

Minutes 22 NOVEMBER 2011



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace, on 22 November 2011 commencing at 6.10pm.

PRESENT: Councillors R. Westbury (Mayor); G. Dingle; C. De Lyall; S. Dover; G. Francis; K. Jordan (Deputy Mayor); P. Kafer; B. MacKenzie; J. Nell; S. O'Brien; S. Tucker; F. Ward; General Manager; Corporate Services Group Manager; Facilities and Services Group Manager; Sustainable Planning Group Manager; Commercial Services Group Manager and Executive Officer.

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| | No apologies were received. |
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| 392 | Councillor Ken Jordan Councillor Glenys Francis |
| | It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 18 October 2011 and the Extra-Ordinary Meeting held on 8 November 2001 be confirmed. |

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| | No declarations of interest were received. |
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SUBJECT

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MOTIONS TO CLOSE

ITEM NO. 1

PSC 2006-1188

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER’S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) (ii) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary Meeting Council agenda namely **Tariffs and Charges 2012-2013 for Port Stephens Beachside Holidays Parks and Samurai Beach Resort.**
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include:
 - a) details of commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council.
- 3) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it may prejudice Council's commercial position and Council should have the same protection for its confidential commercial activities as that applying to other persons.
- 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

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| 393 | Councillor John Nell Councillor Ken Jordan |
| | It was resolved that the recommendation be adopted. |

ITEM NO. 2

FILE NO: T15-2011 PSC2005-266

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
 GROUP: GENERAL MANAGER’S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary Council agenda namely **T15-2011 Environmental Monitoring of Decommissioned Landfill Sites in Port Stephens Council.**
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **T15-2011 Environmental Monitoring of Decommissioned Landfill Sites in Port Stephens Council.**
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

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| 394 | Councillor John Nell Councillor Ken Jordan |
| | It was resolved that the recommendation be adopted. |

**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 1

FILE NO: PSC2011-02260

PLANNING PROPOSAL – ANNA BAY NORTH

**REPORT OF: BRUCE PETERSEN - MANAGER ENVIRONMENTAL & DEVELOPMENT
 PLANNING
 GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **Attachment 1** in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 to facilitate further investigations into the rezoning of the following allotments for residential development:
 - a. Lot 21 DP 718935, Lot A DP 360150, Lot 9001 DP 1039267, Lot 10 DP 884411, Lot 50 DP 1087677, Lot 21 DP 602720, Lot 222 DP 791705, Lot 221 DP 791705, Lot 2 DP 614468, Lot 4 DP 614468, Lot 963 DP 731955, Lot 962 DP 731955 and Lot 961 DP 731955 Gan Gan Road and Old Main Road, Anna Bay.
- 2) Resolve to include in the Planning Proposal the following additional allotments:
 - a. Lot 22 in DP 718935, Lot 23 in DP 718935 and Lot 1 in DP 536350 Gan Gan Road and Lot 952 DP 519188, Lot 1 DP 614468 and Lot 3 DP 614468 Old Main Road, Anna Bay.
- 3) Resolve to report the Planning Proposal to Council prior to any public exhibition in the event of a positive "gateway" determination from the NSW Department of Planning and Infrastructure, which would require the submission of all relevant studies.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

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| | Councillor Sally Dover Councillor Ken Jordan |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

Cr Peter Kafer left the meeting at 6.11pm prior to voting.
 Cr Peter Kafer returned to the meeting at 6.12pm prior to voting.

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| 395 | Councillor Bruce MacKenzie Councillor Ken Jordan |
| | It was resolved that the recommendation be adopted. |

In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Bob Westbury, Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward and Sally Dover.

Those against the Motion: Nil.

BACKGROUND

The purpose of this Report is to recommend that Council formally commence the rezoning process to facilitate investigations into the rezoning of land immediately north of Anna Bay town centre for residential development. A number of landowners in the area have combined to formally lodge a planning proposal for consideration by Council.

Planning Proposal: Refer to Attachment 1.

Subject land: Various parcels. Refer to map at Attachment 2.

Proponent: Environmental Property Services Pty Ltd (EPS) on behalf of various landowners.

Current zone: 1(a) Rural Agriculture under LEP 2000.

Proposed zones: 2(a) Residential and 6(a) General Recreation (note: the zones applied will be determined as part of the rezoning process and may be subject to change as part of that process). The 1(a) Rural Agriculture zone is proposed to be retained for all residual land.

Area for investigation: 40 hectares for detailed investigation, including approximately 27 hectares identified by the proponent for potential residential development.

Anna Bay has been the subject of recent strong development interest and the focus of numerous studies and investigations, culminating in the adoption of the Anna Bay Strategy by Council on 16th December 2008. The Anna Bay Strategy seeks to provide a local framework for the consideration of rezoning requests based on a range of planning matters.

A number of landowners immediately to the north of the existing urban area have now combined to lodge a Planning Proposal with Council that seeks to formally initiate the rezoning process, with the aim of rezoning approximately 27 hectares of land from 1(a) Rural Agriculture to 2(a) Residential primarily to enable residential development to take place.

The Planning Proposal identifies a broad 40 hectare area for further detailed investigation as part of the rezoning process. The proponent has sought to demonstrate the merits of investigating the site for rezoning at a broader strategic level prior to committing more financial resources at this early stage of the planning process. The intent of the proponent is to provide more detailed studies in the event of a positive Gateway determination from the NSW Department of Planning and Infrastructure (DoPI).

The majority of the potential development footprint identified in the submitted Planning Proposal is consistent with the Anna Bay Strategy, with the exception of approximately 10 hectares of land in the western part of the investigation area. The suitability of rezoning this land for development will need to be investigated and demonstrated in detail by the proponent in the future stages of the rezoning process, as it is known to be subject to significant constraints, including but not limited to flora and fauna and flooding and drainage.

In the event that a positive Gateway determination is made by DoPI, at minimum the following detailed studies will need to be undertaken:

- Flora and Fauna;
- Utilities Servicing;
- Flooding, Stormwater and Drainage;
- Visual Amenity;
- Geotechnical (including Acid Sulphate Soils);
- Bushfire;
- Cultural Heritage ;
- Traffic.

The findings of these studies will inform with greater certainty a suitable zoning footprint and facilitate the preparation of an updated and detailed planning proposal, to be prepared and reviewed prior to public exhibition. Furthermore, consultation with relevant government authorities will also inform the Planning Proposal.

Due to the uncertainties and the range of issues involved, the amended Planning Proposal will be reported back to Council prior to being placed on public exhibition. This will allow the proponent a degree of greater clarity of requirements to the next stage of the Planning Proposal through the Gateway determination.

Potential Additional Land

The Planning Proposal as submitted identifies a "subject site" and further focuses on a specific "investigation area" for detailed investigation.

It is a recommendation of this Report that Lot 952 DP 519188, Lot 1 DP 614468, Lot 3 DP 614468, Lot 22 DP 718935, Lot 23 DP 718935 and Lot 1 DP 536350 land are added to the "investigation area" as logical additions to the Planning Proposal due to their location immediately adjacent to the submitted land. The relevant landowners were notified in writing of the Planning Proposal on 10th and 11th October 2011. At the time of writing three landowners have so far indicated support for the inclusion of their land. Council staff will continue to liaise with relevant landowners throughout the process.

FINANCIAL/RESOURCE IMPLICATIONS

Rezoning Fees

Stage 1 rezoning fees have been in accordance with Council's Fees and Charges Schedule 2010/2011. If the Planning Proposal is supported by the DoPI Gateway determination, Stage 2 rezoning fees will be sought.

Section 94 Development Contributions

Council's Section 94 Development Contributions Plan has not been amended at this time to account for any specific additional infrastructure required in Anna Bay as a result of growth under the Anna Bay Strategy or the Planning Proposal subject of this Report. Council will need to review its Development Contributions Plan to ensure the equitable payment of contributions toward infrastructure required as a result of development. Further investigation is required to determine the appropriate timing and mechanisms for the developer to contribute towards covering the cost of any additional infrastructure that may be required as a result of the Planning Proposal.

LEGAL, POLICY AND RISK IMPLICATIONS

Lower Hunter Regional Strategy

Anna Bay is identified in the Lower Hunter Regional Strategy as a proposed urban area with boundaries to be defined through local planning. Council subsequently prepared and adopted the Anna Bay Strategy on 16th December 2008.

Draft Port Stephens Planning Strategy

The draft Port Stephens Planning Strategy (PSPS) has been prepared to replace the Port Stephens Community Settlement and Infrastructure Strategy 2007. At the time of writing this Report, the draft PSPS is intended to be reported in November 2011.

Anna Bay is identified as a new release area in the draft PSPS, with timing to be delivered from 2012 over an approximate 15 year period. The draft includes the Anna Bay Strategy at Appendix 3. The draft PSPS does not propose changes to the adopted Anna Bay Strategy.

Initiating the rezoning process will assist in delivering additional needed residential land at Anna Bay consistent with the draft PSPS, subject to detailed investigation into an appropriate development footprint.

Anna Bay Strategy

The main map of the Anna Bay Strategy (refer to **Attachment 3**) identifies appropriate land uses, based upon review of the range of relevant planning matters.

It should be noted that Council resolved to adopt the Anna Bay Strategy with the exception of land recommended to become environmental protection and the Planning Proposal as submitted does not seek to rezone any land for environmental protection.

The proposed development footprint sought by the proponent, while generally consistent with the development footprint identified in the Anna Bay Strategy, does seek to vary the extent of the development footprint, particularly to the west, by an area of approximately 10 hectares. This area is known to be subject to significant constraints particularly flora and fauna, flooding and drainage. There is uncertainty at the present time about how this land is able to be rezoned and developed.

The Planning Proposal submitted by the proponent acknowledges the variation in development footprint to the Anna Bay Strategy and the need to undertake additional studies to confirm the suitability of rezoning the land, and is seeking to undertake this work following the receipt of a positive gateway determination from the DoPI.

It is recommended that Council proceed to initiate the rezoning process to facilitate further detailed investigations into the site as sought by the submitted Planning Proposal. This will provide an opportunity for the proponent to demonstrate the suitability of the site for intensification against the range of planning requirements and how land subject to these constraints is able to be reasonably developed, if practicable.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Flora and Fauna

The site contains a mix of cleared and vegetated land that is either an Endangered Ecological Community (Swamp Sclerophyll Forest) or provides potential habitat for threatened species. Some trees are of an advanced age and would provide habitat in the form of hollows for fauna.

The submitted Planning Proposal identified that there are no known threatened flora species on site, but given that an ecological assessment has not been undertaken in more than seven years this statement is premature. Since the last ecological assessment in 2004 the plant Rough Double Tail *Diruris praecox* identified as 'vulnerable' at a State and National level has been found in the vicinity of the site and the site does provide habitat to other threatened fauna.

A full ecological report in line with the Lower Hunter Central Coast Regional Environmental Management System guidelines will need to be submitted, and an

assessment of significance under Section 5A of the Environmental Planning and Assessment Act 1979 of any threatened species known or likely to occur.

Comprehensive Koala Plan of Management (CKPoM)

As the CKPoM is given legal status under State Environmental Planning Policy 44 Koala Habitat Protection this aligns to the applicant's requirement to address it as outlined in the DoPI guideline for preparing planning proposals.

The Planning Proposal has discussed the location of Koala habitat and the CKPoM in broad terms but has not addressed the performance criteria for rezoning. As stated above the applicant has identified the need for further studies beyond those submitted, however have sought a Gateway determination prior to expending additional funds. In the interim a brief assessment against the criteria for rezoning at Appendix 2 of the CKPoM is as follows:

Council should be satisfied that the rezoning would:

A) Not result in development within areas of Preferred Koala Habitat or Defined Habitat Buffers;

It is difficult to tell from the quality of the map provided however it appears as though Preferred Koala Habitat will be affected and at the very least habitat buffers will be affected and as such this performance criterion has not been met.

B) Allow for only low impact development within areas of Supplementary Koala Habitat and Habitat linking areas;

No detail on the level of development has been provided and as such this criteria has not been met. It is possible that the criteria could be met if further detail was provided.

C) Minimise the removal of any individuals of preferred koala feed trees, wherever they occur on the site; and

As per criteria A) and B) this has not been met.

D) Not result in development which would sever koala movement across the site. This should include consideration of the need for maximising tree retention on the site generally and for minimising the likelihood of impediments to safe/unrestricted koala movement.

The submitted Planning Proposal makes no reference to restoring or retaining Koala corridors across the site.

Essentially Anna Bay is known to be an important area for Koalas and as such any loss of preferred Koala habitat is not supported. The Proposal's impact on Koala habitat could be reduced by excluding all areas of Preferred Koala Habitat from the proposed residential zoning and zoning these areas to environmental protection.

