regulation of mobile food vehicles choosing to operate in Port Stephens local government area (LGA). The policy aims to minimise potential impacts that mobile

MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016

food operations may have on land-based businesses as well as providing an equitable framework that maximises food safety, pedestrian and traffic safety.

Following the review there have been no major changes to the policy itself however, the policy does contain a guideline document and there have been minor changes reflecting improvements or legislative amendments within the document. The changes to the guideline are minor in nature and are administrative. The Mobile Food Vehicle Policy has been updated to the current council template.

No changes to the Mobile Food Vehicle Policy are required as the policy is considered to meet industry 'best practice'. As recently as September 2016, at the state conference for environmental health professionals, a presentation titled '*Reducing the Burden on Food Businesses*' was given. The presentation commended to Councils the benefits of a '*Home Council Jurisdiction Rule*' aimed at reducing the financial burden on non land-based food businesses. The Port Stephens Mobile Food Vehicle Policy adopted the home jurisdiction rule in the 2014 policy version.

The overall policy position is stated in the Mobile Food Vehicle Policy, however the implementation and detail is delivered through the guideline document.

There are approximately 42 mobile food vendors currently registered with Council highlighting the need for a strong policy position. The Port Stephens Council area is a highly regarded location for mobile food vendors. Council continues to receive considerable numbers of enquiries each year from potential new operators, an indication that the total number of mobile vendors could continue to increase.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

There are no additional costs associated with the implementation of this policy. The management of mobile food vendors is managed through the food surveillance program.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	Application fees	The mobile food vendor program is funded through collection of registration and inspection fees.
Reserve Funds	No		

MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016

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

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that The lack of a policy could lead to mobile vendors operating in a manner that reduces pedestrian and traffic safety, increases the risk to consumers from poor food handling and could increase tension between mobile and land-based businesses.	Medium	Adopt the policy as proposed.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant sustainability implications.

MERGER PROPOSAL IMPLICATIONS

There are no direct merger implications. As a result of any possible merger the existing mobile vehicle policies of the respective Council's would be reviewed.

CONSULTATION

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

Internal

- The key stakeholders are the environmental health officers that implement the policy to ensure the policy achieves what it is intended to do.
- The Executive Leadership Team (ELT) have endorsed the draft policy.

External

- No external consultation has occurred at this stage as this is only a policy review and this will occur at the public exhibition stage.

In accordance with local government legislation the draft Mobile Food Vehicle Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Mobile Food Vehicle Policy (revised).
- 2) Mobile Food Vehicle Policy (current).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Mobile Food Vehicle Guideline.

Policy



FILE NO: PSC2013-00406

TITLE: MOBILE FOOD VEHICLE POLICY

POLICY OWNER: DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION
MANAGER

PURPOSE:

The purpose of this policy is to provide a framework in which mobile food vehicles may safely operate within the Port Stephens Local Government Area without impact on land-based businesses.

CONTEXT/BACKGROUND:

Mobile food vehicles and street vending has become common practice in today's experience of commercial and tourist destinations, often filling a need in the market that is otherwise not met by existing retail and service offerings.

Mobile food vehicles are not normally subject to development approval as they fall outside the *Environmental Planning and Assessment Act 1979*. However, this type of business needs to be regulated as they are serving food to the public similar to traditional land based food outlets. Many mobile food vehicles park in locations that at times may create a hazard for pedestrians and traffic. Due to the nature of mobile food vehicles, there is the need for a strong policy that provides for food safety, pedestrian and traffic safety.

This policy does not relate to permanent land based food vans that may be subject of a development application under the *Environmental Planning and Assessment Act 1979*. The policy does however place a number of operational restrictions on mobile food businesses to afford a level of protection to the viability of land based food businesses and to ensure that both types of businesses can mutually co-exist.

SCOPE:

This policy captures all mobile food vehicles whether self propelled or not that operate within the LGA for the purpose of selling food. It includes vehicles designed to perform complex food preparation, single step/simple food preparation or the sale of only pre-packaged foods. The policy is relevant to land, air or water based vehicles. The policy does not capture food vending machines (land-based) or food transport vehicles licenced through the NSW Food Authority.

Policy

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Issue Date: 22/11/2011

Printed: xx/xx/xxxx

Review Date: xx/xx/xxxx

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Policy



DEFINITIONS:

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

Mobile Food Vehicle	All food vending vans, mobile trailers, carts and maritime vessels (whether registered or not) used for the purpose of selling any article of food on a public reserve or within public or private property.
Mobile Food Vendor	A company or individual that operates a mobile food vehicle.
Development Application	A formal request for permission to carry out a development under the <i>Environmental Assessment and Planning Act, 1979</i> .
Approved Vehicle	A mobile food vehicle holding an approval currently in-force with PSC or another local Council.
Council	Port Stephens Council.
LGA	Local Government Area.
Sell	As defined in the <i>Food Act 2003</i> - "Sell" includes: (a) barter, offer or attempt to sell; or (b) receive for sale, or (c) have in possession for sale, or (d) display for sale, or (e) cause or permit to be sold or offered for sale, or (f) send, forward or deliver for sale, or (g) dispose of by any method for valuable consideration, or (h) dispose of to an agent for sale on consignment, or (i) provide under a contract of service, or (j) supply food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service, for consumption by the employee at the employee's place of work, or (k) dispose of by way of raffle, lottery or other game of chance, or (l) offer as a prize or reward, or (m) give away for the purpose of advertisement or in furtherance of trade or business, or (n) supply food under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of

Policy

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Policy



an inclusive charge for the food supplied and the accommodation, service or entertainment, or
(o) supply food (whether or not for consideration) in the course of providing services to patients in public hospitals (within the meaning of the Health Services Act 1997) or inmates in correctional centres (within the meaning of the Crimes (Administration of Sentences) Act 1999), or
(p) sell for the purpose of resale.

POLICY STATEMENT:

This policy will provide a consistent and equitable framework for all matters relating to the approval, operation and construction of mobile food vehicles within Port Stephens Local Government Area. It will allow mobile food vehicles to operate legitimately in those locations where the policy permits without significant impact on land based food businesses. Applicants are advised to read and familiarise themselves with the policy prior to making a formal application.

POLICY RESPONSIBILITIES:

- 1) The Environmental Health team are responsible for implementing, monitoring, evaluating, reviewing and providing advice on the policy.

RELATED DOCUMENTS:

- 1) *Local Government Act 1993 and Local Government (General) Regulation 2005.*
- 2) *Food Act 2003 and Food Regulation 2015.*
- 3) *Environmental Planning and Assessment Act 1979.*
- 4) *FSANZ Food Standards Codes.*
- 5) *Roads Act 1993 and Roads Regulation 2008.*
- 6) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Subdivision 27A – Mobile food and drink outlets).*
- 7) *Guidelines for mobile food vending vehicles, NSW Food Authority, NSW/FA/FI055/1302.*
- 8) *PSC Commercial Operators Policy, PSC2015-01929.*

Policy

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Policy



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RM8 container No	PSC2013-00406	RM8 record No	16/
Audience	Existing and potential commercial food operators		
Process owner	Section Manager Development Assessment and Compliance		
Author	Coordinator Environmental Health and Compliance		
Review timeframe	Two years	Next review date	XX 2020
Adoption date	xx/xx/2016		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
V1	22/11/2011	Coordinator Environmental Health and Compliance	Mobile Food Vending Policy.	396
V2	26/8/2014	Coordinator Environmental Health and Compliance	Mobile Food Vending Policy.	225
V2.1	**/**/2016	Coordinator Environmental Health and Compliance	Mobile Food Vehicle Policy updated to new template.	xxx

Policy

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Port Stephens

C·O·U·N·C·I·L

POLICY

Adopted: 22/11/2011

Minute No: 396

Amended: 26/08/2014

Minute No: 225

FILE NO: PSC2009-05304

TITLE: MOBILE FOOD VEHICLE POLICY

RESPONSIBLE OFFICER: DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER

BACKGROUND

The purpose of this policy is to provide clarity around Council's position with respect to the operation and management of Mobile Food Vehicles across the Local Government Area (LGA) as well as to provide a clear framework in which mobile food vehicles may expect operate within across the LGA.

Mobile food vehicles and street vending has become common practice in today's experience of commercial and tourist destinations, often filling a need in the market that is otherwise not met by existing retail and service offerings.

Mobile food vehicles are not normally subject to development approval as they fall outside the *Environmental Planning and Assessment Act*. However, this type of business still needs to be regulated as they are; serving food to the public similar to traditional land based food outlets; their location may pose a safety risk to road users; and there is a need to ensure existing land based operators are not impacted by their service offering. For these reasons, there is the need for a clear policy that provides for food safety, pedestrian and traffic safety and equity for existing local businesses

This Policy does not relate to permanent land based food vans that may be subject of a development application under the *Environmental Planning and Assessment Act*. The policy does however place a number of operational restrictions on mobile food businesses to afford a level of protection to the viability of land based food businesses and to ensure that both types of businesses can mutually co-exist.

ITEM 4 - ATTACHMENT 2 MOBILE FOOD VEHICLE POLICY (CURRENT).**OBJECTIVE**

There are a number of objectives of this policy. They are:

- 1) To ensure pedestrian and road safety at all times;
- 2) To ensure food safety and hygiene standards are met at all times;
- 3) To ensure consistency in the operation and construction requirements for mobile food vehicles;
- 4) To ensure consistency and equity in the approval, application assessment and inspection process for mobile food vehicle operators; and
- 5) To ensure existing local land based business operators are not unreasonably compromised by the operation of mobile food vehicle operations throughout the Local Government Area.

PRINCIPLES

- 1) **Legislation and Guidelines:** Owners and operators shall comply with prescribed legislative instruments relating to the operation of mobile food vehicles and the processing of food for retail sale as outlined within the Port Stephens Council Mobile Food Vehicle Guidelines (Guidelines).
- 2) **Performance Objectives:** Owners and operators of mobile food vehicles shall meet minimum performance standards having regard to:
 - Protection of pedestrians and road users;
 - Food safety and good hygiene practises to ensure the retail sale of safe and suitable food;
 - Consistency in the construction requirements for mobile food vehicles;
 - The minimisation of any adverse impacts on existing land based business operators in or around areas in which the vehicles operating.
- 3) **Operational Assessment and Management Framework:** Council will follow the operational framework outlined within the Guidelines to provide consistency and equity in the approval, application assessment and inspection process for existing and future mobile food vendors. Mobile food vehicles must not be permitted to detrimentally impact on the financial viability of land based food businesses.
- 4) **Resourcing:** The Mobile Food Vehicle program is managed within the Development Services Group. The program is self-funded via the fees and charges collected through the service.
- 5) **Education and Advice:** The Mobile Food Vehicle program will be included within Council's existing food surveillance and education program as necessary to ensure compliance and standards are achieved.

POLICY STATEMENT

ITEM 4 - ATTACHMENT 2 MOBILE FOOD VEHICLE POLICY (CURRENT).

Council supports the operation of Mobile Food Vehicles within appropriate areas throughout the Local Government Area in accordance with its *Mobile Food Vehicle Guidelines*.

RELATED POLICIES

- 1) Nil

SUSTAINABILITY IMPLICATIONS

The provision of the Mobile Food Vehicle service meets a number of social, economic and environmental needs throughout the community.

SOCIAL IMPLICATIONS

The Mobile Food Vehicle service aims to meet consumer demands in the community where existing services currently do not exist. From the traditional Ice Cream vendor through to more sophisticated restaurant offerings, the service aims to have a positive social impact particularly in areas in the LGA where there is community demand in isolated locations, sporting events, tourist locations and social events where there are no other food services available. This Policy will enable those demands to be serviced.

ECONOMIC IMPLICATIONS

The Mobile Food Vehicle service aims to provide a positive economic impact on the existing community through the provision of complimentary service offerings to residents and visitors alike.

The challenge is to ensure there is balance between existing land-based food operators and Mobile Food Vehicle operators. Land based food businesses are also an integral contributor to the success of the regions tourist industry and are also a valued and important source of stable employment.

Typically land based food businesses operate under a higher cost structure than mobile food vehicles due to additional expenses including rent, labour and utilities.

Council will always consider the viability of existing land based businesses in the first instance when assessing the merits of any Mobile Food Vehicle application. The *Mobile Food Vehicle Guidelines* define clear criteria around the where mobile food vehicles are permitted to operate to ensure existing businesses are not compromised.