Sections of the site would benefit from rehabilitation and this could assist to meet the NSW Office of Environment and Heritage (OEH) 'improve or maintain' biodiversity offset principles. Appropriate buffers to the Preferred Koala Habitat should also be considered in additional studies.

Biodiversity Offsets

Although not required for the Gateway process the proponent should be aware that it is likely that they will need to offset any vegetation loss. Any proposal should seek to meet the offsetting principles identified in the Principles for the Use of Biodiversity Offsets in NSW document which is part of the State's Guidelines for the Biodiversity Certification of Environmental Planning Instruments. This biodiversity offset assessment report should demonstrate that the development proposal and its offsets meet the 'improve or maintain' test for biodiversity values.

Based upon the preliminary information provided by the proponent, the following conclusions are drawn:

- The site appears to have development potential if ecological constraints are recognised and the planning done accordingly;
- A current flora and fauna report is needed to properly assess the proposal;
- The CKPoM performance criteria need to be addressed;
- The Planning Proposal should be amended to avoid affecting Preferred Koala Habitat;
- It is likely that biodiversity offsets will be required;
- All Preferred Koala Habitat should be rezoned to Environmental Protection;

It is acknowledged that the information is limited due to the early investigations stage of the rezoning proposal.

These matters will need to be addressed in detail by the proponent with an appropriate zone footprint identified as part of the rezoning process following direction received via the DoPI Gateway determination.

Flooding and Drainage

The Anna Bay Strategy provides an overview of flood prone land and drainage in Anna Bay based upon previous studies. It advises that large areas of Anna Bay are mapped as flood prone and this represents a significant constraint to the expansion of the town, including the land subject of the Planning Proposal. A significant portion of the low-lying area to the north of the town centre and natural ridge is inundated during the 100 year average recurrence interval storm event. Some limited new development in this area was identified and assessed in past drainage studies. To date, flood modelling showed that a limited amount of development would not worsen existing flood levels in this northern area.

The Anna Bay Strategy goes on to state that an engineered floodway immediately to the north of the town centre is suggested as an option for further investigation to determine whether flood levels could be improved. A preliminary estimation for this floodway suggested a small reduction in the flood level may be achievable with

further detailed design calculations, and any rezoning and filling of the floodplain area would require a developer to further investigate the flooding and drainage study and implement works as required.

The proposal includes land that has already been identified as flood prone; a study carried out by Sinclair Knight Merz for Council in 1995 investigated the local flood environment. As such it is considered that this study is in need of being updated given the NSW Government has since introduced a policy on climate change and sea level rise. Council has carried out some preliminary mapping on the impacts of sea level rise on tidal inundation, the results of which suggest some parts of the subject area are likely to be affected by tidal inundation by 2100 should sea level rise continue as predicted. Therefore by 2100 more land within the Planning Proposal area is likely to be affected by flooding.

For these reasons the identification of flood prone land in this area as shown on Council's maps is not considered accurate enough and a flood study of the Anna Bay area should be included.

Should the proponent receive a Gateway determination to proceed the Planning Proposal will require the following matters to be addressed:

- 1) Sea level rise of 0.4m by 2050 and 0.9m by 2100.
- 2) Climate change impacts from increased rainfall for at least 10% and 20% increase in rainfall.
- 3) Identification of hydraulic and hazard categories within the catchment in accordance with the NSW Government's Floodplain Development Manual.
- 4) Flood levels, depths and velocities for the 1%, 5% and PMF events.

In considering a future assessment of a more detailed Planning Proposal, any filling or development within a floodway will not be supported. To address the issue of the cumulative impacts of filling, filling will be restricted to no more than 20% of the total area of any flood storage areas within the Planning Proposal site. No objection would be raised to filling of flood fringe areas subject to the filling not impeding or directing any overland flows on or onto adjoining properties.

In addition to the above, and because of the low-lying nature of much of the land, the proponent will be required to provide details concerning the amount and type of fill required, its intended source, its suitability for supporting residential development, timing and implementation mechanisms for its placement and preparation. This is important as Council has a duty of care to ensure that it will not be rezoning land for residential development that may be unable to be delivered in a reasonable and practicable manner.

Social and Economic Implications

The Planning Proposal has positive social and economic implications by providing additional land for housing on the Tomaree Peninsula. The proponent has identified 27 hectares for potential rezoning for residential use. Under the Anna Bay Strategy development in the Town Neighbourhood and School Neighbourhood can deliver

up to approximately 100 dwellings. The dwelling yield can only be approximate until detailed investigations have taken place.

CONSULTATION

If the proposal proceeds to public exhibition, it is recommended that it be placed on exhibition for a minimum period of 28 days in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

Adjoining landowners will be notified in writing of the Planning Proposal during exhibition and may make a submission during this period.

OPTIONS

- 1) Adopt the recommendations of this Report and resolve to initiate the rezoning process for the subject and additional lands. This is the recommended option;
- 2) Amend the recommendations of this Report and resolve to initiate the rezoning process for the subject land only. This is not the recommended option;
- 3) Reject the recommendations of this Report and not initiate the rezoning process. This is not the recommended option.

ATTACHMENTS

- 1) Planning Proposal;
- 2) Location Map;
- 3) Anna Bay Strategy – Main Map.

COUNCILLORS ROOM

- 1) Planning Proposal.

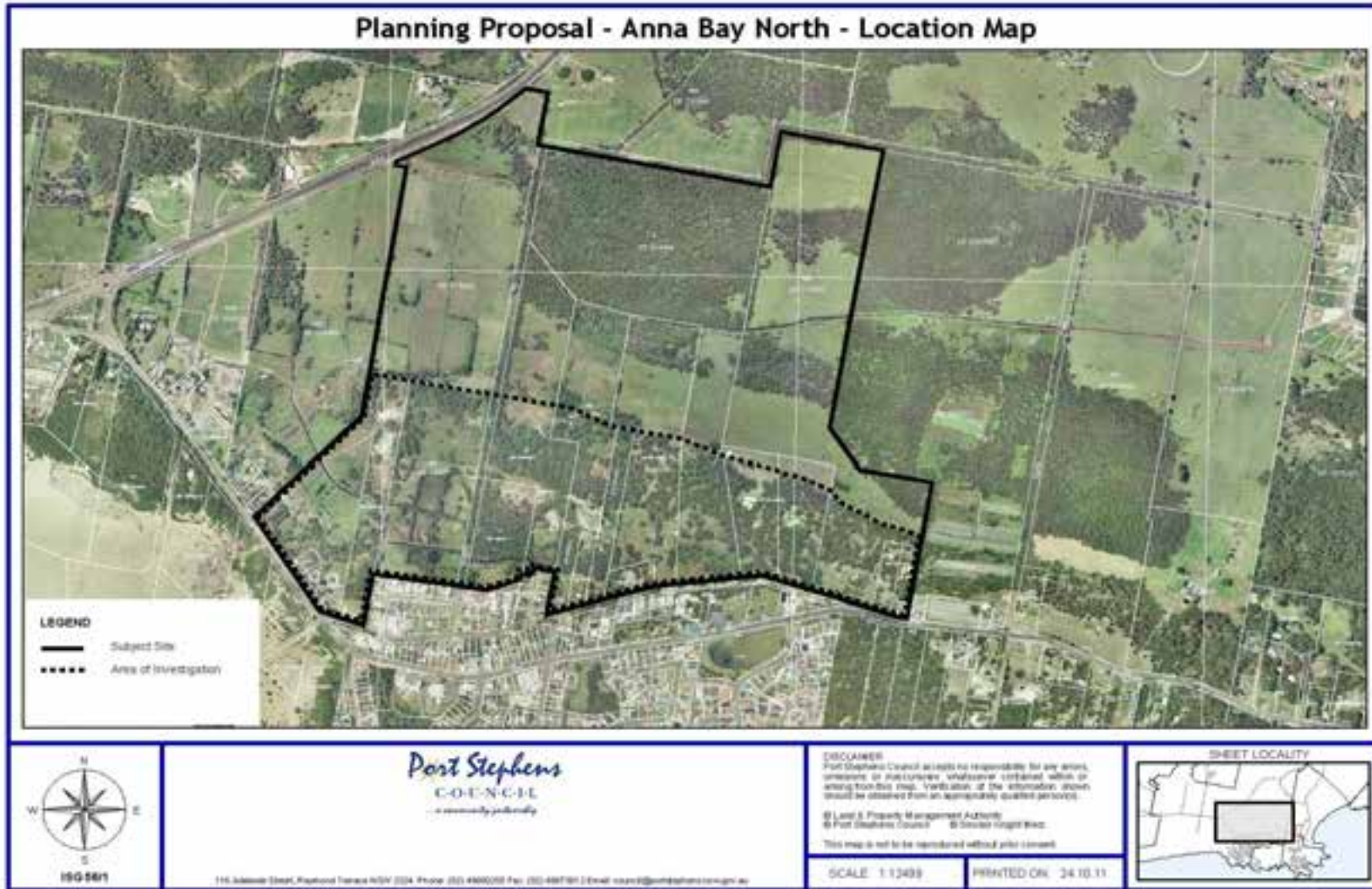
TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**Planning Proposal
PROVIDED UNDER SEPARATE COVER**

ATTACHMENT 2



ATTACHMENT 3

Anna Bay Strategy and Town Plan

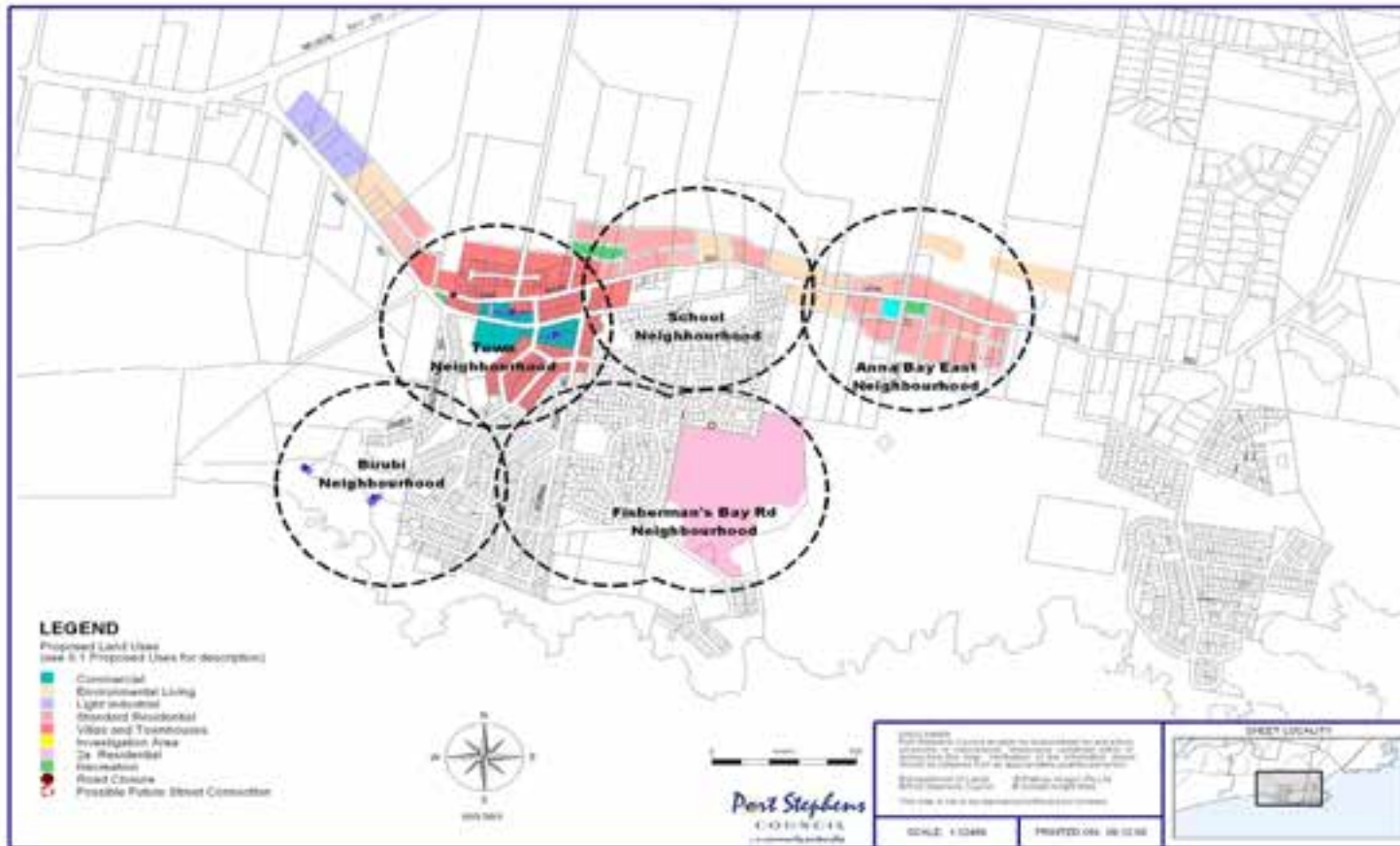


Figure 15 Anna Bay Town Plan – Land Uses

ITEM NO. 2

FILE NO: PSC2009-05304

MOBILE FOOD VENDING VEHICLE POLICY

REPORT OF: MATTHEW BROWN - MANAGER DEVELOPMENT ASSESSMENT & ENVIRONMENTAL HEALTH

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Mobile Food Vending Vehicle Policy previously placed on public exhibition.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

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| | Councillor Ken Jordan Councillor Bruce MacKenzie |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

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| 396 | Councillor Ken Jordan Councillor John Nell |
| | It was resolved that Council: <ul style="list-style-type: none"> 1) Adopt the Mobile Vending policy; 2) Receive and note the supplementary information; 3) Review the policy in six (6) months and that the review include a report on community organisations as outlined in the supplementary information. |

BACKGROUND

The purpose of this report is to inform Council of the draft Mobile Food Vending Vehicle Policy that provides a formal framework for the management and regulation of food vending vehicles in Port Stephens LGA. Mobile food vending vehicles, if not appropriately regulated, have the potential to increase risks to pedestrians, other road users and consumers.