ENVIRONMENTAL IMPLICATIONS

The Mobile Food Vehicle service aims to ensure the environmental impact of the operators is managed at all times. All operators are required to provide detail around their noise and litter management practices via the application process. A waste management plan is also requested as part of the application process.

ITEM 4 - ATTACHMENT 2 MOBILE FOOD VEHICLE POLICY (CURRENT).

RELEVANT LEGISLATIVE PROVISIONS

- 1) *Local Government Act 1993 (s68, F7)*
- 2) *Food Act 2003, Food Regulation 2010 and Food Standards Codes*
- 3) *Roads Act 1993 and Roads Regulation 2008*
- 4) *Road Transport (Safety and Traffic Management) Act 1999 and Road Transport (Safety and Management) Regulation 1999 and Australian Road Rules 2008*
- 5) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Subdivision 27A – Mobile food and drink outlets)*

GOVERNMENT AUTHORITIES

The Government Authorities that have regulatory responsibility for Mobile Food Vehicle operations are:

- The Roads and Maritime Services
- The Police Service
- Port Stephens Council

IMPLEMENTATION RESPONSIBILITY

- 1) Environmental Health and Compliance.

PROCESS OWNER

- 1) Development Assessment and Compliance.

REVIEW DATE

- 1) Four years from date of adoption.

Port Stephens

C·O·U·N·C·I·L

MOBILE FOOD VEHICLE GUIDELINES

To be used in conjunction with Council's Mobile Food Vending Vehicle Policy
adopted 22.11.2011 Min No. 396 amended xx.xx.xxxx Min No. xx

1. INTRODUCTION

The Mobile Food Vehicle Guidelines (Guidelines) provide Council and Mobile Food Vehicle operators with guidance to effectively and consistently control and operate Mobile Food operations and street vending activities within public roads or within public and private places. The Guidelines identify the responsibilities and requirements for Mobile Food Vehicle operators. The Guidelines also establish criteria for the construction of vehicles, vans, vessels so that appropriate standards associated with street vending and food sales are regulated. The Guidelines are mandatory for all street vending activities carried out within the Port Stephens Local Government Area.

2. APPLICATION OF THE GUIDELINES

- 2.1 These Guidelines shall apply to all Mobile Food operators and street vending vehicles within the Port Stephens Local Government area (LGA).
- 2.2 Operators are required to comply with all applicable legislation including the *Local Government Act, 1993*, the *Roads Act, 1993*, the *Road (Safety and Traffic Management) Act, 1999* including the *Road Rules 2008*, the *Food Act, 2003* and *FSANZ Food Standards Codes* [as amended from time to time].
- 2.3 Council must take the provisions of its Mobile Food Vehicle Policy and these Guidelines into account when determining whether to give or refuse an approval for the operation of a Mobile Food vendor.
- 2.4 Council will take all relevant matters into consideration when determining an application.

3. MOBILE FOOD VEHICLE ASSESSMENT AND OPERATIONAL CRITERIA

3.1 Mobile Food Vehicle Standards

- a. The design, construction and operation of mobile food vehicles shall comply with the NSW Food Authority guideline - *Mobile Food Vending Vehicles - Operation, Construction and Food Handling Guidelines*, August 2009.

ITEM 4 - ATTACHMENT 2 MOBILE FOOD VEHICLE POLICY (CURRENT).

- b. Food handling and hygiene requirements shall comply with the *Food Act 2003, Food Regulation* and Food Standards Codes [as amended from time to time].
- c. Mobile food vehicles must be of a size, design and construction appropriate for the type and scale of food being prepared and sold.

3.2 Trading Areas, Trading Times and Other Information

To ensure mobile food vehicles do not unreasonably impact on the operation of existing businesses the following standards apply:

- a. Mobile food vehicles must not trade within 350 metres of an existing trading land based food business (This minimum distance requirement is measured in a straight line from the closest point of the Mobile Food Vehicle (location) to the main entrance of the land based food business);
- b. Mobile food vehicles must not trade on any road or street regulated by the Roads and Maritime Service (RMS) without the prior approval of the RMS;
- c. Mobile food vehicles must not trade on any street deemed by Council as being unsuitable by virtue of its location, traffic condition or other safety issue.
- d. Mobile Food Vendors shall only occupy a permitted selling location for such a period of time whilst engaged in the actual setting up and serving of a customer and shall after serving all customers move on and not return to the same location within one (1) hour.
- e. Mobile Food Vendors shall at all times comply with the relevant parking restrictions.
- f. Mobile food vehicles must not trade as a roadside stall or as a stall to sell food to the public on any site that first requires development consent for that use.
- g. Approved mobile food vehicles shall not trade between sunset and sunrise unless stated in the approval. Council may limit operating hours to particular days or dates or shorter trading times. An authorised officer may require a mobile food van to move if necessary and may also require a van to leave the area.

4. APPLICATION PROCESS AND ASSESSMENT**4.1 General**

ITEM 4 - ATTACHMENT 2 MOBILE FOOD VEHICLE POLICY (CURRENT).

- a. Applications shall be made to Council in writing to operate any mobile food vehicle for the vending of food in the Port Stephens LGA. Not for profit and charitable organisations are not exempt from this policy.
- b. New Mobile Food Vehicles: New vehicles are those that do not hold a current approval with Council or with any other Council. The application shall be subject to an administration fee and initial inspection (fee applicable). The vehicle will be subject to on-going annual inspections (fee applicable).
- c. Existing Mobile Food Vehicles: Existing vehicles are those that hold a current approval with Council or hold an approval (in-force) with another Council. Operators of existing mobile food vehicles holding an approval with another Local Council and wishing to operate in the Port Stephens LGA shall make application in writing to Council. The application shall be subject to an administration fee and provision of a copy of a current and satisfactory inspection report from another Council. The vehicle will be subject to on-going annual inspections (fee applicable) or alternatively the provision of a copy of a current and satisfactory inspection report from another Council.

4.2 Required Information

The following information is required from the applicant when submitting an application:

- a. A completed Mobile Food Vehicle Application Form. **Note:** Incomplete application forms will not be processed.
- b. A current certificate of currency (Public Liability Insurance) for a minimum \$10,000,000.

4.3 Assessment

- a. Following receipt of a complete application Council will undertake an assessment against relevant legislation and guidelines. If approved and once all fees have been received an approval to operate will be released allowing operation of the mobile food vehicle.

5. APPROVALS

- 5.1 The Policy applies to approvals for an activity in accordance with *Local Government Act, 1993* (section 68, F7); *Use a standing vehicle or any article for the purpose of selling any article in a public place.*
- 5.2 Approvals shall take effect from the date stated thereon and shall expire 12 months after the date of the approval or any other time as stated on

ITEM 4 - ATTACHMENT 2 MOBILE FOOD VEHICLE POLICY (CURRENT).

the approval no greater than 12 months. Continuation for the operation of the mobile food vehicle is only permitted after re-inspection and payment of fees.

- 5.3 Food Vendors must not hawk or sell any article of food away/separate from the mobile food vehicle.
- 5.4 Mobile food vendors must maintain registration of their business with the NSW Food Authority (www.foodnotify.nsw.gov.au).
- 5.5 The vehicle/vessel shall be maintained, registered and comply with the relevant provisions of the Motor Traffic or Maritime Regulations.
- 5.6 NSW Transport Roads and Maritime Service (RMS) is an approval authority for road related and marine vessels. Operators of vessels are to obtain prior consent of NSW RMS as part of the Council application process.
- 5.7 The operation of a mobile food vehicle approved under this policy does not extinguish other legislative responsibilities that may be applicable (i.e. Approvals required under the *Environmental Planning and Assessment Act, Local Government Act, Food Act*).

6. INSPECTIONS

- 6.1 Mobile food vehicles shall be subject to an annual inspection by Councils Environmental Health Officers for which a fee is applicable.
- 6.2 All vehicles subject to an inspection shall be presented at a designated location convenient to both the Environmental Health Officer and the operator on a mutually acceptable date and time.
- 6.3 Operators of approved vehicles that are able to provide a copy of an inspection report for the nominated vehicle performed by a Council other than Port Stephens Council will not require an annual inspection. The provided inspection report must have been performed within the previous 12-months and must indicate a satisfactory result with no critical non-compliances. The provided report must be on letterhead of the issuing Council.

7. FEES AND CHARGES

- 7.1 Fees applicable to mobile food vending vehicles are presented in Council's Schedule of Fees and Charges.
- 7.2 Mobile food vehicles are subject to both administrative and inspection fees depending on the circumstances.
- 7.3 Mobile food vending vehicles owned by not-for-profit, charitable or community organisations may make application for a refund of inspection

ITEM 4 - ATTACHMENT 2 MOBILE FOOD VEHICLE POLICY (CURRENT).

fees. Applications shall be addressed to Council's Public Officer (or Ward Councillors for amounts under \$250).

8. COMMUNITY AMENITY, SAFETY AND CLEANLINESS

The operation of mobile food vehicles must give consideration to impacts on the community amenity, other businesses and the environment through the following standards;

- 8.1 The location and operation of mobile food vehicles must not have a detrimental impact on the safety of pedestrians and other road users.
- 8.2 Access to a mobile food vehicle must be via an adjacent pedestrian walkway and not a roadway.
- 8.3 Mobile food vehicles must comply with parking restrictions and applicable road rules.
- 8.4 The operation of mobile food vehicles must ensure compliance with *Protection of the Environment and Operations Act, 1997* having regard to noise and litter.
- 8.5 All operators of mobile food vehicles must outline a clear waste management plan ensuring the litter created from the operations of the mobile food vehicle do not adversely impact on the surrounding environment or Council's existing waste management service in the surrounding area.
- 8.6 Residential amenity must not be unreasonably affected by the operation of a mobile food vehicle.

ITEM NO. 5

**FILE NO: 16/447926
RM8 REF NO: PSC2013-00406**

POLICY REVIEW: SMOKE FREE OUTDOOR AREAS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Smoke Free Outdoor Areas Policy dated 13 August 2013 (minute no 218) **(ATTACHMENT 1)**.
-

**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

341	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council revoke the Smoke Free Outdoor Areas Policy dated 13 August 2013 (minute no 218) (ATTACHMENT 1) .
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BACKGROUND

The purpose of this report is to advise Council of the findings of the review of the Smoke Free Outdoor Areas Policy.

The principles and intent of the existing Smoke Free Outdoor areas policy remain valid and supported by Council staff however, this policy is now superseded and overridden by various state legislation.

In addition, Council already have specific policies relating to smoking on Council owned properties such as the administration building.

As a result, there is no benefit in having a Smoke Free Outdoor Areas council policy; rather it contributes to create confusion for the public.

Smoking in enclosed public places in NSW is regulated by the *Smoke-Free Environment Act 2000* (the *Act*). In July 2007, the *Act*, was amended to prohibit smoking in all enclosed public places for example, in State and Federal offices, shopping centres, hospitals, schools, childcare settings and entertainment venues, as well as the transport sector. In January 2013, the *Act* was further amended to increase the public outdoor areas where smoking is banned.

The *Smoke-free Environment Act 2000* specifically bans smoking in the following outdoor public places:

- Within 10 metres of children's play equipment in outdoor public places;
- Public swimming pools;
- Spectator areas at sports grounds or other recreational areas used for organised sporting events;
- Public transport stops and platforms , including ferry wharves and taxi ranks;
- Within four metres of a pedestrian access point to a public building; and
- Commercial outdoor dining areas.

The above is consistent with Councils existing Smoke Free Outdoor Policy that is proposed to be revoked, with the exception of smoking at beaches, council parks and reserves. Even though these areas are mentioned in the policy, council officers are not able to be delegated under the smoking legislation and can only enforce such under the *Local Government Act 1993* provisions.

Under the *NSW Local Government Act 1993*, Councils have the ability to protect their local communities from the effects of second-hand smoke. Although we don't consider smoking on beaches, parks and reserves a major issue based on the reported incidents or public complaints, should this become an issue, the solution would be a sign at the entry to the beach/reserve under the *Local Government Act 1993* prohibiting such activity of which would be enforceable.

Council receives minimal complaints in relation to smoking in public places. Those that are received are able to be handled under *the Local Government Act 1993* provisions. There have been no fines issued to people smoking in prohibited areas, whereas fines have been issued to people littering with cigarette butts.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	Existing budget	The ranger team respond to complaints within existing resources.

MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no direct implications as a result of revoking the Smoke Free Outdoor Areas Policy as suitable provisions already exist in NSW legislation and regulations.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that direct duplication of state legislation creates unnecessary red tape and confusion.	Low	Revoke the policy as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no direct sustainability implications.