The adoption of the draft policy will provide both existing and new food vendors a clear and unambiguous management document resulting in a cost effective, consistent and timely approval and inspection framework.

Public Exhibition

A draft policy developed by a committee of Councillors and Council staff was put before Council on 13 October 2009 with the recommendation that the policy be placed on public exhibition for a period of thirty days. The public exhibition resulted in one submission from a local mobile food vehicle operator. The 2 comments in the submission related specifically to operational conditions, these being;

- a) Restricting operation of mobile food vending vehicles within a prescribed distance of a zoned business area. The submission considered this condition to restrict and fetter trade and effectively support a monopoly. The submission suggested an alternate condition that included the 350metre rule provided [in part] that there are two or more businesses open and operating;
- b) A time restriction on how long a vehicle can occupy a selling location and when a vehicle can return to a selling location. The submission made the point that provision should be given to the time for not only selling food but also the time taken by operators to set up. The submission suggested an alternate condition that included [in part] a provision for a reasonable set up time and time for customers to sight and travel to the van.

Due consideration by the working party was given to this submission but a decision was made to retain the two conditions.

Legal Review

A copy of the draft policy was forwarded to Harris Wheeler Lawyers for review. A summary of the review dated 20 July 2010 is presented below:

Format of Policy: Advises that consideration should be given to developing a policy formatted in accordance with section 158 (local approvals policy) of the *Local Government Act 1993*;

Proper Matters for Consideration: Advises of matters for consideration when assessing applications for approval assessed under section 68 of the *Local Government Act 1993*;

Unfair competition: Advises that there is no provision for Council to take into account the effect that mobile vendors may have on land based businesses. It goes on to advise that Councils have no power to prevent such competition and no power to engage in anti-competitive practises;

Application of Policy to Private Land: Advises that the provision for approvals under the *Local Government Act* is for "public places";

Application of the Food Act: Advises that the legislative provisions of the Food Act are relevant to mobile food vendors and that the approval be conditioned accordingly. This legislation would over-ride any Council policy to the extent of any inconsistency;

Powers of Council Officers to Vary Provisions: Advises that the power to vary a requirement is dependent on the legislative instrument providing such a provision. It further advises that any flexibility for Council Officers to vary a requirement should be reflected within the policy;

Requirement for Food Vendors to Move On: Advises that the policy condition requiring "vendors to move on and not return to the same location within one hour" is probably unreasonable and unenforceable and that other measures, such as trading times, can be used to similar effect.

The legal advice was duly considered with the following actions. The legal advice relating to policy format has been partially implemented though it was considered un-necessary to implement a full local approvals policy. Advice addressing application of the policy to private land and powers of Council Officers to vary conditions is now reflected in the policy. Advice regarding unfair competition (in respect of land based businesses) has been partially implemented with most references to land based businesses removed. In regard to the approval conditions relating to trading within 350metres of a zoned business area and the requirement to not return to the same selling location within 1hr, members of the working party gave due consideration to the legal advice but made a decision that the conditions be retained.

FINANCIAL/RESOURCE IMPLICATIONS

There are no additional financial implications for Council associated with implementation of the draft policy. The policy forms a component of the broader food surveillance program. The policy is funded through collection of fees from approval applications and inspections with resourcing by the Environmental Health and Regulation team.

LEGAL, POLICY AND RISK IMPLICATIONS

The draft policy complies with Councils Policy Guideline.

Once adopted, the policy would form a consideration and guiding document pursuant to the *Local Government Act, 1993* (Section 68 D1: Community Land - Engage in Trade or Business), the *Food Act, 2003* and the Food Standards Codes.

The role of Local Council in managing and regulating Mobile Food Vending Vehicles could be considered non-discretionary. It is a reasonable assumption that adopting the policy will increase protection of the general public, road users and consumers through a regulated approvals framework.

The inclusion in the policy of conditions relating to unfair competition and requirement to move on is not in accordance with the advice of Councils legal representative.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are minimal sustainability implications associated with the adoption of this policy. Street vending fills a minor niche market in locations not serviced or able to be serviced by land based premises. Environmental implications are considered minor.

CONSULTATION

Food Vending Vehicle working party of Councillors and Council staff (as resolved at Council meeting of 26/5/2009)

Public exhibition (30days) following resolution of Ordinary Council meeting 13/10/2009.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation;
- 4) Defer the matter and place on public exhibition again.

ATTACHMENTS

- 1) Mobile Food Vending Vehicle Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Mobile Food Vending Vehicle Policy



POLICY

Adopted:
Minute No:
Amended:
Minute No:

FILE NO: PSC2009-05304
TITLE: MOBILE FOOD VENDING VEHICLE POLICY
RESPONSIBLE OFFICER: MATTHEW BROWN, MANAGER DEVELOPMENT
ASSESSMENT & ENVIRONMENTAL HEALTH

BACKGROUND

The purpose of this Policy is to provide a framework in which mobile food vending vehicles may operate within the Port Stephens Local Government Area.

Mobile food vending vehicles and street vending has become an integral part of modern society and often fill a niche in the market for convenience foods that are sometimes not met by traditional food outlets. In some cases, food vehicles are able to access remote locations not serviced by local food outlets or are able to deliver specialty foods directly to the customer.

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 needs to be regulated as they are serving food to the public similar to traditional land based food outlets. Many mobile food vehicles park on road reserves and in other 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.

OBJECTIVES

The purpose of this Policy is to establish the criteria which must be taken into consideration by Council when determining an application to operate a mobile food vending vehicle within the Port Stephens Local Government Area.

The Policy promotes:

- Pedestrian and driver safety;
- Food safety and good hygiene practises;
- Consistency in the construction requirements for mobile food vehicles;
- Consistency and equity in the approval, application assessment and inspection process for future and existing mobile food vehicle operators.

PRINCIPLES

Legislation and Guidelines: Owners and operators shall comply with prescribed legislative instruments relating to the operation of mobile food vending vehicles and the processing of food for retail sale. Legislation, standards and industry accepted guidelines will be used by staff to ensure appropriate approvals, design and operation of mobile food vending vehicles.

Performance Objectives: Owners and operators of mobile food vending vehicles shall meet minimum performance standards having regard to:

- Protection of pedestrians and other 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 the public and the amenity of the environment in which the vehicles operate.

Operational Framework: The policy specifies an operational framework designed to provide consistency and equity in the approval, application assessment and inspection process for future and existing mobile food vehicle operators.

Resourcing: The mobile food vending vehicle program is managed within the Environmental Health and Regulation team. The costs of the program are funded through the fees collected from applications and inspections.

Education and Advice: An integral component of the food surveillance program involves the provision of advice and educational material to food vehicle operators as required or requested.

POLICY STATEMENT

This Policy will provide a consistent and equitable framework for all matters relating to the approval, operation and construction of mobile food vending vehicles within Port Stephens Local Government Area. It will allow food vending vehicles to operate legitimately in those locations where the Policy permits.

RELATED POLICIES

Nil

SUSTAINABILITY IMPLICATIONS

Mobile food vendors now form part of everyday modern society, resulting in freedom of choice for consumers and offer a variety of food choices. Advances in technology now enable food and beverages to be provided safely and hygienically to the consumer from mobile operators.

SOCIAL IMPLICATIONS

There is a demand from consumers for services at isolated locations, parks, beaches, carparks, sporting events, social events where there are no other food services available. This Policy will enable those demands to be serviced.

ECONOMIC IMPLICATIONS

Mobile food vehicles provide a service to tourists, visitors and some residents, which can enhance the appeal of the area and contribute to the economic success of this region. A number of mobile food vendors reside in the Port Stephens area therefore this has a positive economic on-flow effect.

ENVIRONMENTAL IMPLICATIONS

There are minimal environmental implications associated with mobile food vehicles. One issue may be littering adjacent to mobile food vehicles, however experience has shown that this is not significant compared to other food outlets.

RELEVANT LEGISLATIVE PROVISIONS

- *Local Government Act 1993* (Section 68, D1 and F7)
- *Food Act 2003, Food Regulation 2010 and Food Standards Codes*
- *Roads Act 1993 and Roads Regulation 2008*
- *Road Transport (Safety and Traffic Management) Act 1999 and Road Transport (Safety and Management) Regulation 1999 and Australian Road Rules 2008*

GOVERNMENT AUTHORITIES

The Government Authorities that have regulatory responsibility for street vending operations are:

- The Roads and Traffic Authority
- The Police Service
- Council

IMPLEMENTATION RESPONSIBILITY

Environmental Health and Regulation Team

DEFINITIONS

"Mobile Food Vending Vehicle": includes 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": includes a company or individual that operates a mobile food vending vehicle.

"Development Application": is a formal request for permission to carry out a development under the Environmental Assessment and Planning Act, 1979.

"Approved Vehicle": A mobile food vending vehicle holding an approval currently in-force with PSC or another local Council.

"Council": Port Stephens Council

"LGA": Local Government Area

REVIEW DATE

Four years from the date of adoption.

**GUIDELINE FOR THE
APPROVAL, OPERATION AND
CONSTRUCTION OF
MOBILE FOOD VENDING VEHICLES**



Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

INTRODUCTION

This Guideline provides Council and mobile food vendors with guidance to effectively and consistently control and operate street vending activities within public roads or within public and private places. The Policy identifies the responsibilities and requirements for food van operators. The Guideline also sets criteria for the construction of vehicles, vans, vessels so that appropriate standards associated with street vending and food sales are regulated. The Guideline is mandatory for all street vending activities carried out within the Port Stephens Local Government Area.

APPLICATION OF THIS POLICY

1. This policy shall apply to all mobile food vending vehicles within the Port Stephens Local Government area (LGA).
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].
3. Council must take the provisions of this policy into account when determining whether to give or refuse an approval for the operation of a food vending vehicle.
4. Council will take all matters into consideration when determining an application.

ORGANISATION OF POLICY

This policy is divided into 3 sections.

Section 1: Exemptions from the need to obtain an approval under this policy

Section 2: Criteria to be considered by Council (when determining an application)

Section 3: Other Matters Relating to Approvals

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

SECTION 1: EXEMPTIONS FROM THE NEED TO OBTAIN AN APPROVAL

1. There are currently no exemptions from the requirement to obtain an approval to operate a mobile food vending vehicle in Port Stephens.
2. All operators of mobile food vending vehicles must obtain an approval from Council prior to operating and may only operate in accordance with all the conditions of that approval.
3. Not-for-profit, charitable and community organisations are not exempt from the requirements of this policy.
4. If it is proposed to operate any mobile food vending vehicle from private land, then development consent may be required prior to commencement of operations.
5. Food transport vehicles, such as those approved by the NSW Food Authority, are not exempt from the requirements of this policy if proposed to engage in the retail sale of food on public roads or public places.

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

SECTION 2: CRITERIA TO BE CONSIDERED BY COUNCIL

This section prescribes criteria to be considered by Council when determining whether to approve or refuse an application.

1. APPLICATIONS

- a. Applications shall be made to Council in writing to operate any mobile food vehicle for the vending of food on public roads or public places in the Port Stephens LGA.
- b. An application to Council shall only be made on Council's mobile food vending vehicle application form. The application form shall be fully completed and signed by all owners of the vehicle. Incomplete application forms will not be processed.
- c. **New Mobile Food Vending Vehicles:** New vehicles are those that do not hold a current approval with Council or with any other Council. Operators of new mobile food vending vehicles shall make application in writing to Council. The application shall be subject to an administration fee and initial inspection (fee applicable). The vehicle will be subject to annual inspections (fee applicable) (**refer table 1**).
- d. **Existing Mobile Food Vending 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 vending 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 (**refer table 1**).

An initial inspection by Council may be required subject to the following criteria:

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

- i. Applicants able to provide a copy of a satisfactory inspection report performed by another Council for the mobile vending vehicle subject to the application will not require an initial inspection by Council. The provided inspection report must have been performed within the previous 12-months of the date of application and must indicate a satisfactory result with no critical non-compliances. The provided report must be on letterhead of the issuing Council.
- ii. Applicants not able to provide a copy of a satisfactory inspection report for the mobile vending vehicle subject to the application will be required to provide the vehicle for an initial inspection by Council.

Table 1: Application and Inspection Requirements

| Situation | Initial Application | Initial Inspection | Annual Inspection |
|--|----------------------------|----------------------------------|---------------------------------|
| New food vending vehicle | ✓ | ✓ | ✓ |
| Existing food vending vehicle (current approval with another Council) | ✓ | Refer Section 2: clause 1 (c) | Refer Section 3: clause 3(d) |
| Existing food vending vehicle (current approval with Council) | ✗ | ✗ | ✓ |

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

2. LEGISLATION

a. The Council must take into account, and ensure compliance with all relevant legislative provisions [as amended from time to time] including:

- i. *Local Government Act 1993* (Sections 68 (D1: Engage in a trade or business) and (F7: Use a Standing Vehicle or any Article for the purpose of selling any article in a public place));
- ii. *Food Act 2003*, *Food Regulation 2010* and the *Australian/New Zealand Food Standards Codes*;
- iii. *Road Transport (Safety and Management) Act 1999*, *Road Transport (Safety and Management) Regulation 1999* and *Australian Road Rules 2008* and *Roads Act 1993* and *Roads Regulation 2008*.

b. The Council may consult with other government authorities that have regulatory responsibility for street vending operations including:

- i. The Roads and Traffic Authority (RTA); and
- ii. The Police Service

c. The Council must take into account the provisions of the Department of Local Government Guidelines for Street Vending Control No 96/46 prepared by the Department of Local Government in conjunction with the Local Government and Shires Association, the Roads and Traffic Authority and the Police Service. The guidelines provide criteria for:

- i. Operators associated with pedestrian traffic;
- ii. Passing traffic;
- iii. Lighting; and
- iv. Safety issues and general motor traffic regulations.

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

3. APPROVALS

- a. The use of any mobile food vehicle (and any area adjacent thereto) for the purpose of selling any article of food is prohibited without the approval of Council in writing.
- b. Food Vendors must not hawk or sell any article of food away/separate from the Mobile Food Vending Vehicle.
- c. When food premises within or outside the Port Stephens LGA are used for the preparation of food to be sold from a mobile food vending vehicle (in the Port Stephens LGA), those premises must be licensed with the NSW Food Authority for the manufacture of food or if a retail outlet then hold an approval with the Local Council.
- d. Mobile food vendors must maintain registration of their business / vehicles with the NSW Food Authority (www.foodnotify.nsw.gov.au).
- e. The vehicle/vessel shall be maintained, registered and comply with the relevant provisions of the Motor Traffic or Maritime Regulations.
- f. NSW Maritime is an approval authority for marine vessels. Operators of vessels are to obtain prior consent of NSW Maritime as part of the Council application process.
- g. The operation of a mobile food vending 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* etc).

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

4. CONSTRUCTION AND FOOD HANDLING REQUIREMENTS

- a. The design and construction of mobile food vending vehicles shall comply with the NSW Food Authority guideline - Mobile Food Vending Vehicles - Operation, Construction and Food Handling Guidelines [as amended from time to time].
- 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].

5. SIGNAGE

- a. Warning signs are to be displayed to alert motorists to the likelihood of pedestrians and children and the need for caution. One sign shall face motorists approaching the front of the vehicle and one sign shall face motorists approaching from behind.
- b. The design of the signs is to contain the words "Caution Children". The lettering should be bold faced, sans serif styled to have a minimum height of 120mm. The lettering is to be white on a red background.
- c. Position of signs – signs should be secured to the vehicle so they are as high as practical on the vehicle. If possible, the front facing sign mounted above windscreen level and the rear facing sign at a similar elevation. No part of the sign is to impede the drivers visibility or the operation of mirrors, indicators and such like.
- d. Signage design, construction materials, colour, size and fixing location shall comply with the relevant Australian Standard.

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

6. TRADING TIMES

Approved mobile food vendors 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.

7. TRADING AREAS

- a. Mobile Food Vending Vehicles shall not trade within a zoned business area or within 350 metres of a land based food business or any street deemed by Council as being unsuitable by virtue of its location or traffic condition (as identified in clause b below).
- b. In considering whether a trading area is suitable Council must consider:
 - i. The need for and availability of parking;
 - ii. Entry and exit for street vending locations;
 - iii. Location of advertising signs;
 - iv. Sufficient room for the availability of pedestrians, especially people with disabilities and those in wheelchairs or with prams;
 - v. Applicable street speed limits;
 - vi. The volume of traffic and pedestrians;
 - vii. Visibility;
 - viii. Width of any footpath or road shoulder;
 - ix. The effect of any traffic or other regulatory signs;
 - x. The position of driveways and entrances;
 - xi. Placement of traffic warning signs;
 - xii. Lighting (if applicable);
 - xiii. Impacts on other users in the area.
- c. Mobile Food Vendors shall only occupy a permitted selling location for such a period of time whilst engaged in the actual setting up and

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

- ...serving of a customer and shall after serving all customers move on and not return to the same location within one (1) hour.
- d. Approval is for the operation of a mobile food vending vehicle within public reserves, on public roads or on other public land.
- e. Mobile Food Vending Vehicles must not operate:
- i. As a roadside stall.
 - ii. As a stall to sell food to the public on any site that first requires development consent for that use.

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

SECTION 3: OTHER MATTERS RELATING TO APPROVALS

Unless stated otherwise in an approval the following conditions will relate to any approval issued by Council.

1. USE OF VEHICLES

- a. A mobile food vending vehicle shall not be used for sleeping purposes.
- b. Every person engaged in the preparation or delivery of food for sale shall keep, at all times, receptacles, utensils and vehicles used in connection with food for sale clean, free from dust, dirt, odours, and vermin.
- c. Every person engaged in the preparation or delivery of food for sale shall, when so engaged, maintain his/her clothing and his/her body clean.
- d. No person shall use any vehicle for the carriage or containing any matter or thing whereby the wholesomeness, cleanliness and freedom from contamination of any food for sale contained or usually carried in the vehicle might be endangered.
- e. The vehicle shall be used for the vending and delivery of food only and shall, at all times, be maintained in a satisfactory standard of cleanliness.
- f. All equipment and signage shall at all times be kept within the confines of the vehicle.

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

2. INSPECTIONS

- a. Mobile food vending vehicles shall be subject to an annual inspection by Council's Environmental Health Officers for which a fee is applicable (except in accordance with clause 3c below).
- b. 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.
- c. 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.

3. FEES AND CHARGES

- a. The fees applicable to mobile food vending vehicles are presented in Council's Schedule of Fees and Charges. These are reviewed annually.
- b. Mobile food vending vehicles are subject to both administrative and inspection fees depending on the circumstances.
- c. Mobile food vending vehicles owned by not-for-profit, charitable or community organisations may make application for a refund of inspection fees. Applications shall be addressed to Council's Public Officer (or Ward Councillors for amounts under \$250).

Guidelines for the Approval, Operation and Construction of Mobile Food Vending Vehicles

4. OTHER REGULATORY REQUIREMENTS

- a. The use of liquid petroleum gas shall comply with the relevant standards currently in-force and appropriate authority requirements. Gas fired appliances should not have a gas bottle greater than 9kg capacity.
- b. A fire extinguisher and fire blanket shall be supplied in every vehicle where cooking or heating processes are undertaken.
- c. Fire safety equipment shall be easily accessible in the event of a fire. The extinguisher should be suitable for dealing with the type of combustible materials present.
- d. Noise from the operation of the vehicle/vessel shall be limited to comply with the requirements of Noise Control Legislation.
- e. Port Stephens Council may require all Food Vendors to supply evidence of compliance with any condition of their approval if reasonably asked to do so.

ITEM NO. 3

FILE NO: 16-2010-769-1

SECTION 82A REVIEW OF DEVELOPMENT APPLICATION FOR DEMOLITION OF EXISTING UNITS AND CONSTRUCTION OF URBAN HOUSING (4 UNITS) AT NO. 64 SANDY POINT ROAD, CORLETTE

REPORT OF: MATTHEW BROWN - MANAGER DEVELOPMENT ASSESSMENT & ENVIRONMENTAL HEALTH

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the Section 82A Review of Determination for Development Application 16-2010-769-1 for the demolition of existing units and construction of urban housing (4 units) at 64 Sandy Point Road, Corlette

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|---|
| | Councillor John Nell Councillor Ken Jordan |
| | That Council approve the Section 82A Review of Determination for Development Application 16-2010-769-1 for the demolition of existing units and construction of urban housing (3 units) at 64 Sandy Point Road, Corlette. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 397 | Councillor John Nell Councillor Peter Kafer |
| | It was resolved that the Council Committee recommendation be adopted. |

In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Bob Westbury, Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward and Sally Dover.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to review the determination of a development application that was refused by Council on the 12 April 2011 at the request of the applicant.

The development application was for the demolition of the existing building and construction of an urban housing development consisting of four (4) units in two buildings at 64 Sandy Point Road, Corlette.

The application was refused for the following reasons:

- Pursuant to Section 79C 1(a)(i) of the *Environmental Planning and Assessment Act* the proposed development is not supported with the well founded *State Environmental Planning Policy (SEPP) No.1 – Objection to Development Standard* because the underlying objectives of the development standards contained within Clause 19 of *Port Stephens Local Environmental Plan 2000* have not been identified, and therefore whether or not the intentions of the development standard are being met by the proposal has not been adequately addressed.
- Pursuant to Section 79C 1(a)(i) of the *Environmental Planning and Assessment Act* the proposed development does not comply with the Minimum Site Area of 300 m² per dwelling contained within Clause 19 of *Port Stephens Local Environmental Plan 2000*, whereas only 152 m² per unit is proposed.
- Pursuant to Section 79C 1(a)(i) of the *Environmental Planning and Assessment Act* the proposed development does not comply with the Floor Space Ratio (FSR) of 0.5: 1.0 contained within Clause 19 of *Port Stephens Local Environmental Plan 2000*, whereas the development proposes an FSR of 0.55: 1.
- Pursuant to Section 79C 1(a)(iii) of the *Environmental Planning and Assessment Act* the proposal is not considered to comply with Development Control Plan 2007 – Control B7.C33 due to the proposed site coverage is greater than the allowable 60%.
- Pursuant to Section 79C 1(a)(iii) of the *Environmental Planning and Assessment Act* the proposal is not considered to comply with Development Control Plan 2007 – Control B7.C47, B7.C49, B7.C52 as the proposed side setbacks and waterfront Reserve setbacks are not met.
- Pursuant to Section 79C 1(b) of the *Environmental Planning and Assessment Act* the proposal is considered to present an unreasonable environmental impact because it results in development that is out of character with the existing seaside village due to there being larger homes on the waterfront.

Pursuant to Section 79C 1(e) of the *Environmental Planning and Assessment Act* the proposal is not considered to be in the public interest because the proposed density is double that allowable in a residential area. This is an undesirable precedent in a seaside village remote from most services.

The applicant has submitted a letter with the 82A Review application responding to the above reasons of refusal and has deleted a unit to reduce the impact of the development. Details have been included in the attached report.

The assessment report submits that the amended design (ie removing one unit) modifies the proposal to within acceptable limits that warrant a recommendation for approval.

FINANCIAL/RESOURCE IMPLICATIONS

The proposal does not have any direct financial or resource implications.

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is not consistent with Council's Policy. The proposal does not comply with Port Stephens's Local Environmental Plan 2000, or the Port Stephens Development Control Plan 2007. However, the applicant lodged a request to vary the relevant standards under State Environmental Planning Policy No. 1- Development Standards. This request is supported as the proposed variation will not undermine the validity or continued application of Council policy.

The Section 82A Review of Determination Application has been lodged as the original Development Application was refused. Under the provisions of section 82A Council may change or confirm the determination. A Section 82A review must be substantially the same development as that determined (changes may be made to the development, however not so significant that the development cannot be considered the same development).

A Review of Determination must be made within 12 months and is an alternative to lodging a legal appeal against a development determination.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The development is unlikely to have any significant social, economic or environmental implications for the community.

CONSULTATION

The original development application was exhibited in accordance with Council policy and four (4) submissions were received. These are discussed in the attached report.

OPTIONS

- 1) Adopt the recommendation;
- 2) Reject or amend the recommendation.

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment;
- 3) Conditions of Approval.