MERGER PROPOSAL IMPLICATIONS

There are no direct merger implications. As a result of any possible merger the existing smoking policies of the respective Council's would be reviewed.

CONSULTATION

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

Internal

- The key stakeholders are the environmental health officers that implement the policy to ensure the policy intent is already covered in state legislation.
- Consultation has also occurred with other areas of Council that have an interest in the policy revocation e.g. assets and property.
- The Executive Leadership Team (ELT) have endorsed the recommendation to revoke the policy.

External

- No external consultation has occurred as the policy is consistent with state legislation.

As the policy is being revoked and a new policy not being created, public exhibition is not required.

OPTIONS

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

ATTACHMENTS

- 1) Smoke Free Outdoor Areas Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Port Stephens

C·O·U·N·C·I·L

POLICY

Adopted: 16/12/2008

Minute No: 388

Amended: 13/8/2013

Minute No: 218

FILE NO: PSC2013-00406

TITLE: SMOKE FREE OUTDOOR AREAS POLICY

RESPONSIBLE OFFICER: MANAGER ENVIRONMENTAL HEALTH AND COMPLIANCE

BACKGROUND

There is substantial evidence linking exposure to second hand smoke with a range of serious and life threatening health impacts including heart disease, cancer, asthma and other respiratory problems. Children exposed to second hand smoke are most vulnerable, and at increased risk of asthma, sudden infant death syndrome, acute respiratory infections and ear problems.

Smoking in enclosed public places in NSW is regulated by the NSW Smoke- Free Environment Act 2000. In July 2007 the Act was amended to prohibit smoking all enclosed public places for example in State and Federal offices, shopping centres, hospitals, schools, childcare settings and entertainment venues, as well as the transport sector. In January 2013 the Act was further amended to increase the public outdoor areas where smoking is banned.

Under the NSW Local Government Act 1993, Councils have the power to legislate in their own jurisdictions to protect their local communities from the effects of second-hand smoke.

OBJECTIVE

- 1) Improve and protect the health and amenity of the community by banning smoking in public outdoor areas;
- 2) Raise community awareness of the health and social impacts associated with smoking in public outdoor areas;
- 3) Provide community leadership in taking measures to protect the health and social wellbeing of the community and protecting the environment; and

ITEM 5 - ATTACHMENT 1 SMOKE FREE OUTDOOR AREAS POLICY.

- 4) Providing a rationale and framework for the management of smoking in public outdoor areas.

PRINCIPLES

The Policy acknowledges that;

- 1) That passive smoking has identifiable and quantifiable health risks;
- 2) Children are most vulnerable to the effects of passive smoking on respiratory illness (Cancer Council; NHMRC);
- 3) Council is obliged to promote public health outcomes where an asset or service is provided and intended to be a benefit to children and other community members;
- 4) Research on the public health impacts of smoking in open space areas is complex, and that some impacts of smoking in outdoor areas are not directly related to the inhalation of smoke. Indirect health impacts can result from children playing with and swallowing cigarette butts that have been discarded.

POLICY STATEMENT

This policy prohibits:

- 1) Smoking within 10 metres of all children's play areas under Council's care.
- 2) Smoking within the confines of all Council workplace buildings, vehicles and plant. This includes any area under the roofline of the building.
- 3) Smoking on all playing fields, leisure centres, sporting grounds and sporting facilities (ie: including the entire area within the boundaries of those sites).
- 4) Within alfresco dining areas on public land where Council has conditioned such approvals to occupy the land.
- 5) On all beaches, bushland, parks and reserves.
- 6) Within 10 metres of children's play equipment in outdoor public spaces.
- 7) Swimming Pool complexes.
- 8) Spectator areas at sports grounds or other recreational areas during organised sporting events.
- 9) Within 4 metres of a pedestrian access point to a public building, bus stops, taxi ranks, ferry wharves; and

ITEM 5 - ATTACHMENT 1 SMOKE FREE OUTDOOR AREAS POLICY.

10) From 6 July 2015, in commercial outdoor dining areas.

RELATED POLICIES

Port Stephens Council Management Directive 2000 "Smoke Free Workplace"
NSW Local Government Act 1993 (S632)

SUSTAINABILITY IMPLICATIONS

The Smoke Free Outdoor Areas Policy recognises that Council has an obligation to promote public health outcomes where Council provides assets and services intended to be of benefit to children and other members of the community. It also recognises that Council has a commitment to improve the natural environment and the amenity of the local area by reducing the amount of cigarette butt litter found in outdoor spaces.

SOCIAL IMPLICATIONS

There is increasing evidence of the serious and life threatening health impacts of passive smoking on people in outdoor areas. Children are most vulnerable to the effects of passive smoking on respiratory illness and asthma. Evidence shows that risks can be considerably reduced through the implementation of smoking bans in outdoor areas. In addition, evidence shows that smoking bans support smokers who are trying to quit as well as reduce their overall cigarette consumption.

ECONOMIC IMPLICATIONS

Associated with the littering of cigarette butts, smoking bans have proven to reduce clean-up costs. In relation to the health implications of passive smoking, smoking bans will ultimately reduce costs and demands of health care.

ENVIRONMENTAL IMPLICATIONS

Cigarette butts are not biodegradable and take up to five years to break down. They are also the most common form of litter. Smoking bans have proven to reduce these negative effects to the environment.

RELEVANT LEGISLATIVE PROVISIONS

- 1) NSW Local Government Act 1993.
- 2) NSW Smoke-Free Environment Act 2000.

ENFORCEMENT OF THE BAN:

In implementing council's Smoke-free Outdoor Areas policy a program of community education and awareness will be undertaken.

ITEM 5 - ATTACHMENT 1 SMOKE FREE OUTDOOR AREAS POLICY.

Enforcement of this policy will be by signage, positive persuasion and self policing through the community.

Suitable signage, including the installation of new signage as well as the appendage of internationally recognised “no smoking” symbols to existing signage.

IMPLEMENTATION RESPONSIBILITY

Environmental Health and Compliance

REVIEW DATE

1 July 2016

ITEM NO. 6**FILE NO: 16/441049
RM8 REF NO: PSC2005-4217****2015-2016 ANNUAL FINANCIAL REPORTS**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the 2015-2016 Annual Financial Reports and accept the Auditor's Reports, as submitted by Pitcher Partners.
 - 2) Place the audited Annual Financial Reports for the year ended 30 June 2016, together with the Auditor's reports, on public exhibition for the prescribed period of time.
-

**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

342	Councillor John Nell Councillor Paul Le Mottee It was resolved that Council: <ol style="list-style-type: none">1) Adopt the 2015-2016 Annual Financial Reports and accept the Auditor's Reports, as submitted by Pitcher Partners.2) Place the audited Annual Financial Reports for the year ended 30 June 2016, together with the Auditor's reports, on public exhibition for the prescribed period of time.3) Council express its appreciation to the Financial Services Manager and staff for the financial result achieved.
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BACKGROUND

The purpose of this report is to advise Council that Council Officers have prepared the 2015-2016 Annual Financial Reports in accordance with Australian Accounting Standards, the *Local Government Act 1993* (as amended) and associated regulations and the *Local Government Code of Accounting Practice*.

The Annual Financial Reports have been reviewed by Council's auditors (Pitcher Partners) and the Audit Committee. This report is to formally present Council's Annual Financial Reports for the year ended 30 June 2016, together with the Auditor's report, to the public in accordance with section 419 of *Local Government Act 1993* (as amended).

MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016

Public notice of the presentation of the audited Annual Financial Reports was advertised in the Port Stephens Examiner from 10 November 2016 to 21 November 2016 and the copies of the Annual Financial Reports have been made available at the Customer Service Desk, Raymond Terrace Library, Tomaree Library, Mobile Library, and on Council's website.

The Annual Financial Reports, including the audit reports, have been circulated separately to Councillors for their information and a Two Way Conversation was held on 15 November 2016 with a representative from Pitcher Partners in attendance to discuss the reports.

Included with the Annual Financial Reports is a Holiday Parks and Investments Property Report which shows the financial result for all Holiday Parks operated by Council, together with the financial result for Council's Investment Property Portfolio and the Newcastle Airport.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
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. Attract, retain and develop staff to meet current and future workforce needs. Provide enabling business support services for Council's operations.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known legal or policy implications.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the Annual Financial Reports are not submitted to the Office of Local Government within the statutory timeframe.	Low	The Annual Financial Reports have been submitted to the Office of Local Government.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Completion of the Annual Financial Reports provides Council with the information needed to facilitate prudent financial management decision making which will have a positive impact on the community.

MERGER PROPOSAL IMPLICATIONS

There are no known merger proposal implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section.

Internal

- Executive Leadership Team.
- Audit Committee.

External

- Pitcher Partners (external auditors).
- Audit Committee.
- Office of Local Government.

In accordance with local government legislation the audited 2015-2016 Annual Financial Reports will go on public exhibition from the date of public notice 10 November 2016 to one day after the meeting 23 November 2016.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) 2015-2016 Annual Financial Statements, including Holiday Parks and Investment Property Report.

ITEM NO. 7**FILE NO: 16/429415
RM8REF NO: A2004-0984****CODE OF CONDUCT - ANNUAL SEPTEMBER REPORTING****REPORT OF: TONY WICKHAM - GOVERNANCE MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the report.
-

Mayor Bruce MacKenzie called Point of Order during the debate on this item. Cr Geoff Dingle refused to comply with the direction of the Chair. Mayor Bruce MacKenzie adjourned the meeting at 5.59pm for fifteen minutes.

The meeting resumed at 6.16pm with all those present prior to the adjournment being in attendance.

**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

343	Councillor Geoff Dingle Councillor Steve Tucker It was resolved that Council receive and note the report, including the supplementary paper for the reporting period of 1 September 2015 to 31 August 2016.
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BACKGROUND

The purpose of this report is to provide the code of conduct complaint statistics to Council in accordance with the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW. A report is required to be provided to Council for the reporting period 1 September 2015 to 31 August 2016. This report must be provided within three months from the end of September each year.

The statistics are shown at **(ATTACHMENT 1)**.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with the code of conduct complaints are within the existing budget and staff resource allocation.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Part 12.1 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (Procedures) requires a report to be prepared for Council's consideration within three months of the end of September each year.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, and therefore in breach of the <i>Local Government Act 1993</i> , should a report not be provided to Council.	Low	Adopt the recommendation.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

- 1) Code of Conduct reporting requirements for 1 September 2015 to 31 August 2016

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 7 - ATTACHMENT 1 CODE OF CONDUCT REPORTING REQUIREMENTS
FOR 1 SEPTEMBER 2015 TO 31 AUGUST 2016**
REPORTING REQUIREMENTS FOR 1 SEPTEMBER 2015 TO 31 AUGUST 2016
**PART 12.1 OF THE PROCEDURES FOR THE ADMINISTRATION OF THE MODEL
CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW.**

Number of Complaints		
1	a The total number of complaints received in the period about councillors and the General Manager (GM) under the code of conduct	11
	b The total number of complaints finalised in the period about councillors and the GM under the code of conduct	11
Overview of Complaints and Cost		
2	a The number of complaints finalised at the outset by alternative means by the GM or Mayor	9
	b The number of complaints referred to the Office of Local Government under a special complaints management arrangement	0
	c The number of code of conduct complaints referred to a conduct reviewer	2
	d The number of code of conduct complaints finalised at preliminary assessment by conduct reviewer	1
	e The number of code of conduct complaints referred back to GM or Mayor for resolution after preliminary assessment by conduct reviewer	0
	f The number of finalised code of conduct complaints investigated by a conduct reviewer	1
	g The number of finalised code of conduct complaints investigated by a conduct review committee	0
	h The number of finalised complaints investigated where there was found to be no breach	0
	i The number of finalised complaints investigated where there was found to be a breach	1
	j The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police	0
	k The number of complaints being investigated that are not yet finalised	1
	l The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	\$4,476

ITEM 7 - ATTACHMENT 1 CODE OF CONDUCT REPORTING REQUIREMENTS
FOR 1 SEPTEMBER 2015 TO 31 AUGUST 2016

Preliminary Assessment Statistics

3	The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:	
a	To take no action	1
b	To resolve the complaint by alternative and appropriate strategies	0
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies	0
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police	0
e	To investigate the matter	2
f	To recommend that the complaints coordinator convene a conduct review committee to investigate the matter	0

Investigation Statistics

4	The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:	
a	That the council revise its policies or procedures	0
b	That a person or persons undertake training or other education	0
5	The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:	
a	That the council revise any of its policies or procedures	0
b	That the subject person undertake any training or other education relevant to the conduct giving rise to the breach	0
c	That the subject person be counselled for their conduct	0
d	That the subject person apologise to any person or organisation affected by the breach	1
e	That findings of inappropriate conduct be made public	1
f	In the case of a breach by the GM, that action be taken under the GM's contract for the breach	0
g	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993	1
h	In the case of a breach by a councillor, that the matter be referred to the Office for further action	1
6	Matter referred or resolved after commencement of an investigation under clause 8.20 of the Procedures	0

**ITEM 7 - ATTACHMENT 1 CODE OF CONDUCT REPORTING REQUIREMENTS
FOR 1 SEPTEMBER 2015 TO 31 AUGUST 2016**

Categories of misconduct

7 The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:	
a General conduct (Part 3)	1
b Conflict of interest (Part 4)	0
c Personal benefit (Part 5)	0
d Relationship between council officials (Part 6)	0
e Access to information and resources (Part 7)	0

Outcome of determinations

8 The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation	0
9 The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by the Office	0

ITEM NO. 8**FILE NO: 16/432913
RM8 REF NO: PSC2016-01499****PORT STEPHENS COUNCIL ANNUAL REPORT 2015-2016****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

-
- 1) Adopt the Annual Report 2015-2016 **(TABLED DOCUMENTS 1, 2 AND 3)**.
-

**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

344	Councillor Chris Doohan Councillor Ken Jordan It was resolved that Council adopt the Annual Report 2015-2016 (TABLED DOCUMENTS 1, 2 AND 3) .
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BACKGROUND

The purpose of this report is to present to Council and the community the Annual Report 2015-2016. The Annual Report is in three volumes:

- Volume 1 **(TABLED DOCUMENT 1)** is the report of activities and operations of Council for the financial year to 30 June 2016, reporting progress against the Delivery Program 2013-2017 and Operational Plan 2015-2016. It also has the End of Term Report 2012-2016 appended;
- Volume 2 **(TABLED DOCUMENT 2)** is the audited financial statements of Council to 30 June 2016;
- Volume 3 **(TABLED DOCUMENT 3)** is the State of Environment report.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
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

Volume 1 of the Annual Report contains a summary of financial performance for the period together with details of Council's results against key performance indicators; and its capital expenditure and governance across the whole of Council's operations. Volume 2 of the Annual Report 2015-2016 contains the audited accounts of Council.

The Office of Local Government has advised that councils which are subject to a merger proposal do not have to produce an End of Term report; nor do they have to provide a State of Environment report until after the deferred elections are held (Circular No. 16-28/30 August 2016/A507751).

However at the time of issue of this circular the End of Term report had been finalised and tabled at the 26 July 2016 meeting of Council as per legislation (Section 428A of the *Local Government Act 1993*). Similarly staff had undertaken considerable work on the State of Environment report (Volume 3 of this Annual Report) and it was determined that – in the interests of informing the community of Port Stephens – this report would also be included, given that work was almost completed at the time of the Office of Local Government circular. It is intended that these reports would be updated at the time of the deferred elections.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Production and distribution of the Annual Report is covered within the existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 428(1) of the *Local Government Act 1993* states:

"Within 5 months after the end of each year, a council must prepare a report (its annual report) for that year, reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objects at which those principal activities are directed." Volume 1 has been prepared in accordance with that section.

Section 428(4) states:

"The Annual Report must contain a copy of the council's audited financial reports prepared in accordance with the Local Government Code of Accounting Practice and Financial Reporting, published by the Office of Local Government, as in force from time to time." Volume 2 of the Annual Report 2015-2016 has been prepared in accordance with the section.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that failure to provide the Annual Report within the legislated timeframe could lead to financial and reputational loss.	Low	Council adopt the Annual Report 2015-2016 Volumes 1, 2 and 3.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Annual Report 2015-2016 provides information on Council's performance across a range of social, economic and environmental indicators; and it provides details of the principal activities of Council against the actions in the Operational Plan 2015-2016, which was formulated using the four pillars of sustainability.

MERGER PROPOSAL IMPLICATIONS

Generally there are no implications for the merger proposals. The inclusion of the End of Term report and the State of Environment report would not affect any future work done to complete reporting requirements for a merged entity.

CONSULTATION

The Annual Report 2015-2016 was compiled from information gathered across Council. The adopted Annual Report 2015-2016 will be placed on Council's website and hard copies distributed to Council's libraries, the State Library of New South Wales and the Office of Local Government.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Port Stephens Council Annual Report 2015-2016 Volume 1.
- 2) Port Stephens Council Annual Report 2015-2016 Volume 2.
- 3) Port Stephens Council Annual Report 2015-2016 Volume 3.

ITEM NO. 9**FILE NO: 16/451023
RM8 REF NO: PSC2015-01492****AUDIT COMMITTEE ANNUAL REPORT 2015-2016****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Audit Committee 2015-2016 Annual Report as presented.
-

**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

345	Councillor Chris Doohan Councillor Ken Jordan It was resolved that Council adopt the Audit Committee 2015-2016 Annual Report as presented.
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BACKGROUND

The purpose of this report is to present to Council the Audit Committee's Annual Report for the period 2015-2016.

The Audit Committee has been established in accordance with the Office of Local Government 'Best Practice Guidelines 08/64'.

The Annual Report to Council summarises the Audit Committees activities for the 2015-2016 period in accordance with the Audit Committee Charter, item 5.1 Reporting to Council.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
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

Costs associated with development of the Annual Report are covered within existing budget.

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

Audit Committee activities remain consistent with the Audit Committee Charter, all relative legislative requirements and the Office of Local Government Guidelines.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council is not compliant with the Audit Committee Charter and relevant legislation.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the Audit Committee will continue to add significant rigour to Council's governance framework, risk control, compliance and financial reporting and will enhance Council's reputation, operations and financial sustainability.

MERGER PROPOSAL IMPLICATIONS

There are no merger proposal implications.

CONSULTATION

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

Internal

- Executive Leadership team.
- Audit Committee officers.

External

- Audit Committee members.
- Internal Auditors.
- External Auditors.

OPTIONS

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

ATTACHMENTS

- 1) Audit Committee Annual Report 2015-2016.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**REPORT
AUDIT COMMITTEE
2015-2016 ANNUAL REPORT**

Date: 14 October 2016
File No: PSC2015-01492
Subject: Audit Committee 2015-2016 Annual Report

Background:

At its meeting held on 9 February 2010, Port Stephens Council resolved to establish a Section 355c Audit Committee (Committee) in accordance with Division of Local Government Best Practice Guidelines 08/64. The objective of the Committee is to enhance the corporate governance of Council through the provision of independent oversight, review and advice. The Committee has no executive powers and assists Council by providing independent assurance and critical review on the organisation's governance, financial, risk control and compliance frameworks.

The Committee's Charter includes a requirement to report annually to Council on the Committee's achievements. Accordingly, the Committee is pleased to present this report on its activities for the 2015-2016 financial year.

Management by Council of governance and risk activities is a crucial requirement for business success. The Audit Committee continues to guide Council in managing risk as an integral part of management practices and as a safe guard to ensuring continuity of business.

Audit Committee structure

The Committee has four voting members. Two are independent members in accordance with the Division of Local Government's Best Practice Guidelines, and two Councillors represent Council on the committee with an additional Councillor appointed as a sub delegate. Non-voting members include the General Manager, Group Managers, Financial Services Section Manager and the Governance Manager. Representatives from Council's internal audit provider, PKF Lawler and external audit provider, Pitcher Partners also attend meetings as required.

Audit Committee members 2015-2016 are:

Mr David Wheeler (independent Chair)
Mr Ben Niland (independent member)
Councillor Ken Jordan
Councillor Chris Doohan
Councillor John Morello (sub delegate)

At the Ordinary Council meeting held 8 March 2016 (Min No. 055), Council resolved to extend the term of the independent Audit Committee members to 31 December 2016 given the pending merger proposal with either Newcastle City Council or Dungog Shire Council.

ITEM 9 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2015-2016.

Committee meetings were held on the following dates:

- 22 October 2015
- 18 February 2016
- 26 May 2016

The budget for the Audit Committee enables a minimum of four meetings (held quarterly) per year; however, the actual number held is dependent on the committee and the extent of issues awaiting review.

Attendance at the three (3) meetings held to 30 June 2016 is as follows:

David Wheeler	1
Ben Niland	3
Councillor Jordan	3
Councillor Doohan	2
Councillor Morello (sub delegate)	1
General Manager	3
Group Manager Corporate Services (or representative)	3
Group Manager Facilities and Services (or representative)	3
Group Manager Development Services (or representative)	2
Financial Services Section Manager	3
Governance Manager	3
Internal Auditor representative	3
External Auditor representative	0

It should be noted that representation by the external auditor is only required at key stages of the external audit scope. The external auditors were unable to attend during the period 2015-2016 with the 2014-2015 Annual Financial Statements presented to the Audit Committee by Finance Manager, Tim Hazell.

Cost of audit activities to Council

The following provides an estimate of the cost of audit related activities to Council for 2015-2016:

Internal Audit contract fees	\$27,506
2015-2016 External Audit fee	\$58,900
Audit Committee attendance fees	\$800
Sundry expenses (meeting costs, etc)	\$288
TOTAL	\$87,494

Engagement with external auditors

The Audit Committee undertakes a general oversight role of the external auditor's audit scope, approach and reliance on internal audit activity. The Committee also monitors management's implementation of recommendations identified within the external auditor's management letters.

The Committee also has a role in the oversight of Council's financial statements. During the year the Committee considered Council's 2014-2015 financial statements and external audit focus areas.

Risk management

A key role of the Committee is to review and monitor the effectiveness of the key controls in place to manage and mitigate the risks encountered by Council. These matters include operational, strategic, financial and fraud control environments, as well as ensuring adequate insurance coverage and business continuity planning.

During 2015-2016, the Committee considered the high priority risks facing the organisation and monitored risk treatment plans established by management to reduce or mitigate those risk exposures.

Current high priority risks include:

Business activities:	Ineffective project management.
Climate change:	Sea level rise and extreme weather events.
Environmental and public health:	Failure to implement the asbestos management plan.
Environmental and public health:	Inability to protect and maintain the natural and built environment, including the bio diversity, liveability and natural systems within the LGA.
Environmental and public health:	Ground water may become contaminated by pollution at RAAF Base.
Financial:	Response and recovery stages of a natural disaster may not be fully funded by state/federal government.
Financial:	Inappropriate procurement and contract management processes.
Information technology:	Inadequate data management.
Property and Infrastructure:	Failure to adequately maintain assets.
Reputation:	Inappropriate or unauthorised use of on-line media by staff or external parties.
Reputation:	Failure to maintain CCTV systems in public places.
WHS:	Inconsistent application of safety leadership across Council.

Legal matters

By nature of its legislative compliance role, Council has a history of various legal actions over time. Legal matters can have a significant impact on the financial and resource capacity of the organisation. Management considers the merits of all legal action and seeks to mediate and settle matters where appropriate. The committee has an oversight role on key litigation and compliance matters before the Council.

During 2015-2016 the committee considered the following legal matters:

- Lawrence Waterhouse Pty Ltd (in liquidation) – Council seeking to recover significant legal costs awarded by the Courts.
- Shoal Bay Developments & Snoogal – Land & Environment Court – Appeal against refusal to grant consent to section 96 modification issued by Council.
- South Tomaree Community Action Group v Landcom and JRPP – Appeal against decision of JRPP to grant consent to Fishermans Bay subdivision.
- R v Kavarren Homes Pty Ltd – Court elected Penalty Infringement Notices, Development not in accord with consent and Pollute Waters.
- Bowtell v PSC ("Gardenland") – Land & Environment Court Appeal – EPA refused to provide General Terms of Approval (GTAs) for this development application and Council required to refuse to grant consent.
- Clippers Anchorage v PSC – (Soldiers Point Marina) – Land & Environment Court Appeal – Council refused to grant consent to development application for expansion of the marina.

Internal audit

The Audit Committee identified 11 auditable areas across Council for the period of the Internal Audit plan 2015-2016.