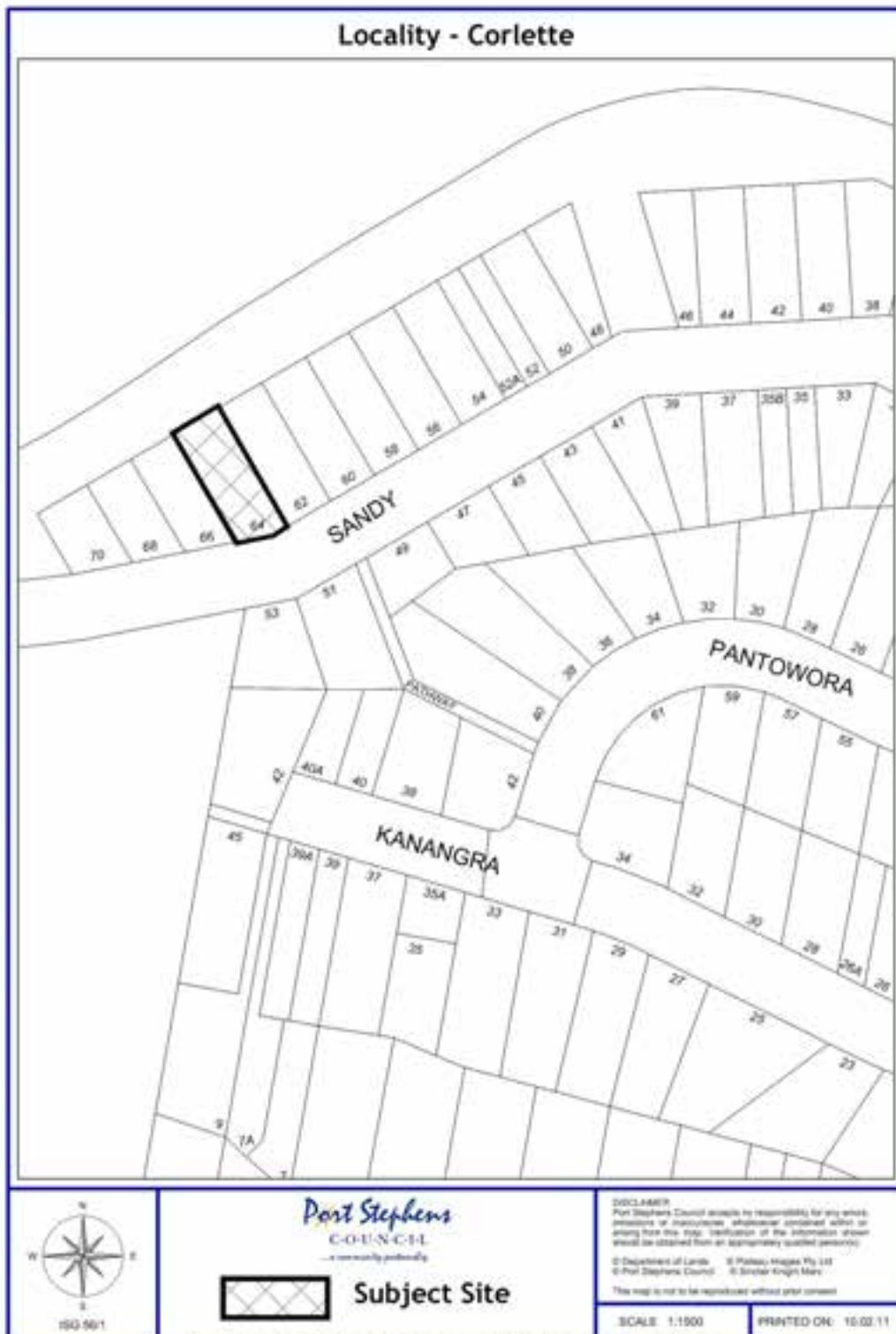
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- 1) Plans.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

The application has been assessed pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979* and the following is a summary of those matters considered relevant in this instance. The details discussed in the report below relate to the amended design that was submitted as part of the Section 82A review (deletion of one unit).

THE PROPOSAL

The application is for the demolition of the existing building and construction of a three unit urban housing development. The building is two storeys in height and is located 14m from the front boundary.

The building is located towards the rear of the site and comprises three units, with Units 2 and 3 located on the ground floor and Unit 1 located on the first floor. Units 2 and 3 contain two bedrooms, living, kitchen, dining, bathroom, ensuite and patio area. Unit 1 contains three bedrooms, dining, living, kitchen, family room, ensuite and bathroom and a rear and front deck.

Five parking spaces have been provided on site, with two garage spaces dedicated to Unit 1. One parking space each is dedicated to Units 2 and 3 and one visitor parking space has been provided. The location of the parking spaces allows for the front of the site to be landscaped.

Existing Development

The existing site contains a dilapidated brick veneer and weatherboard two storey building, single garage and small shed. It currently contains four units. However, concern is raised over whether these four units have legally been approved by Council. Approval has been granted for three units, and notation has been found on the documentation for four units but it is unclear whether three or four units have been approved on the site.

THE APPLICATION

| | |
|------------------|---|
| Owner | P Dibben, G Woolf and S Woolf |
| Applicant | Webber Architects |
| Detail Submitted | Statement of Environmental Effects, State Environmental Planning Policy No. 1 Objection, Plans |

THE LAND

| | |
|----------------------|------------------------------------|
| Property Description | Lot 280 DP 27048 |
| Address | 64 Sandy Point Road, Corlette |
| Area | 607m ² |
| Dimensions | 15.835m x 41.19m x 15.24m x 37.64m |

THE ASSESSMENT

82A Review of Determination

The application was refused by Council on the 12 April 2011. The report recommendation at that time was for approval. The applicant submitted a Section 82 Review of Determination on the 28th July 2011. A review of determination requires that the application is reviewed by another Council officer who is not subordinate and did not assess the original application. On this basis, the application has been reviewed in accordance with the following assessment. Both the original assessment and the 82A assessment are carried out on their merits and are both individual and subjective, hence different recommendations illustrate the integrity and robust nature of the process.

The 82A review was originally submitted with four units. Upon discussion with Council officers it was recommended that the front unit be removed to reduce the impact of the development and the non compliances with Council's LEP and DCP. The front unit was removed from the plans and the main building was relocated 300mm towards the front of the site. The applicant submitted a statement in terms of whether the development is substantially the same and if the application can be amended as part of the 82A review, as such:

The Environmental Planning and Assessment Act 1979 states that "the applicant may make amendments to the development described in the original application.... that the development, as amended, is substantially the same development as the development described in the original application".

When comparing the likely impacts of the proposed modified development, with regard to the environmental, social and economic impacts, with the impacts of the original development, it is viewed that the effect of the proposed modifications will most likely be less than the original development. Passive security of the street is

somewhat reduced however living and deck spaces facing the street are maintained within the larger building, if not being somewhat set back from the front boundary. We prescribe that the included changes in the amended development will in no way have a detrimental impact environmentally or socially when compared to the original development;

- The density has been reduced resulting in requirements for parking decreased from 7 to 5 total parks.*
- The changes have resulted in all side setbacks being at least 1m on ground level and 2m on the upper level.*
- The water front setback has been increased to 3.5m to the deck above the lower floor doors and 5.6m setback to the main building.*

The development is considered to be substantially the same as the original development submitted, as the environmental, social and economic impacts of the amended development are less than the original development. This issue was discussed with Council's legal representatives and it was confirmed that the application could be amended via removal of one unit as part of the Section 82A review process.

The application was not renotified as the impacts of the development are less through the removal of one unit. The concerns raised by the objectors during the assessment of the original application have been taken into account as part of the assessment of the section 82A application.

A statement was submitted with the application to support the review, commenting on the reasons for refusal and providing an amended SEPP 1 objection. The reasons for refusal and the applicant's comments are shown below.

- Pursuant to Section 79C 1(a)(i) of the *Environmental Planning and Assessment Act* the proposed development is not supported with the well founded *State Environmental Planning Policy (SEPP) No.1 – Objection to Development Standard* because the underlying objectives of the development standards contained within Clause 19 of *Port Stephens Local Environmental Plan 2000* have not been identified, and therefore whether or not the intentions of the development standard are being met by the proposal has not been adequately addressed.

Applicant – The request for variation to Development Standard previously submitted with the application (and contained within these documents) detailed the underlying objectives of the development standard and described how the current development addressed these objectives.

- Pursuant to Section 79C 1(a)(i) of the *Environmental Planning and Assessment Act* the proposed development does not comply with the Minimum Site Area of 300 m² per dwelling contained within Clause 19 of *Port Stephens Local Environmental Plan 2000*, whereas only 152 m² per unit is proposed.

Applicant – Despite the variance to the minimum site area, the current proposal is not increasing the number of bedrooms or units on the site presently – it reduces the density while improving the amenity for the uses and the context which it sits, hence achieving the objectives to which this development standard aspires.

It is also noted that councils' assessment states 'following assessment of the benefits and likely impacts of the development, it is considered that the density variation is consistent with the aims of SEPP 1 and should be supported.

- Pursuant to Section 79C 1(a)(i) of the *Environmental Planning and Assessment Act* the proposed development does not comply with the Floor Space Ratio (FSR) of 0.5: 1 contained within Clause 19 of *Port Stephens Local Environmental Plan 2000*, whereas the development proposes an FSR of 0.55: 1.

Applicant – The amended proposal meets the FSR requirements of the LEP.

- Pursuant to Section 79C 1(a)(iii) of the *Environmental Planning and Assessment Act* the proposal is not considered to comply with *Development Control Plan 2007 – Control B7.C33* due to the proposed site coverage is greater than the allowable 60%.

Applicant – The amended site coverage including decks and paving equals 53.5%. With the inclusion of permeable gravel surfaces the coverage to approx 63.5%. Council's DA Engineers did not object to the site coverage variation and states that the proposal makes adequate provision for drainage, private open space and landscaping throughout the site.

- Pursuant to Section 79C 1(a)(iii) of the *Environmental Planning and Assessment Act* the proposal is not considered to comply with Development Control Plan 2007 – Control B7.C47, B7.C49, B7.C52 as the proposed side setbacks and waterfront Reserve setbacks are not met.

Applicant – A new rear cantilevering deck is proposed which increases the current setback from 2.3 to 3.5m and aligns with properties directly adjacent.

Council's assessment of the proposed setbacks has indicated encroachments should not impact views or the amenity of adjoining properties or the users of the waterfront reserve.

- Pursuant to Section 79C 1(b) of the *Environmental Planning and Assessment Act* the proposal is considered to present an unreasonable environmental impact because it results in development that is out of character with the existing seaside village due to there being larger homes on the waterfront.

Applicant – Council's assessment indicates 'the development is considered unlikely to have a detrimental impact on or significantly alter the character of, the Sandy Point Rd streetscape. Development along Sandy Point Rd consists of large 2 storey buildings, generally single dwellings or dual occupancies, with a garage or parking near the street frontage.'

The proposal is architectural, considered in terms of the current and desired character. It presents minimal environmental impact in comparison the neighbouring developments and the present condition and the site. Further details are contained in the Statement of Environmental Effects within.

Pursuant to Section 79C 1(e) of the *Environmental Planning and Assessment Act* the proposal is not considered to be in the public interest because the proposed density is double that allowable in a residential area. This is an undesirable precedent in a seaside village remote from most services.

Applicant – The proposal maintains current density conditions. It is noted that the proposal will provide greater amenity for residents, more parking and manoeuvring area and will have better articulation when viewed from the street. The development will also reduce the number of driveway entries and have a higher floor level than the existing building, which will reduce risks from flooding.

Council assessors have acknowledged that 'strict application of the density standard in this instance will encourage keeping the existing 4 unit building, whether renovated or in its current form'. This is not a desirable outcome from a public interest aspect considering the current site conditions.

Council also acknowledge that the 'variation is unlikely to create a precedent for future proposals, as it is largely dependant on the 1969 approval for a residential flat building on the site'.

An assessment of the amended application is contained below.

1. Planning Provisions

| | |
|---------------------------------------|--|
| LEP 2000 – Zoning Relevant Clauses | 2(a) Residential 19 – Dwellings, dual occupancies and urban housing 37 and 38 – Objectives and development on flood prone land 44 – Appearance of land and buildings 51A – Acid Sulphate Soils |
| Development Control Plan | B2 – Environmental and Construction Management B3 – Parking and Traffic B7 – Villas and Townhouses |
| State Environmental Planning Policies | 1 – Development Standards 71 – Coastal Protection |

Environmental Planning & Assessment Act 79BA - Bushfire Prone Land

Section 94 Development Contributions Plan.

1.1 Local Environmental Plan (LEP)

The site is located within the 2(a) Residential zone and urban housing is permissible in the zone. The objectives of this zone include:

- a) to encourage a range of residential development providing for a variety of housing types and designs, densities and associated land uses, with adequate levels of privacy, solar access, open space, visual amenity and services.*
- b) to ensure that infill development has regard to the character of the area to which it is proposed and does not have an unacceptable effect on adjoining land by way of shading, invasion of privacy, noise and the like.*

The development meets the objectives of the zone as it does not have an adverse impact on the surrounding properties through overshadowing, privacy, noise and the like.