The table below lists internal audit reports examined by the Audit Committee at the three meetings held since 1 July 2015:

Report	Risk Rating	Area/s of Council where applicable
Development application compliance	High/Low	Governance/Development Assessment and Compliance
<p>The Development Application compliance audit identified a number of areas for improvement for Council. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Review the Working Together Policy to assess the appropriateness of the scope and timing of information currently communicated to Councillors. • Implement an annual Councillor sign off of their understanding of the Working Together Policy. • Continue to increase community awareness relating to the reduction in 'red tape' and shorter processing times through the e-Planning project. • Establish a compliance precedents database that allows Council staff to search for prior compliance matters. • Review all policies identified as due for review. 		
Code of Conduct	Low	Governance

Report	Risk Rating	Area/s of Council where applicable
The Code of Conduct audit identified that Council is currently employing best practice procedures and did not identify any potential areas for improvement.		
Complaints Handling	Medium/Low	Governance
<p>The Complaints Handling audit identified a number of areas for improvement for Council. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Investigate and implement the findings of the integration investigation to improve the reporting and monitoring of complaints. • Develop a standard complaint template to be available at the front counter for groups identified in the audit report. • Develop a complaint handling fact sheet. • Continue to investigate the electronic lodgement of complaints via Council's website. • Identify staff to attend complaints handling training. • Nominate staff to attend in-house training facilitated by the NSW Ombudsman. 		
Flexitime	Medium/Low	Human Resources/Business Systems Support/ Finance
<p>The Flexitime audit identified a number of areas for improvement for Council. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Develop a report for regular distribution to group and section managers. • Undertake a review of information contained within the employee Masterfile to ensure it is reflective of current employment contracts. • Undertake a review of employees currently receiving flexitime arrangements to ensure this is in accordance with policy, the Enterprise Agreement and employment contracts. • Conduct a review and implement a consistent approval process. • Investigate the possibility of using online leave process to manage requests. • Investigate the feasibility of additional staff to be responsible for cross-checking the data entry input into Access. • Continue to transition all employees onto online timesheets that are integrated with the payroll system. • Review current procedures in place regarding timesheet approval. • Implement a policy whereby payroll cannot be processed without all timesheets signed as approved. • Continue phased transition to the automated Authority system. 		
IT Governance Review	High/Medium	Business Systems Support
<p>The IT Governance review audit identified a number of areas for improvement for Council. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Perform regular reviews of electronic key access logs. • Implement a formal 'change management' process. • Review ICT Asset Management Directive. • ICT Asset Management roll out into Council's existing asset management framework. • Implement a log aggregation and monitoring system. 		

Action plans to address the Internal Audit findings have been established by management and are maintained by the Committee.

ITEM 9 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2015-2016.

The 2016-2017 audit schedule will involve an assessment of the high priority corporate risks and completion of the activities scheduled below.

Area of activity	Timing for completion
Private swimming pool compliance	October 2016
Environmental management	October 2016
Section 94	October 2016
Data management framework	February 2017
National heavy vehicle accreditation scheme	February 2017
RMS Drives	February 2017
Business Continuity	May 2017
Records and data management	May 2017
Purchasing and procurement (including accounts payable)	May 2017
CCTV management	Date yet to be confirmed
Risk management – fit for purpose	Date yet to be confirmed
Records and data management	Date yet to be confirmed
Asset management	Date yet to be confirmed
Business continuity	Date yet to be confirmed
Project management	Date yet to be confirmed

General activities of the Audit Committee

The following represents a summary against the Audit Committee Charter of matters discussed at the Committee meetings held during 2015-2016:

TASK	22/10/2015	18/02/2016	26/05/2016
Receive presentations and reports from auditors			
Internal	√	√	√
External	√		
Review implementation of internal and external audit recommendations	√	√	√
Review risk register actions and implementation	√	√	√
Review Fraud and corruption prevention plan		√	
Review Risk management framework		√	
Approve annual internal audit program		√	
Determine Audit Committee meeting schedule	√		√

TASK	22/10/2015	18/02/2016	26/05/2016
Review Audit Committee's performance			
Review Audit Committee Charter			
Review and approve the Audit Committee's annual report to Council	√		
Review annual financial statements	√		

Conclusion

The Committee looks forward to the opportunity to continue to provide input to Council's governance and audit processes over the coming year.

Recommendations:

- 1) Endorse the Audit Committee 2015-2016 Annual Report as presented.

David Wheeler
CHAIR – AUDIT COMMITTEE

Communication method

- ✓ Post on myPort
 - ✓ Post on PSC website
 - ☐ Memo to section managers
 - ☐ Presentation to SLT
 - ☐ Snapshot article
 - ☐ All staff memo from General Manager
 - ☐ 2 way conversation with Councillors
 - ☐ Councillors weekly PS newsletter
 - ✓ Report to Council
 - ☐ Media release
 - ☐ Other
-

ITEM NO. 10**FILE NO: 16/451409
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 22 November 2016.

No:	Report Title	Page:
1	Eplanning	86
2	LGNSW Annual Conference 2016 Feedback	97
3	Cash and Investments held as at 31 October 2016	99
4	Quarterly Report Of Mayor And Councillors Expenses 2016 - 2017	103

**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

346	Councillor Chris Doohan Councillor Ken Jordan It was resolved that receive and notes the Information Papers listed below being presented to Council on 22 November 2016. <table><tr><th>No:</th><th>Report Title</th></tr><tr><td>1</td><td>Eplanning</td></tr><tr><td>2</td><td>LGNSW Annual Conference 2016 Feedback</td></tr><tr><td>3</td><td>Cash and Investments held as at 31 October 2016</td></tr><tr><td>4</td><td>Quarterly Report Of Mayor And Councillors Expenses 2016 - 2017</td></tr></table>	No:	Report Title	1	Eplanning	2	LGNSW Annual Conference 2016 Feedback	3	Cash and Investments held as at 31 October 2016	4	Quarterly Report Of Mayor And Councillors Expenses 2016 - 2017
No:	Report Title										
1	Eplanning										
2	LGNSW Annual Conference 2016 Feedback										
3	Cash and Investments held as at 31 October 2016										
4	Quarterly Report Of Mayor And Councillors Expenses 2016 - 2017										

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 16/448254
RM8 REF NO: PSC2011-03064**

EPLANNING

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

BACKGROUND

The purpose of this report is to provide an update to Councillors in relation to eplanning.

In the Development Assessment and Compliance (DAC) sustainability review in late 2014, it was identified that DAC section resources could be better distributed/aligned to ensure we operated a little smarter and more efficiently. Rather than continuing to invest in more planning staff to operate in the same way we always had, the decision was made to remove a Senior Planner from the DAC structure and replace it with a Business Improvement Officer (E Services) to focus on process improvement and eplanning. Two years on, we are really seeing the benefits of that investment.

The role, initially created to service DAC, has developed and with the success of the eplanning project has been able to service many areas of Council and is a fantastic asset to the organisation. As is evident in the data throughout this report, focusing on process improvement, rather than solely technical planning staff resources, we have been able to meet and exceed performance and customer service targets.

The national eplanning steering committee define eplanning as 'the method of encompassing business process models, systems, services and technologies which support the operation of a holistic and efficient planning system'.

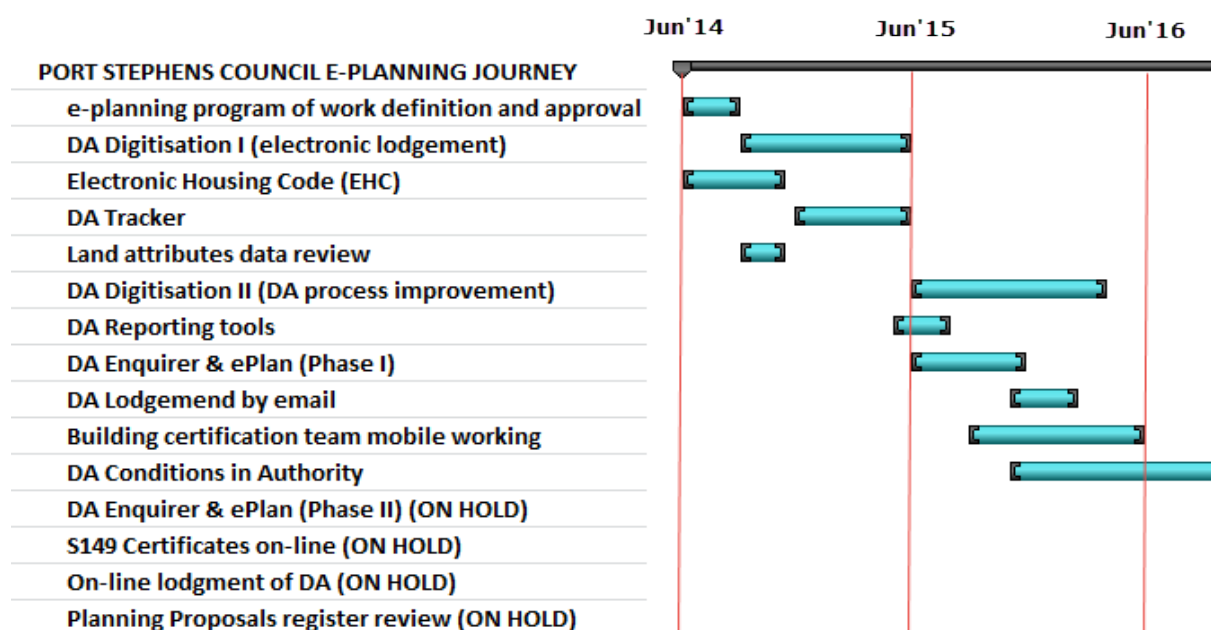
The NSW government has been investing significant resources into eplanning in NSW in recent years. The NSW government's eplanning program seeks to improve access to the NSW planning system, making it more transparent and easier to use. Eplanning is transforming the traditional paper based and face to face interactions to an online environment enabling people to access planning services from anywhere at any time. The program includes online tools to help with planning and development in NSW.

The state government program for eplanning however has been much slower than anticipated and to date have not able to overcome significant issues such as copyright etc. As a result individual Councils, including Port Stephens Council, progressed their own eplanning programs and the results of pursuing this have been exceptional. Other Councils frequently contact Port Stephens Council for advice in the eplanning space as we are considered industry leaders in this area now.

MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016

Port Stephens Council is committed to improving the planning, development and construction processes by using technology and innovation, our customers expect and appreciate this. This is now precisely what our e-planning service offers. Our website directs customers to online tools, tips, information and procedures that will enable them to have an easier, quicker and more efficient planning experience with their local council.

The eplanning journey is outlined below in the project road map. This road map was developed in line with technological capabilities, operational and customer needs. The eplanning program is divided into 3 distinct phases/stages (see further explanation below). We have currently completed phase 2.



PHASE 1:

DA Digitisation (Part i) (electronic lodgement): This was the cornerstone project for the entire e-planning system. Council systems and related processes were modified to enable applicants to lodge building and development applications (DA) in electronic format and to entirely manage the assessment of these applications without the need of paper (including internal and external referrals). A central electronic record has become the 'source of truth' of any building and development application making Council compliant with our "record management policies".

A new piece of software (Trapeze) was implemented to facilitate the electronic assessment and stamping of documents. Equally important each particular task in the DA assessment process is now registered (start and finish times) allowing us to confidently rely on our data to take business decisions. The DA records being digitised removed what was identified as an 'extreme' risk on the DA internal audit report.

Electronic Housing Code (EHC): Council adapted its systems and process to be able to integrate with the new NSW Department of Planning and Environments system to lodge Complying Development Certificate (CDC) applications on-line. For a range of external reasons, the EHC has not been overly successful. At Port Stephens Council, we deliberately don't 'push' or market CDCs over DAs as we can assess a DA just as efficiently as a CDC and it results in a more robust determination.

DA Tracker: DA tracker is an online portal where the public can view the status of submitted development applications under assessment. Prior to the eplanning program of works commencing, Port Stephens Council already had a DA tracker, however its functionality was basic and the industry told us it often created more confusion rather than positives. The previous DA tracker only provided information in regards to the crude status of an application and no information or documents are able to be viewed.

Listening to the industry, council implemented a new state-of-the-art system to allow the community to track on-line the status of any lodged building and development application with Council. PSC was the first council in Australia to implement this particular piece of software.

Within this project Council's policy on publishing copyrighted documents was reviewed to allow the upload into our website documents subject to copyright during DA exhibition periods. The new DA tracker is very well patronised by website users with the over 2,500 public views per month.

Land attributes data review: Data within our property system regarding land attributes and constraints were reviewed for all properties aligning this data with our GIS system. This provides an additional level of comfort when sharing with the public such critical data. This was a large body of work that required liaison with multiple areas of Council.

PHASE 2:

DA Digitisation (Part ii) (DA process improvement): This improvement initiative continued to adapt our system and processes to the new digital processes. Review of workflows and dozens of templates, application forms and reports were put in place all to support the new paperless DA world.