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Clause 19 - Dwellings, dual occupancies and urban housing

| CONTROL | REQUIRED | PROPOSED | COMPLIES |
|---------------|----------|----------|-----------|
| Min Site Area | 300sqm | 202sqm | NO |
| FSR | 0.5:1 | 0.48:1 | YES |
| Height | 8m | 7.6m | Yes |

The proposal does not comply with the requirements for minimum site area. The applicant has submitted a *State Environmental Planning Policy No.1 – Development Standards* (SEPP 1) objection to these standards. The SEPP 1 request has been considered and is discussed later in the report.

Clause 37 and 38 – Objectives and development on flood prone land

In a pre development application meeting, the applicant was advised by Council's Strategic Engineer that the flood planning level (FPL) including sea level rise was 3.7m AHD. All units will have a ground floor level above the FPL. As such, the development is unlikely to increase the frequency, severity or risk from flooding on and around the site and is considered acceptable in regards to clause 37 and 38 of the LEP.

Clause 44 – Appearance of land and buildings

Clause 44 requires consideration to be made to the aesthetic appearance of the development when viewed from any waterway, reserve or main road. The development is considered to be sympathetic to the existing streetscape of Sandy Point Rd and the waterway and reserve. The development is surrounded by buildings of similar bulk and scale and the articulation of the building particularly the front and rear facades, does not adversely impact on the locality and adds some visual interest to the streetscape.

Clause 51A – Acid Sulphate Soils

The site is shown as part Class 2 and part Class 5 on the acid sulphate soils planning map. The applicant has submitted a geotechnical report with the application, which included on-site testing and stated that the development is unlikely to disturb acid sulphate soils.

1.2 Development Control Plan 2007

The application has been assessed against the relevant provisions of Port Stephens Development Control Plan, 2007 as follows.

B2 - Environmental and Construction Management

The application has been assessed against the applicable provisions of Port Stephens Development Control Plan, 2007 – Environmental and Construction Management and is considered satisfactory.

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B3 Parking Traffic and Transport

Council's DCP requires one space for each dwelling with two or less bedrooms, two spaces per dwelling with three bedrooms and one visitor parking space for every three dwellings. The proposed development is required to have four parking spaces and one visitor parking spaces. The development complies with these requirements.

However concern is raised over the driveway and aisle width near the visitor parking space. A condition will be placed on the consent to increase the aisle width to 5.8m to ensure there is sufficient manoeuvring space on site.

B7 Villas and Townhouses

| CONTROL | REQUIRES | PROPOSED | COMPLIES |
|----------------|--|--|-----------------|
| B7.C4 | Front setback – 6m | 14m | YES |
| B7.C6 | Dwellings facing the street | Unit 1 has a balcony facing the street. | Yes |
| B7.C8 | Covered entry | All entryways will be covered | Yes |
| B7.C9 | Dwellings to address public reserves | All units will address the waterfront reserve | Yes |
| B7.C10 | Deck (1.5m deep and 25% wide) for 2 storey dwellings | The deck size of Unit 1 complies | Yes |
| B7.C11 | Garages must be setback from the main building line | The garage for the main building has not been setback from the building line | NO |
| B7.C15 | Shared vehicular access | All units will share common access point | Yes |
| B7.C18 | Garage/carport no greater than 6m wide or 50% | Garages exceed 6m of the building frontage. However, this building is setback from the street. | NO |
| B7.C19 | Garage doors setback 1.5m from building alignment | Garage doors for Unit 1 are not setback from the building line | NO |
| B7.C33 | Site coverage 60% | Site coverage greater than 60% - if gravel areas included it is 63.5% | NO |
| B7.C36 | Max 1m cut/fill | Plans do not show any significant excavation or fillings | Yes |
| B7.C38 | Max 1m retaining wall (600mm if within 2m of bdy) | Plans do not show any retaining walls | Yes |
| B7.C44 | Max 2 storey | 2 storey | Yes |
| B7.C47 | Side setback – 900mm for single storey | 1m | Yes |
| B7.C48 | Side setback – 2m for 2 storey | 2m | Yes |
| B7.C52 | Waterfront reserve setback | 5.6m for ground floor | Yes |

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| | | | |
|--------|--|--|-----------|
| | - 4.5m (1m encroachment for lightweight structures) | 3.5m for first floor deck | NO |
| B7.C53 | Varying facades | Different facades | Yes |
| B7.C60 | POS – 35sqm and 4m wide | Complies | Yes |
| B7.C62 | POS – Deck greater than 20sqm and 3m wide if no ground floor POS | Unit 1 - deck 21sqm | Yes |
| B7.C66 | 3 hours sunlight to POS between 9am and 3pm | Due to partial north-south orientation, all POS should receive 3 hours sunlight | Yes |
| B7.C67 | Must allow 2 hours sunlight to 50% of adjoining POS between 9am and 3pm | Shadow diagram submitted Due to partial north-south orientation, the proposal will not unreasonably generate shadows on SW adjoining property | Yes |
| B7.C68 | Privacy – offsets and screens to be used to obscure direct line of sight within adjoining properties | Windows and decks are not directed toward POS and living area windows on adjoining properties | Yes |
| B7.C93 | Landscaping | A landscaping concept plan was submitted | Yes |

Discussion

In summary, the application does not comply with the setback and width of the garages, site coverage and waterfront reserve setback. Further comments on these variations are discussed below.

- Waterfront reserve setback (B7.C52)

The building will be setback 5.6m to the waterfront reserve, while the first floor deck will be setback 3.5m. The proposed deck is setback further than the existing deck at 2.3m. However, given that the existing development is to be demolished there is no reason to not comply with the waterfront setback in the DCP. Compliance with the setback will reduce the impact on the reserve and allow people using the reserve to use it as a public area whereas if the setback was reduced the use of public reserve begins to feel like it is private space and owned by the residents of the subject properties, thereby impacting on the amenity of the public reserve.

The applicant believes this variation is acceptable as it will increase the existing deck setback from 2.3m to 3.5m, aligns with adjacent properties and other properties further to the north east along Sandy Point Rd and does not impact on the waterfront reserve or neighbours views.

This variation is not supported as the building can easily be moved 1m forward to comply with this requirement. There is sufficient space at the front of the site to allow the building to be moved forward without impacting on any parking arrangements or the quality of landscaping. A condition has been placed on the consent to this effect.

- Site coverage (B7.C33)

The proposed site coverage is 53.5% but with the inclusion of gravel areas the site coverage is 63.5% which is above the 60% maximum requirement. A concept landscape plan was submitted with the application and shows areas of landscaping and grass at the front and rear of the site. This variation is supported as the principles of the control have been met in that the layout of the development has allowed adequate opportunity for landscape planting in deep soil.

- Garage setbacks (B7.C11, B7.C18 and B7.C19)

The garage does not meet the requirements of the DCP in terms of width and setback from the building line. This variation is supported due to the minimal impact as the garages are setback approximately 14m from the street. The garages have been detailed in a way which minimises the visual impact of the garages. In addition, the first floor balcony protrudes over the garage to provide some articulation to the facade.

1.3 State Environmental Planning Policy 1 – Development Standards

The applicant has submitted an objection under SEPP 1 to vary the minimum site area requirement of Clause 19 in LEP 2000.

- Minimum site area

Clause 19 in LEP 2000 sets a minimum site area of 300m² per dwelling. Based on this, the site would have a maximum potential for 2 dwellings. The proposed 3 unit development will have a site area of 202m² per dwelling and does not comply. This is a 50% variation to the development standard in the LEP.

The applicant's SEPP 1 objection to the above standards is as follows:

Variation to Development Standards under SEPP 1

The amended application requires an variation to the density development standard by an extra 50%, that is three units are sought while 2 units are permissible.

Objective of the Applicable Zone - The application for this development is residential zone 2(a). Some of the objectives related to this zone and the current development are to encourage a range of residential developments providing a variety of types, designs, land use and densities. An emphasis is placed on adequate levels of privacy, solar access, open space, visual amenity and services. The development should have regard to the character

of the area in which it is proposed and does not have an unacceptable effect on adjoining land. The design should take into account the environmental constraints in the area.

Objective of the Applicable Development Standard - the applicable development control aims to manage the general concentration of developments in a variety of zones and precincts in the Port Stephens area. The control attempts to avoid the over densifying of land and control the form and bulk of developments. The control identifies precincts to which it applies constraints, so as to achieve a consistency of character and language to new built form within a dedicated area.

Consistency with Clause 3 of SEPP 1 - it is viewed that, in this particular case, compliance to the standard is unreasonable and unnecessary. The proposed noncompliance does not defy the previously mentioned objectives of the standard or disregard the objectives of the applicable zone.

Reasons to Support the Variation - the client seeks to replace the existing conditions on the property; four 2 bedroom units. The current proposal includes 3 units with 7 bedrooms total and can achieve this goal while generally complying with the requirements of the local DCP and the other standards within the LEP. Discussions in meetings with council have resulted in council considering the bulk and scale of the proposed development "to be in keeping with the surrounding residential area and developments". Furthermore, the current proposal is not increasing the number of bedrooms or units on the site presently – It decreases the current density while vastly improving the amenity for the uses and the context within which it sits, hence achieving the objectives to which this development standard aspires.

Why Compliance with the Development Standard is Unreasonable or Unnecessary - It is viewed that strict compliance to the standard would be unreasonable as the current conditions of the property are poor and it is seen that a renovation or restoration, maintaining current density, would not be a sustainable solution for the current structure and surrounding property. Therefore, if this standard is enforced, development on the property would not take place at all and current poor conditions would remain. Also, given the aforementioned points in previous section; that the current proposal increases the amenity of the site and surrounding properties currently existing while decreasing the current density, it is seen that compliance would be unnecessary in this specific case as it relates to the standard.

Comment

A review of Council's records identified an approval for a residential flat building on the site in 1969 (DA 80/69 and BA 148/69). However, the records do not clearly indicate how many units were approved. There is a notation on the approved plans referring to 4 units and there is also a record of the approval which states three units. On this basis it is unclear as to whether three or four units were approved in 1969.

The applicant argues that the existing density can remain on site while staying within the requirements of the DCP and LEP. However, this is incorrect as the proposal has

several variations to the LEP and DCP controls including density, site coverage, garage setbacks, and waterfront reserve setbacks. As discussed previously the variation to site coverage and garage setbacks are considered acceptable. There is no reason why the waterfront reserve setback can not be met and it is recommended that if the application be approved that the building be relocated 1m to comply with this requirement.

The SEPP 1 objection is supported as the proposed density variation aligns with the current development on site and that of three/four units which was approved in 1969. The number of bedrooms proposed in the new development is exactly the same as the current number on site. The development will not significantly increase the bulk and scale of the development on sit, is consistent with surrounding development. In addition it will improve the existing streetscape through the addition of a modern building that has used a variety of architectural elements to improve the articulation facing the street, which is an improvement compared to the current dilapidated building on the site. The development will also add better quality landscaping and parking on the site and will improve the amenity for the residents as the current building contains asbestos.

1.4 State Environmental Planning Policy 71 – Coastal Protection

State Environmental Planning Policy No. 71 aims to protect and manage the New South Wales coast and foreshores and requires certain development applications in sensitive coastal locations to be referred to the Director-General for comment, and it identifies master plan requirements for certain developments in the coastal zone.

The application has been assessed under clauses 2 and 8 of the policy as shown in the table below.

| Clause No. 8 | Comments |
|---|--|
| a) aims of the Policy (cl 2) | The development is consistent with the aims of the Policy. |
| b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved, | Public access to the foreshore will be maintained. |
| (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability, | This is not appropriate as it is private property. |
| the suitability of development given its type, location and design and its relationship with the surrounding area, | The proposed development is suitable for the site. |

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| | |
|---|---|
| any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore | The development will not have a detrimental impact on the foreshore. The building is replacing an existing building so there will be minimal changes to overshadowing and there will be no significant loss of views from the public place. |
| f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities, | The scenic quality of the coast will be improved through the addition of a new contemporary building. |
| g) measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their habitats, | The development will have no impact on threatened species or plants. |
| h) measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats | The application is not located within the waterway and will have no impact on marine life. |
| i) existing wildlife corridors and the impact of development on these corridors, | The development will not have a significant impact on wildlife corridors. |
| j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards, | The development is not considered to have a major impact on coastal processes and hazards. |
| k) measures to reduce the potential for conflict between land-based and water-based coastal activities, | There are no potential conflicts identified on the site. |
| l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals, | No issues of concern have been raised in this regard; the development is replacing an existing building. |
| m) likely impacts of development on the water quality of coastal waterbodies, | The development will not impact on the water quality of the coast. |
| n) the conservation and preservation of items of heritage, archaeological or historic significance, | No heritage items are located on the site. |
| o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities, | This subclause is not relevant. |
| p) only in cases in which a development application in relation to proposed development is determined: | The development has proposed a number of measures in relation to energy efficiency in the design of the |

| | |
|---|---|
| i) the cumulative impacts of the proposed development on the environment, and ii) measures to ensure that water and energy usage by the proposed development is efficient. | building. The building has been designed to meet the requirements of BASIX. |
|---|---|

1.5 Environmental Planning & Assessment Act – 79BA Bushfire Prone Land

The site is mapped as bushfire prone, but is not integrated development given the proposal does not have a subdivision component. As such, the proposal has been considered under Section 79BA of the EPA Act. Following assessment, the proposal is considered to comply with Planning for Bushfire Protection 2006 subject to recommended conditions.