DA Reporting tools: a new internal web-based system to monitor the status of applications and performance of officers was implemented. DAC previously used spreadsheets and other manual systems to collect and report on key performance indicators (KPIs) and operational plan targets. This is now automated and from one system, ensuring data accuracy. This has the capacity now to alleviate many hours work/duplication for internal referrals.

DA Enquirer & ePlan (Phase I): A brand new system that allows the community to easily view on-line the planning constraints of a particular property, its development potential/capacity and the DA lodgement requirements for a particular development on the property. It also provided an easier way to browse our main development controls (DCP and LEP) in a web based format, rather than the hard to read, legislative based structure.

DA lodgement by email: Process and systems were adapted to allow applicants to lodge building and development applications via email. Council Legal Services were involved to approve the fact that applications would then include scanned signature rather than originals. There has been a significant take up of this approach.

Previously, applicants would prepare the DA documentation in a soft / electronic format then print out all the documents to lodge with Council. To date, most Councils in NSW still require both hard and soft copy DA documentation to be submitted at lodgement.

With Port Stephens Council going completely electronic, one of our key customers advised we have saved their clients combined over \$20,000 annually in printing and posting costs. This is in addition to the environmental savings through using less paper.

Building certification team mobile working: A fleet of new personal computers that can be used as both tablet and desktops were deployed within the Building and Developer Relations team. A solution was put in place using software known as 'Objective Connect' for officers to be able to access electronic documents during on-site inspections with or without internet connectivity. This has achieved significant time savings and improvements with officers not working through larger paper files on construction sites.

DA Conditions in Authority: A consistent and predefined set of development assessment conditions have also been established. They are loaded within our assessment system to enable the automatic generation of "development consents". This contributes to efficiencies but more importantly a consistent level of service with development application notice of determinations being consistent irrespective of which officer completes the assessment.

PHASE 3:

The following projects were put on hold due to the council amalgamation news in December 2015 or they have been identified to be implemented pending a decision.

Full On-line lodgement of DAs: This project was put on hold due to the announcement made by the Department of Planning regarding the imminent implementation of a common portal for NSW for the lodgement of DAs on line.

Currently this portal is scheduled to be implemented throughout 2017 progressively across different Councils and stages, however based on our observations over the last 3 years we remain sceptical these time frames will be achieved.

The decision has been made to continue our eplanning program regardless, the only difference being the DAs are emailed in as opposed to uploaded via a portal and no online payments are currently made.

DA Enquirer & ePlan (Phase II): A second iteration/update to improve the system and functionality.

S149 Certificates on-line: An extension module that will allow the community to request s149 certificates online together with an extensive review on how the data that supplies these certificates is maintained.

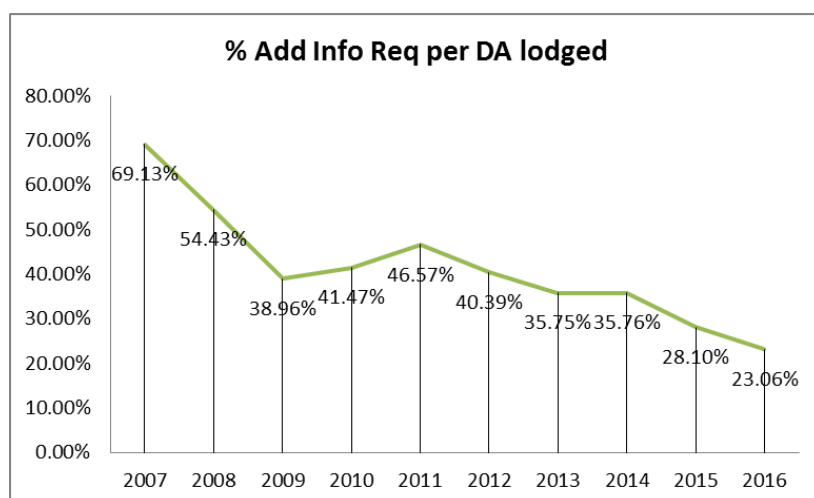
Planning Proposals register review: A project to review the current "Planning Proposal" register and the process behind it to make it entirely useful for all stakeholders. Many Port Stephens Council customers have queried why the planning proposal (rezoning applications as they were once known) can't be viewed and accessed exactly like DAs on DA tracker.

Web Chat: Port Stephens Council already operates a town planning advice or duty service that is open normal business hours. With web chat we would propose to take our customer service to the next level and be able to provide people with town planning and development advice from the comfort of their own home after hours.

Web chat could be staffed until 10pm. There would be various technological and human resource issues to resolve with this method of operation, but in benchmarking with other industries / private companies it is very well used by customers and an after-hours town planning web chat service would be a first for local government that we are aware of.

With the advancement in the eplanning program has come the ability to report on and accurately tell the story of our improvements over the course of the journey. The following, graphs followed by the commentary explain the results of the eplanning program.

Percentage of further information requests

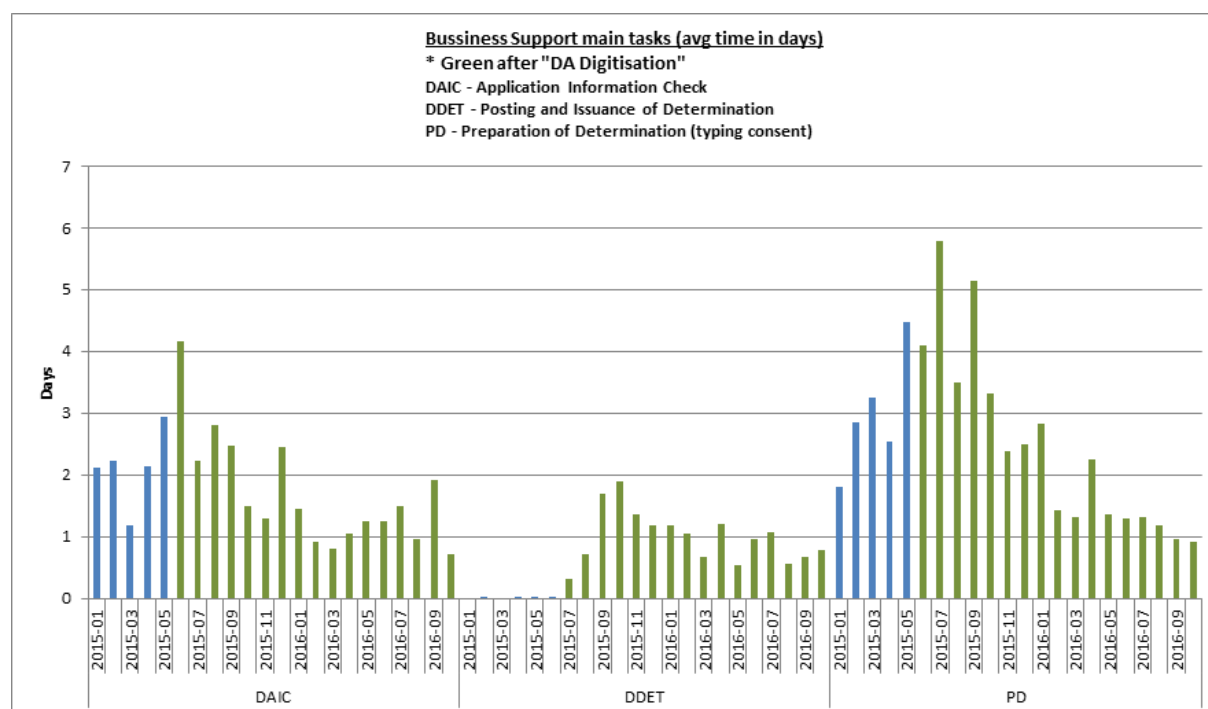


When a DA is lodged, in theory it should have all the information for the Council as the consent authority to make a determination. This refers to the quality in and quality out paradigm in that a properly made application is able to be assessed more efficiently.

Since the implementation of DA digitisation and email lodgement, combined with some structural amendments and process improvements, we have been able to easily identify quality flaws and improve quality.

In addition, this data indicates the pragmatic approach of staff seeking to resolve issues over the phone rather than formal further information letters for minor issues. In almost 8/10 cases when a DA is lodged in Port Stephens Council it is processed efficiently, electronically with no requests for more information.

Business Systems Support Team – Electronic DA Tasks



The above graphic shows the average time in days (and subsequent improvements) in relation to 3 tasks in the Business Support and Administration team before and after eplanning.

When a DA is lodged it is checked for adequacy as soon as possible. This has decreased from 2 days under a hard copy environment to 0.5 day in the eplanning world.

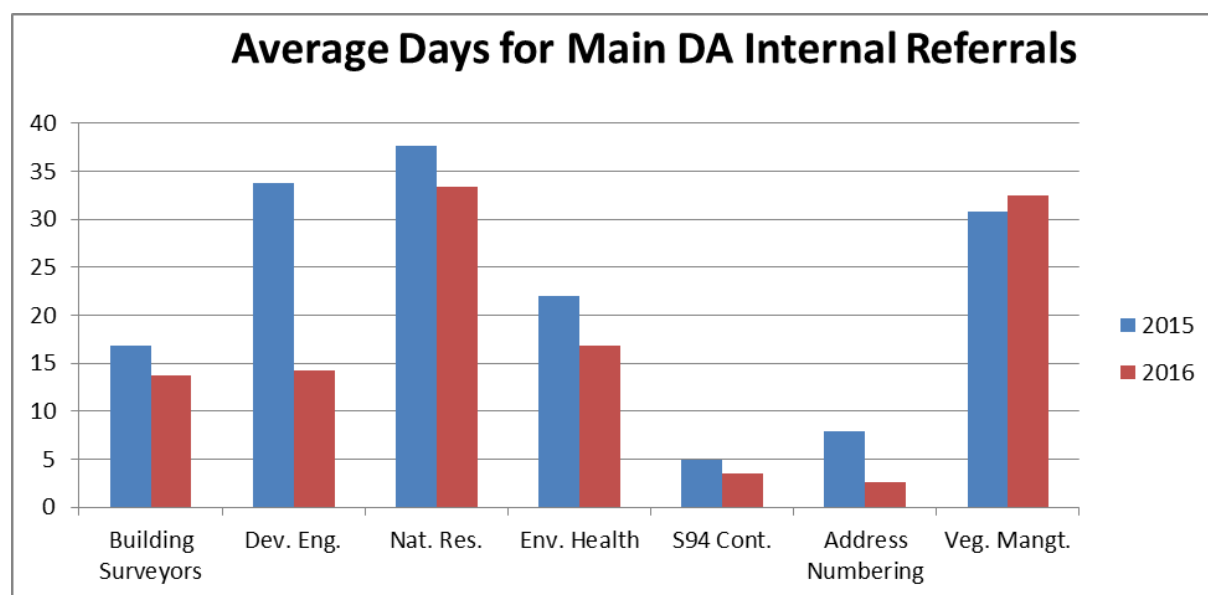
When a DA is finished being assessed and packaged it is then issued to the customer. Data doesn't exist for this pre eplanning but we estimate it was at least 3 days which is now down to 0.5 day in the eplanning world.

When a DA has been assessed by a planner or building surveyor the process of stamping the plans and other tasks like government agency and neighbours responses/letters are completed. This has decreased from 3 days (average) under a hard copy environment to 0.9 day in the eplanning world.

In reviewing the data the cycle is evident in that the initial eplanning environment we went backwards until it became 'second nature' and all training completed, now the full benefit is being realised.

A total of 6.1 days has been saved off the DA administrative process alone which for DA customers time equals money.

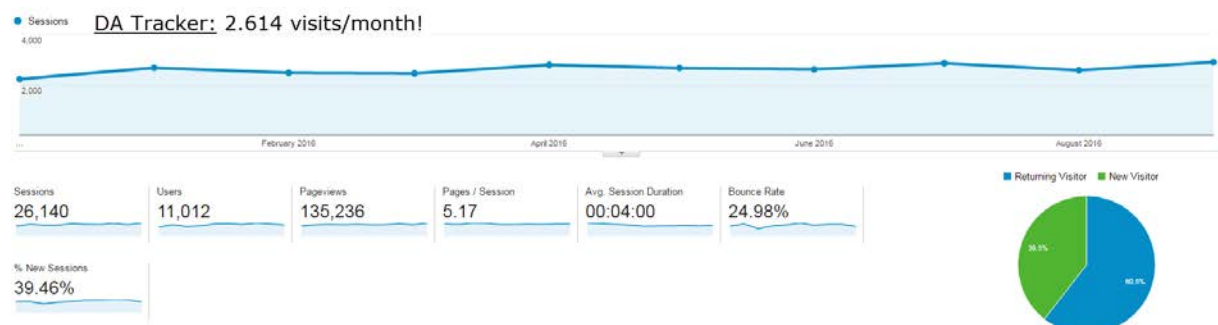
Average time for DA internal referrals



When a DA is going through the assessment process it is common practice for advice to be received from other specialist disciplines e.g. engineering or ecology. It is critical that DA internal advice is obtained in a prompt manner otherwise it results in bottlenecks in the entire DA system and accordingly impacts on Council's reputation and customer satisfaction.

With eplanning now advanced we can easily and accurately track our internal referral advice timeframes with a view to monitor the health of the overall system. This was previously done manually. The service level agreements (SLAs) commitments for internal referrals are 21 days. Referrals are now completed via electronic tracking only and in the cases of development engineering, environmental health, address numbering and building advice, this has resulted in large improvements to down well below the KPI.

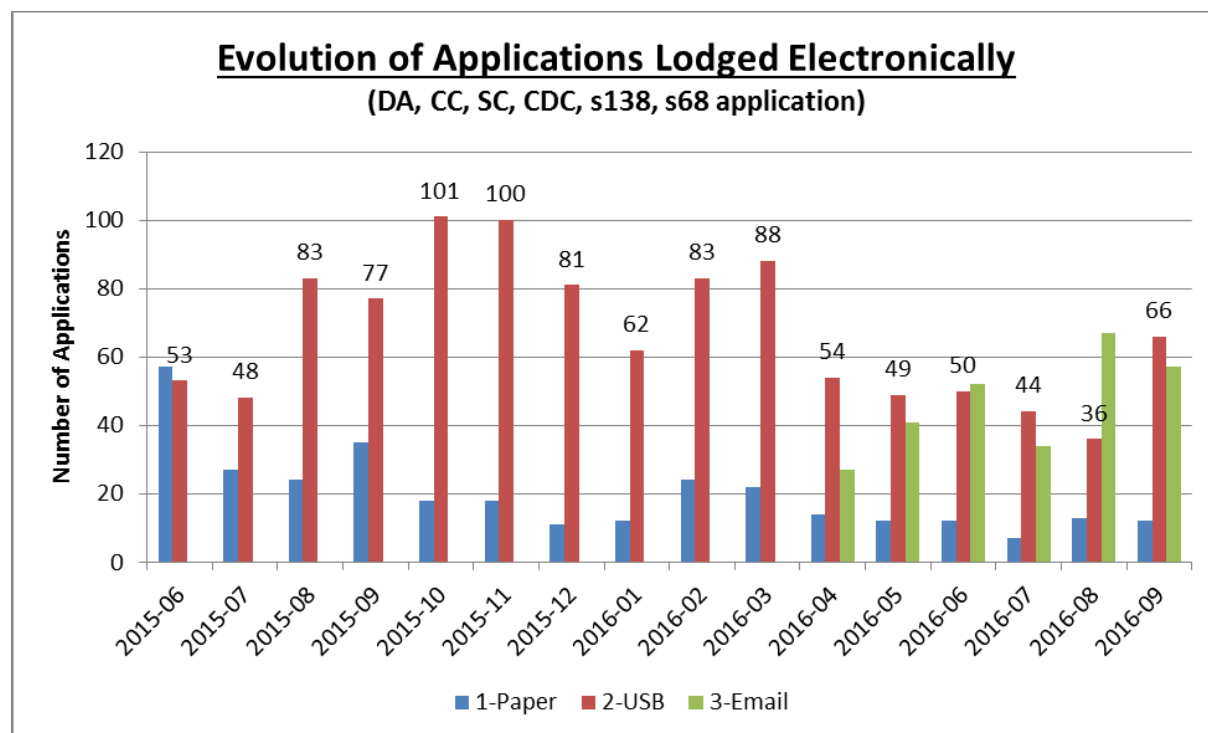
DA tracker customer usage



DA tracker is immensely popular with our customers. In this instance, the 900 odd DA applicants annually and thousands of people that lodge submissions to development applications during the exhibition period.

Currently we are averaging 2614 DA tracker usages monthly, which is one of the reasons why we embarked on the eplanning journey, to engage the public in the planning process and to facilitate full transparency and access to information. This also saves hundreds of phone calls.

Format of applications submitted

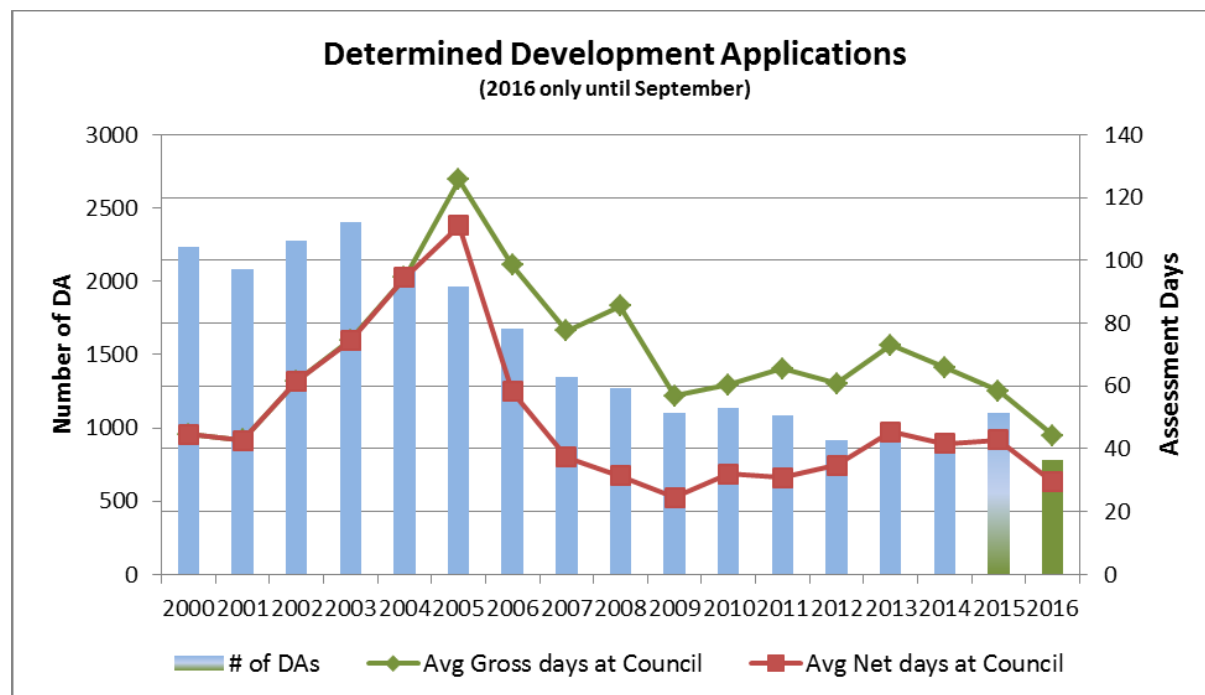


The above graphic depicts the transition of DA formats submitted.

Prior to July 2015 all DAs would be hard copy only. We then liaised with our customer and introduced the USB method of submission. This is critical as we knew the industry would not change overnight and the changes have to be well

communicated and incremental. We are currently at the point where over 90% of DAs are submitted electronically and those that are not, we scan for an appropriate fee.

Gross and net DA times since 2000



The two key performance metrics with development assessment is both quality and timeliness. Our quality metrics (legal appeals, s96s etc.) are constant and continue at acceptable levels, quality is also assumed with development assessment, it's an expectation.

Timelines are shown over a 16 year period above. The direct correlation between eplanning and faster DA determinations can be drawn from the above both in gross and net times.

Gross DA times are the lowest they have been since data was collected. In addition, the net DA times are also the best they have been on record. This is a sharp trend downwards since the implementation of eplanning.

MERGER PROPOSAL IMPLICATIONS

There are no direct merger implications.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2

**FILE NO: 16/443919
TRIM REF NO: PSC2016-01435**

LGNSW ANNUAL CONFERENCE 2016 FEEDBACK

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

BACKGROUND

The purpose of who report is to provide feedback from the General Manager and Councillors that recently attended the Local Government NSW Annual Conference 2016, held on 16-18 October 2016 at WIN Entertainment Centre, Crown and Harbour Streets, Wollongong.

Councillors Chris Doohan, Paul Le Mottee, Sally Dover, the General Manager and Group Manager Corporate Services attended the 2016 NSW Local Government (LGNSW) Conference held in Wollongong.

Until recently LGNSW represented all NSW Local Councils (North Sydney Council has recently voted to leave Local Government NSW) and holds an annual conference where members are able to vote on issues affecting Local Government.

The issue of council mergers was raised early, as an emotionally contested motion to give the newly appointed administrators the right to vote on policy motions at the conference divided the room. A technicality that required all members to be financial and registered by 1 March 2016, effectively excluded the administrators, most of whom assumed their roles shortly after the council mergers were announced in May.

After a show of hands proved inconclusive, the delegates were asked to record their votes using electronic handsets. The administrators won the right to vote by 119 votes to 115.

The remainder of the motions voted on were not as emotionally charged, the issues not significant and the voting concluded early.

The afternoon session commenced with an address from the Hon Mike Baird MP, Premier of NSW. Questions from the floor commenced with queries on the council amalgamations. Mr Baird responded saying that the reform had already delivered "significant progress". The Premier emphasised his position had not wavered in the face of legal challenges to the mergers. He said that councils were entitled to use every right pursuing legal challenges but, ultimately, he is determined to continue to deliver the benefits of the amalgamations. The benefits he mentioned included \$4 million in savings by the newly formed Northern Beaches Council in its first 150 days, and \$250,000 saved on roadwork tenders by the new Georges River Council.

The questions then moved on to other standard local government issues, including funding for public libraries, transport concerns in western Sydney and the struggling economies in rural and regional cities.

On the Tuesday morning Minister Toole MP, Minister for Local Government addressed the delegates. Similar questions were put to him as were put to the Premier with Councillor Doohan asking specifically about the Port Stephens/Dungog – Port Stephens/Newcastle merger proposals. Councillor Doohan expressed his and the other Port Stephens Councillors' concerns about the adverse impact that the delay on the merger decision was having on Port Stephens Council staff and the Port Stephens community. The Minister said that he would be waiting for the outcome of the legal challenges to reassess all the remaining mergers.

The concurrent session after lunch on 'Capacity Building and Diversity' was broken down into three sections with Wayne Wallis speaking on Developing Council's Workforce. Wayne outlined the steps that Port Stephens Council had taken in developing the 'culture' and the resilience in the organisation and the importance PSC placed on recruiting the 'right people into the right roles'.

Kitty Chiller, Chef de Mission, was the final keynote speaker of the conference and she outlined the significant challenges that she faced in the lead up to and throughout the recent Rio Olympic Games. She spoke about being 'One Team' and that no one was more important than the next. She spoke about resilience under the extreme and constant scrutiny and having to manage the expectations of a nation. It was a very inspiring address.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

**FILE NO: 16/448352
RM8 REF NO: PSC2006-6531**

CASH AND INVESTMENTS HELD AS AT 31 OCTOBER 2016

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

BACKGROUND

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

MERGER PROPOSAL IMPLICATIONS

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

ATTACHMENTS

- 1) Cash and Investments held at 31 October 2016.
- 2) Monthly cash and investments balance October 2015 to October 2016.
- 3) Monthly Australian Term Deposit Index October 2015 to October 2016.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

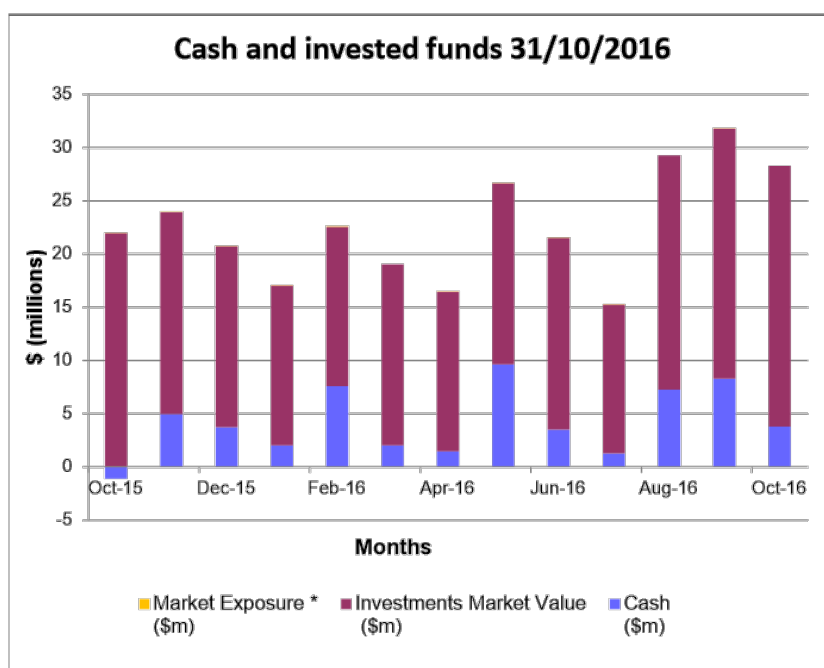
Nil.