The closest bushfire threat is the unmanaged vegetation opposite the site on Sandy Point Road. The vegetation is considered to be best classified as dry sclerophyll forest, and has an upslope of approximately 20° for 140m in a SW direction. The building has a setback of 37m to the vegetation.

Under Planning for Bushfire Protection 2006 and AS3959-2009, the building would require construction to BAL 19. If the application was to be approved these construction levels shall be imposed as conditions of consent. Further, conditions would also be recommended requiring the site to be maintained as an Inner Protection Area and provision of water, utility services and access to be in accordance with Planning for Bushfire Protection 2006.

1.6 Section 94 Development Contributions Plan

Council's records indicate a previous approval in 1969 for a 3 - 4 unit residential flat building on the site. On this basis, section 94 is not applicable as the previous approval for the building allowed a minimum of three units and the proposed development is not increasing the density on the site.

2. Likely Impact of the Development

2.1 Built Environment

- Adjoining Properties

The development does not have a detrimental impact on adjoining properties. The building complies (in particular with the reduced number of units) with height and FSR requirements, and will have similar bulk and scale to the existing development on the site and surrounding properties.

- Streetscape

The development does not have a detrimental impact on the streetscape and character of Sandy Point Rd. The building has a large setback from the front boundary and the front of the site is proposed to be landscaped which will improve

the appearance of the site from Sandy Point Rd. The proposal adds a new contemporary building to the streetscape with strong articulation compared to the existing building on site.

- Landscaping

A landscaping concept plan has been submitted with the application showing the location of trees and shrubs. However, a detailed landscaping plan will be required to be submitted as part of the conditions of consent.

- Views

The development is unlikely to impact on any views around the site. The proposed form of the development and orientation will not cause significant view loss to adjacent properties.

2.2 Access and Traffic

The development will share a common access point to Sandy Point Road. Parking is provided as per the requirements of DCP 2007. The development will improve the existing parking arrangements on site as two vehicular crossings currently exist on site, which will be removed and replaced with one crossing.

2.3 Natural Environment

- Flora and Fauna

The redevelopment of the site will not require significant vegetation removal and on this basis is unlikely to have an impact on local flora and fauna.

- Water

Potential water impacts have been assessed through consideration of stormwater management and flooding. The development is unlikely to contribute to any impact on water quality or flow on and around the site.

- Site Contamination

The site is not on Council's contaminated land register and there is no known history of potentially contaminating uses on the site.

- Noise

The development will continue the residential use of the site and is unlikely to increase noise on adjoining properties.

2.4 Social and Economic Impacts

The proposed development will not result in any adverse social or economic impacts upon the local community.

3. Suitability of the Site

The development is considered to be suitable for the site as it is considered to be compatible with the existing streetscape and surrounding residential uses.

4. Submissions

The original application was advertised and notified in accordance with Council policy. Four (4) submissions were received objecting to the development which are summarised below. No further exhibition was undertaken of the current Section 82A Review as the proposal as the application has remained substantially the same and actually reduced in scale and impact.

- Overdevelopment of the site

Submissions raised concern that the proposal is an overdevelopment of the site.

The development does not comply with the density standard in LEP 2000, which requires a minimum site area of 300m² per dwelling. Give the site is 607m², a dual occupancy would be the maximum development permitted.

The applicant has sought a variation to the LEP through a SEPP 1 objection. This objection is predominantly on the basis of the proposal not increasing the existing and approved density of the site and that it will provide a greater benefit (residential amenity, more parking/manoeuvring, reducing driveway width, reducing flood risk) than retaining or renovating the existing building.

- Incompatibility with surrounding development

Submissions raised concern that the proposal would be incompatible with surrounding development.

Development along Sandy Point Road is characterised by large two storey dwellings and dual occupancies, with the dwelling along the northern side of the road being located toward the waterfront reserve running along the rear boundaries.

The proposed development will consist of a two storey building containing three units. The building complies with the height and FSR controls and is considered to be compatible with surrounding residential development. The footprint of the development is similar to that of the three properties to the west and is smaller than the two properties to the east, which can be seen in the Figure 7 of the Statement of Environmental Effects dated October 2011.

- Traffic Increase

Submissions raised concern about the traffic impact from the development, particularly resulting in the need for on-street parking and safety issues for adjoining properties trying to turn onto Sandy Point Rd.

The proposed parking meets the requirements of the DCP.

- Pedestrian safety

The submissions raised concern that the development would impact on the safety of people waiting at the bus stop located along the street frontage.

The existing unit development has 4 driveway/parking areas off Sandy Point Road, with no manoeuvring area.

The proposed development will only have a single access which is considered to be an improvement on the site in regards to pedestrian safety.

- Proximity to Corlette Community Hall

The submissions raised concern that any traffic impact from the development would be exacerbated by the existing parking issues arising from the Corlette Community Hall across the road.

As previously stated, the development proposes parking in accordance with the requirements of DCP 2007. Further, issues arising directly from on-street parking associated with the community hall is outside the scope of the assessment for this application.

5. Public Interest

The development does not cause significant impacts on the public interest as the building is compatible with existing residential development in the locality and improves the visual amenity of the existing site.

ATTACHMENT 3
CONDITIONS OF APPROVAL

1. 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.
2. 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 or as noted in red by Council on the approved plans.
3. The development application has not been fully assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
4. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
5. The building shall be constructed to **BAL 19**, under AS3959 – 2009 'Construction of Buildings in bushfire prone areas'.
6. The entire property shall be managed as an 'Inner Protection Area' as outlined within Planning for Bushfire Protection 2006 and Standards for Asset Protection Zones.
7. The development is to be provided with water (5,000L per dwelling for fire fighting purposes) and utilities as per the requirements of Planning for Bushfire Protection 2006.
8. Certification is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority at the following stages of construction:
 - a. On completion of ground floor construction, confirming that the floor levels are in accordance with the Reduced Levels indicated on the approved plan.
 - b. When the roof has been completed, confirmation that the building does not exceed the Reduced Levels, as indicated on the approved plan.
9. The natural ground level of the useable open space shall not be altered to ensure adjoining properties are not adversely affected in terms of stormwater runoff or privacy.

10. The development shall be undertaken in accordance with the geotechnical report prepared by Douglas Partners dated November 2010.
11. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005).
The Flood Planning Level for this development is 3.7 metres AHD.
Flood Compatible Building Materials are listed in the attached Schedule.

The following design precautions must be adhered to:-

- 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 sewerred 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.
12. **Prior to commencement of any works** within the road reserve for the provision of a driveway crossing, the applicant or their nominated contractor shall make application to Council and receive approval for the construction of the driveway.

Application shall be made on Council's Driveway Construction Application form, **a copy of which is attached** to this consent for your convenience. For further information on this condition please contact Council's Facilities and Services Group.

The construction of the footpath crossing must be completed **prior to issue of Final Occupation Certificate.**

13. Internal carparking and manoeuvring areas shall have a 100mm concrete kerb along the boundary edge to stop stormwater discharging onto neighbouring properties. This is to be located on north east side. This kerb shall not extent past the property boundary.
14. All redundant lay-backs shall be reinstated to match the adjoining kerb and gutter profile.
15. Collected stormwater shall be piped from the approved drainage system (ie detention system) and connected to the kerb, using a kerb adaptor.
16. Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (volume, discharge, levels, location, etc) are built in accordance with conditions of consent and the approved plan. Minor variations in height can be certified providing they are clearly identified in the report and the engineer certifies that the overland flow paths are not altered, discharge rates are not increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.

The documents shall be submitted to, and accepted by the Certifying Authority, **prior to issue of the occupation certificate.**

17. Works associated with the approved plans and specifications shall not commence until:
 - i) a Construction Certificate has been issued, and
 - ii) the Principal Certifying Authority has been nominated, and
 - iii) Council has received two days notice of the commencement date.
18. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
19. 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. Council may issue 'on the spot' fines for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.
20. 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;

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* Saturday, 8am to 1pm;

* No construction work to take place on Sunday or Public Holidays.

21. When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.
22. 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.
23. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
24. No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.
25. Retaining Walls, not clearly noted on the approved plans or outside the parameters set in Council's Exempt and Complying Development criteria, are to be subject to a separate development application.

Such application shall be lodged and approved prior to any works relating to the retaining wall taking place

26. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with AS2601-2001 and Workcover Authority requirements.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

27. 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. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.

28. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
29. 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.
30. All stockpiled materials shall be retained within the property boundaries. Stockpiles of topsoil, sand, aggregate, spoil or other materials shall be stored clear of the all weather vehicle access and drainage lines.
31. The principal certifying authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the principal certifying authority issues an occupation certificate. Note: if an accredited certifier approves occupation, the accredited certifier is to immediately notify council in writing.
32. **Prior to occupying the approved dwelling(s)**, contact Council's Mapping Section on 49800304 to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
33. The development shall be carried out in accordance with the Building Sustainability Index (BASIX) certificate number 334579M. 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**.

Where approved, a copy of the amended/new BASIX Certificate shall be submitted to Council within fourteen days and will be considered sufficient to satisfy this condition.
34. Building demolition shall be carried out in accordance with Australian Standard AS2601-2001 – The Demolition of Structures.
35. The demolition and disposal of materials containing asbestos should be carried out in accordance with Workcover Authority Guidelines. Material should be disposed of at a licenced landfill facility.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

36. The driveway (within the road reserve) shall have a minimum of 0.5 metres clearance from the edge of existing drainage structures, pits, power poles etc. Details shall be approved by the certifying authority **prior to issue of the Construction Certificate.**
37. The plans must be amended and approved by Council **prior to the issue of the Construction Certificate to:**
Comply with the 4.5m waterfront reserve setback for the first and ground floor of the building. This will require the whole development to move forward one metre including the visitor parking.
Provide a minimum aisle width of 5.8m to allow for manoeuvrability associated with the visitor parking space to comply with Australian Standard AS2890.1.
Relocate the raised planters and landscaping to allow for safer manoeuvring of vehicles into all parking spaces.
38. A landscaping plan shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of the Construction Certificate.** This plan shall indicate all existing trees, specifying the trees to be retained and those proposed to be removed. It shall specify details of proposed planting, including common and botanical names and height and spread at maturity.
39. Landscaping must be completed **prior to issue of Occupation Certificate.**
A colour scheme providing full details of the colours and character of all external building materials and finishes to be used shall be approved by Council **prior to the issue of the Construction Certificate.**
40. The stormwater detention system shall be built in accordance with the approved concept plan with the exclusion of works associated with Unit 1. Details are to be approved by Council **prior to the issue of the Construction Certificate.**

Note: Unit 1 refers to the unit shown on Stormwater Drainage Plan & Details dated September 2010. The construction of this unit has not been approved as part of this consent and was deleted from the plans through the assessment of the application.

ITEM NO. 4

FILE NO: PSC2011-02018

PORT STEPHENS COUNCIL ANNUAL REPORT 2010-2011

REPORT OF: WAYNE WALLIS - GROUP MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Port Stephens Council Annual Report 2010-2011.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|---|
| | Councillor Ken Jordan Councillor Peter Kafer |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 398 | Councillor Ken Jordan Councillor Peter Kafer |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

The purpose of this report is to present to Council the Port Stephens Council Annual Report 2010-2011 against the Operational Plan 2010-2011.

FINANCIAL/RESOURCE IMPLICATIONS

Part 2 of the Annual Report 2010-2011 contains the audited financial statements of Council. Part 1 contains a summary of revenue and expenditure in the form of easy-to-read graphs.

LEGAL, POLICY AND RISK IMPLICATIONS

The Port Stephens Council Annual Report 2010-2011 is produced under the provisions of section 428 of the Local Government Act 1993 (as amended). As a Group 1 Council under that section, Council is only required to provide a State of Environment report every four years and the next one is due in 2012 at the end of Council's term.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Principal Activities report contained in Part 1 of the Annual Report establishes Council's achievements under the four sustainability pillars: Social/Cultural, Environment, Economy, Governance and Civic Leadership.