ITEM 3 - ATTACHMENT 1 CASH AND INVESTMENTS HELD AT 31 OCTOBER 2016.
CASH AND INVESTMENTS HELD AS AT 31 OCTOBER 2016

ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
BANK OF QUEENSLAND	BOQ	A-	TD	3.00%	168	2-Nov-16	2,000,000	2,000,000
BANK OF SYDNEY	CURVE	NR	TD	3.15%	259	16-Nov-16	2,000,000	2,000,000
BANK OF QUEENSLAND	BOQ	A+	TD	3.00%	195	14-Dec-16	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK	NAB	AA-	TD	2.63%	112	14-Dec-16	2,000,000	2,000,000
ME BANK	ME BANK	BBB+	TD	2.70%	90	21-Dec-16	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK	NAB	AA-	TD	2.69%	98	11-Jan-17	2,000,000	2,000,000
POLICE CREDIT UNION LTD (SA)	FARQUHARSON	NR	TD	3.05%	231	11-Jan-17	1,000,000	1,000,000
ANZ	ANZ	AA-	TD	2.70%	147	25-Jan-17	2,000,000	2,000,000
ANZ	ANZ	AA-	TD	2.70%	161	8-Feb-17	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK	NAB	AA-	TD	2.71%	126	22-Feb-17	2,000,000	2,000,000
AMP BANK	CURVE	A+	TD	2.75%	174	8-Mar-17	1,500,000	1,500,000
COMMONWEALTH BANK	CBA	AA-	TD	2.61%	154	22-Mar-17	1,000,000	1,000,000
HUNTER UNITED EMPLOYEES CU	RIM	NR	TD	2.90%	181	5-Apr-17	1,000,000	1,000,000
AMP BANK	FARQUHARSON	A+	TD	3.00%	364	17-May-17	2,000,000	2,000,000
SUB TOTAL (\$)							23,500,000	23,500,000
OTHER INVESTMENTS								
ANZ ZERO COUPON BOND	ANZ	AA-	BOND	0.00%	9yrs	1-Jun-17	1,017,877	1,003,087
SUB TOTAL (\$)							1,017,877	1,003,087
INVESTMENTS TOTAL (\$)							24,517,877	24,503,087
CASH AT BANK (\$)							3,786,112	3,786,112
TOTAL CASH AND INVESTMENTS (\$)							28,303,989	28,289,199
CASH AT BANK INTEREST RATE				1.90%				
BBSW FOR PREVIOUS 3 MONTHS				1.79%				
AVG. INVESTMENT RATE OF RETURN				2.70%				
TD = TERM DEPOSIT								
*STANDARD AND POORS LONG TERM RATING								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
T HAZELL								

**ITEM 3 - ATTACHMENT 2 MONTHLY CASH AND INVESTMENTS BALANCE
OCTOBER 2015 TO OCTOBER 2016.**
CASH AND INVESTMENTS BALANCE

Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure * (\$m)	Total Funds (\$m)
Oct-15	1.092	21.968	0.050	20.926
Nov-15	4.959	18.989	0.029	23.977
Dec-15	3.759	16.989	0.029	20.776
Jan-16	2.043	14.989	0.029	17.061
Feb-16	7.589	14.989	0.029	22.607
Mar-16	2.038	16.984	0.034	19.055
Apr-16	1.469	14.990	0.028	16.487
May-16	9.650	16.990	0.028	26.668
Jun-16	3.526	17.990	0.028	21.544
Jul-16	1.277	13.998	0.020	15.294
Aug-16	7.269	21.998	0.020	29.287
Sep-16	8.289	23.498	0.020	31.807
Oct-16	3.786	24.503	0.015	28.304

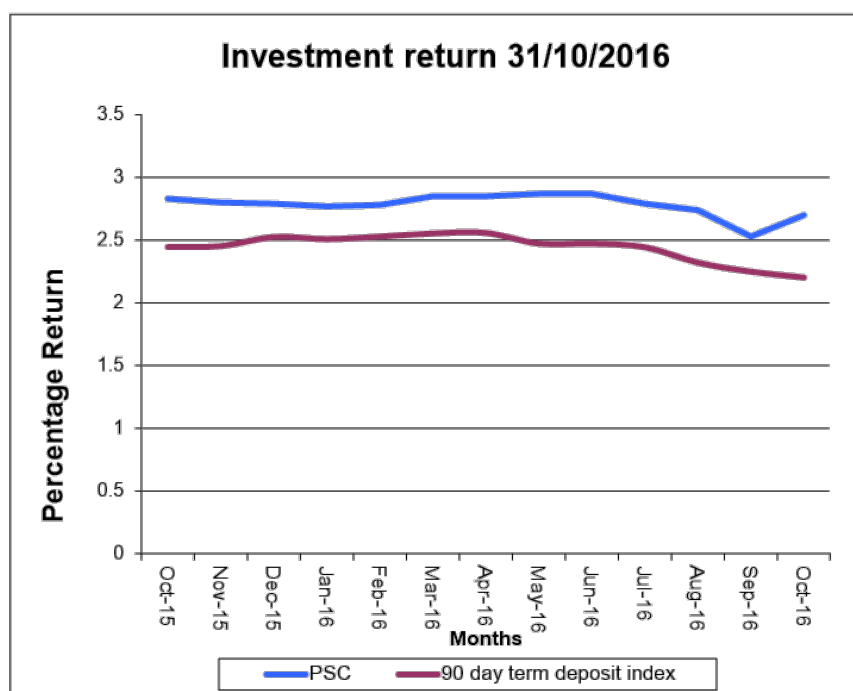


*market exposure is the difference between the face value of an investment and its current market value.

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

AUSTRALIAN TERM DEPOSIT ACCUMULATION INDEX

Date	90 day term deposit index	PSC
Oct-15	2.4458	2.83
Nov-15	2.4535	2.80
Dec-15	2.5259	2.79
Jan-16	2.5089	2.77
Feb-16	2.5293	2.78
Mar-16	2.5539	2.85
Apr-16	2.5578	2.85
May-16	2.4730	2.87
Jun-16	2.4727	2.87
Jul-16	2.4442	2.79
Aug-16	2.3210	2.74
Sep-16	2.2495	2.53
Oct-16	2.2025	2.70



ITEM NO. 4

**FILE NO: 16/436082
RM8 REF NO: PSC2015-02258**

QUARTERLY REPORT OF MAYOR AND COUNCILLORS EXPENSES 2016 - 2017

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

BACKGROUND

The purpose of this report is to provide the quarterly expenses of the Mayor and Councillors which have been incurred in accordance with the Payment of Expenses and Provision of Facilities to Councillors policy during the period of July, August and September 2016.

The tables at **(ATTACHMENT 1)** include the total number of meetings attended during this period.

MERGER PROPOSAL IMPLICATIONS

There are no implications.

ATTACHMENTS

- 1) Councillor Expenses Quarterly Report - July, August and September 2016.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 22 NOVEMBER 2016

ITEM 4 - ATTACHMENT 1 COUNCILLOR EXPENSES QUARTERLY REPORT - JULY, AUGUST AND SEPTEMBER 2016.

Councillors Expenses Quarterly Report - July, August and September 2016

			Cy Bruce Mackenzie	Cy Chris Bradman	Cy Geoff Hingle	Cy John Murdoch	Cy John Xell	Cy Ken Jordan	Cy Paul Le Nodde	Cy Peter Eater	Cy Sally Power	Cy Steve Tucker	TOTALS
Total Council Meetings Attended (6 held)			6	4	3	5	6	5	5	2	5	6	47
		Limits as per policy											
Councillor Mobile Rental	802.123		\$295.00	\$0.00	\$150.00	\$182.00	\$96.00	\$0.00	\$130.00	\$0.00	\$55.00	\$0.00	\$908.00
Councillor Mobile Calls	803.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Landline Phone Rental	804.123		\$0.00	\$0.00	\$166.00	\$0.00	\$0.00	\$0.00	\$46.00	\$0.00	\$0.00	\$0.00	\$312.00
Councillor Landline Phone Calls	805.123		\$0.00	\$0.00	\$27.00	\$96.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$123.00
Councillor Fax Rental	807.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Fax Calls	808.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Internet	806.123	\$60 per month	\$0.00	\$0.00	\$164.00	\$109.00	\$0.00	\$0.00	\$55.00	\$0.00	\$0.00	\$0.00	\$328.00
Councillor Intrastate Travel Expenses	801.123		\$0.00	\$0.00	\$482.00	\$1,095.00	\$1,849.00	\$253.00	\$183.00	\$0.00	\$645.00	\$824.00	\$5,352.00
Councillor Intrastate out of pocket expenses	809.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Travel (out of NSW)	810.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate out of pocket expenses	813.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Accommodation (out of NSW)	811.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Accommodation	812.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Conferences	814.123		\$123.00	\$0.00	\$0.00	\$273.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$396.00
Councillor Training	815.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Partner Expenses	816.123	Mayor \$1,000 per term \$600 per term	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Computers	817.123	\$3,000 per term	\$0.00	\$0.00	\$42.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$62.00	\$907.00	\$1,011.00
Councillor Stationary	818.123	No limit	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Awards/Ceremonies/Diners	819.123	\$100 per day	\$0.00	\$0.00	\$0.00	\$0.00	\$27.00	\$0.00	\$23.00	\$0.00	\$0.00	\$95.00	\$145.00
Councillor Child Care Costs	820.123	\$2,000 per term	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Communication Bundle	821.123	\$120 per month	\$0.00	\$0.00	\$0.00	\$0.00	\$527.00	\$800.00	\$0.00	\$0.00	\$339.00	\$360.00	\$1,846.00
Councillor Allowances		Mayor \$59,930 per annum. Crs - \$18,840 per annum	\$14,982.51	\$4,710.00	\$4,710.00	\$4,710.00	\$4,710.00	\$4,710.00	\$4,710.00	\$4,710.00	\$4,710.00	\$4,710.00	\$57,372.51
TOTALS			\$15,400.51	\$4,710.00	\$5,741.00	\$6,466.00	\$7,229.00	\$5,563.00	\$5,147.00	\$4,710.00	\$5,811.00	\$6,916.00	\$67,693.51

RESCISSION MOTIONS

NOTICE OF RESCISSION

ITEM NO. 1

FILE NO: 16/455010

RM8 REF NO: PSC2011-03571

WOMEN'S REFUGE HOUSING PROVISION IN RAYMOND TERRACE

COUNCILLOR: MAYOR BRUCE MACKENZIE
PAUL LE MOTTEE
STEVE TUCKER

THAT COUNCIL:

- 1) That Council rescind part 2 of its resolution of 8 November 2016 on Mayoral Minute Item No.1 'Women's Refuge Housing Provision in Raymond Terrace', Minute No. 323:
 - 2. That the facility be known as the Bruce MacKenzie Centre for victims of domestic violence.*
-

ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION

347	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council rescind part 2 of its resolution of 8 November 2016 on Mayoral Minute Item No.1 'Women's Refuge Housing Provision in Raymond Terrace', Minute No. 323: <i>2. That the facility be known as the Bruce MacKenzie Centre for victims of domestic violence.</i>
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ATTACHMENTS

- 1) Ordinary Council Minutes - 8 November 2016 - Mayoral Minute - Item 1.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES - 8 NOVEMBER 2016 - MAYORAL MINUTE - ITEM 1.**MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016****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**

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

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.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES - 8 NOVEMBER 2016 - MAYORAL MINUTE - ITEM 1.

MINUTES ORDINARY COUNCIL - 8 NOVEMBER 2016

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.

There being no further business the meeting closed at 6.33pm.