CONSULTATION

The Port Stephens Council Annual Report 2010-2011 was prepared with inputs from across Council and with reference to the Division of Local Government Circular to Councils 11-18 Reporting Requirements for Local Government.

Part 2 – Financial Statements – was prepared by Council staff in Financial Services Section and audited by Council's external auditors, PricewaterhouseCoopers.

OPTIONS

- 1) Adopt the Port Stephens Council Annual Report 2010-2011;
- 2) Amend the Port Stephens Council Annual Report 2010-2011;
- 3) Reject the Port Stephens Council Annual Report 2010-2011.

ATTACHMENTS

- 1) Nil.

COUNCILLORS ROOM

- 1) Nil.

TABLED DOCUMENTS

- 1) Port Stephens Council Annual Report 2010-2011.

ITEM NO. 5

FILE NO: A2004-0242

QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2011

REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES MANAGER

GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget as detailed under in **ATTACHMENT 1**;
- 2) Notes the estimated surplus from ordinary activities before Capital amounts of \$1.380 million;
- 3) Notes the estimated underlying operating deficit of \$5.120 million.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|--|
| | Councillor Geoff Dingle Councillor Frank Ward |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 399 | Councillor John Nell Councillor Ken Jordan |
| | It was resolved that the recommendation be adopted. |

Cr Peter Kafer recorded his name against the motion.

BACKGROUND

The purpose of this report is to amend the budget by bringing to Council's attention the proposals and issues that have an impact on the 2011/12 budget which are detailed in the Quarterly Budget Review Statement – September 2011. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the September Quarterly Budget Review. This is the first budget review in the new format developed by the Division of Local Government (DLG) and whilst the content of the report has, to a large extent, been mandated by the DLG, Councillors are encouraged to provide feedback on the format of the document to ensure it meets their needs.

Council adopted its Integrated Strategic Plans on 28 June 2011 (Council Minute 222) - these Plans include the budget estimates for the 2011/12 financial year.

FINANCIAL/RESOURCE IMPLICATIONS

Council's Net Operating Results are expected to improve by \$188,000 and Council's General Revenue Results are expected to improve by \$713,000 with the adoption of the recommended changes.

LEGAL, POLICY AND RISK IMPLICATIONS

Clause 203(1) of the Local Government (General) Regulation 2005 requires Council's Responsible Accounting Officer to prepare and submit a Quarterly Budget Review Statement (QBRs) to Council.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

- 1) Financial Analysis Team;
- 2) Executive Leadership Team;
- 3) Senior Leadership Team.

OPTIONS

- 1) Accept the recommendation;
- 2) Reject the recommendation.

ATTACHMENTS

- 1) Quarterly Budget Review Statement – September 2011.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



**Quarterly Budget Review
Statement – September 2011**

1. Introduction

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

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

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

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

The QBRS is composed of the following components:

- Responsible Accounting Officer Statement;
- Income & Expenses Budget Review Statement;
- Capital Budget Review Statement;
- Cash & Investments Budget Review Statement;
- Key Performance Indicators Budget Review Statement; and
- Budget Review Contracts and Other Expenses
- Financial Risks

The QBRS provides sufficient information to alert Councillors to any issues or potential problems that may impact its ability to achieve the stated financial targets, agreed strategies and objectives that are set out in the operational plan and delivery program and to maintain its targeted financial position.

2. Responsible Accounting Officer's Statement

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

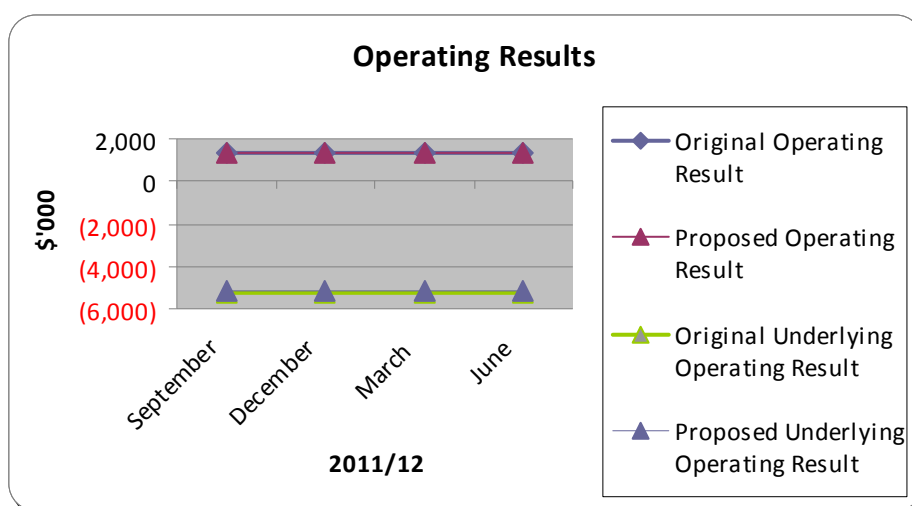
The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 30/9/2011 indicates that Council's projected financial position at 30/6/2012 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Name: Peter Gesling

Responsible Accounting Officer, Port Stephens Council

3. Income & Expenses Budget Review Statement



Notes:

1. Revised Budget = Original Budget +/- approved budget changes in previous quarters
2. Proposed Budget = Revised Budget +/- recommended changes this quarter
3. Underlying Operating Result = net operating result for the year before capital grants & contributions less budgeted profits from Newcastle Airport and land sales
4. General Revenue Result = Operating Result less transfers to/from reserves and depreciation
5. Revised Budget includes revotes and carry forwards and Central Ward Funds allocation adopted by Council on 27 September 2011

Council's original operating budget for 2011/12 was incorporated as part of the Integrated Plans and was adopted by Council on 28 June 2011 (Council Minute 222).

This statement sets out the details of variations between Council's revised operating budget and the proposed budget as part of the September Quarterly Budget Review. Whilst there are a number of minor budgetary changes proposed across the Council budget which has delivered an overall improvement in the Operating Result of \$188,000 (refer to Recommended Changes for Council Resolution column in

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

Income and Expenses Budget Review Statement), the material amendments are detailed below under each income and expenditure category.

Council's Underlying Operating result, which excludes profit from both land sales and Newcastle Airport, has improved by the same amount (\$188,000) from a projected deficit of \$5.30 million to a projected deficit of \$5.11 million.

The General Revenue result has improved by \$713,000 mainly due to the Economic Development & Tourism Section restructure and increase in rate revenue budgeted to be received in the current year.

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

| | Budget Change | |
|---|----------------------|------------|
| | \$'000 | F/U |
| REVENUE | | |
| Grants and Contributions provided for Operating Purposes | (568) | U |

There has been a reduction in Economic Development Grants to be received from the State Government. The reduction in income has been offset by a corresponding reduction in expenditure in Economic Development (refer Materials and Contracts).

Budgetary changes to reflect Council's role as administrator of the Lower Hunter Zone Fire Service have been made, refer to commentary below.

| | | |
|--|-------------|----------|
| Interest and Investment Revenue | (36) | U |
|--|-------------|----------|

The Newcastle Airport (NAL) loan was refinanced recently which resulted in a reduced interest rate (Borrowing Costs) from the reset date; consequently the amount payable to Council from NAL will be reduced.

| | | |
|-----------------------|--------------|----------|
| Other Revenues | (965) | U |
|-----------------------|--------------|----------|

Budgetary changes to reflect Council's role as administrator of the Lower Hunter Zone Fire Service have been made, refer to commentary below.

| | | |
|---------------------------------|------------|----------|
| Rates and Annual Charges | 400 | F |
|---------------------------------|------------|----------|

Rates and Annual Charges have increased due to growth in rate assessment numbers since original budget preparation.

| | | |
|---|----------|----------|
| Grants and Contributions provided for Capital Purposes | - | - |
|---|----------|----------|

Nil change.

| | | |
|------------------------------|-----------|----------|
| User Charges and Fees | 96 | F |
|------------------------------|-----------|----------|

There has been an increase in User Charges and Fees mainly due to a contribution to tourism received from Events NSW for Sail Port Stephens.

EXPENDITURE

Borrowing Costs (60) F

The loans Council has taken out for Newcastle Airport & Melaleuca legal costs have been refinanced recently, allowing Council to take advantage of lower interest rates. This will result in Council achieving some savings in borrowing costs.

Depreciation and Amortisation - -

Nil change.

Employee Benefits and On-Costs (97) F

Savings in employee costs have been achieved with the restructure of the Economic Development and Tourism Section.

Materials and Contracts (1,572) F

The restructure of Economic Development and Tourism has resulted in reduced costs.

Budgetary changes to reflect Council's role as administrator of the Lower Hunter Zone Fire Service have been made, refer to commentary below.

Other Expenses 467 U

There has been an increase in the contribution payable to Port Stephens Tourism Limited for marketing expenses which has been offset in a reduction in Economic Development costs (Materials and Contracts).

Insurance premiums for 2011/12 for property, motor vehicles and public liability were all less than originally forecast.

Budgetary changes to reflect Council's role as administrator of the Lower Hunter Zone Fire Service have been made, refer to commentary below.

Additional Commentary

Additional commentary is provided below to support the major changes recommended for the September Quarterly Budget Review for:

- Rural Fire Service
- Economic Development & Tourism

Administration of Rural Fire Service – Lower Hunter Zone

The NSW Rural Fire Service – Lower Hunter Zone which includes Cessnock, Maitland, Dungog and Port Stephens councils is now being administered by Port Stephens Council and managed by the Rural Fire Service Zone Manager and Business Officer.

The 2011/12 Rural Fire Service budget has been finalised and all Councils will provide the agreed allocation to the Zone budget, with Cessnock, Maitland & Dungog councils carrying out quarterly payments at the start of each quarter to Port Stephens Council.

Cessnock, Dungog & Maitland councils will invoice Port Stephens Council for any costs incurred by them for the Lower Hunter Rural Fire Service.

The impact on Council's budget to reflect the new administrative arrangements with the Lower Hunter Zone results in a number of budget changes ending in a net increase in expenditure of \$34,000 as outlined in the table below. The net increase has been funded from within existing budget allocations in Community & Recreation.

| Description | Budget change \$'000 |
|--------------------------|---------------------------------|
| Reduction in Expenditure | (1,299) |
| Reduction in Revenue | (1,333) |
| Net result | 34 |

Economic Development & Tourism

Council resolved to adopt the current structure of the Economic Development & Tourism Section in April 2011, which would deliver some financial savings. The impact on Council's budget to reflect the new structure results in a net reduction in costs of \$183,000 as outlined in the table below:

| Description | Budget change \$'000 |
|--------------------------|---------------------------------|
| Reduction in Expenditure | (203) |
| Reduction in Revenue | (20) |
| Net result | (183) |

4. Capital Budget Review Statement

| | Original Budget | Revised Budget ¹ | Actual | Recommended Changes for Council Resolution | Proposed Budget ² |
|--|-----------------|-----------------------------|--------------|--|------------------------------|
| | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 |
| Capital Funding | | | | | |
| Rates & other untied funding | 171 | 224 | - | - | 224 |
| Capital Grants & Contributions | 2,335 | 2,582 | 217 | - | 2,582 |
| Internal Restrictions | 12,589 | 18,219 | - | 250 | 18,469 |
| External Restrictions | | | | | |
| Domestic Waste Management Section 94 | - | - | - | - | - |
| Restricted Cash | 3,159 | 3,159 | - | - | 3,159 |
| Loans | 820 | 1,308 | - | - | 1,308 |
| | - | - | - | - | - |
| Total Capital Funding | 19,073 | 25,491 | 217 | 250 | 25,742 |
| Capital Expenditure | | | | | |
| Commercial Services Group | | | | | |
| Commercial Enterprises | | | | | |
| Fingal Bay Holiday Park | 1,520 | 2,806 | 4 | - | 2,806 |
| Halifax Holiday Park | 440 | 633 | 1 | - | 633 |
| Marketing & Administration | - | 275 | - | - | 275 |
| Samurai Beach Resort | - | - | - | 55 | 55 |
| Shoal Bay Holiday Park | 416 | 726 | 166 | - | 726 |
| Soldiers Point Holiday Park | - | - | - | 7 | 7 |
| Commercial Property | | | | | |
| Office and Chambers | 349 | 349 | 6 | - | 349 |
| Property Development | - | 1,700 | 91 | 175 | 1,875 |
| Property Investments | - | 375 | - | - | 375 |
| Financial Services | | | | | |
| Fleet Administration | 3,859 | 3,859 | 561 | - | 3,859 |
| Commercial Services Group Total | 6,584 | 10,723 | 829 | 237 | 10,960 |
| Corporate Services Group | | | | | |
| Corporate Services Group Manager's Office | | | | | |
| Legal Services | - | - | 19 | 14 | 14 |
| Corporate Services Group Total | - | - | 19 | 14 | 14 |
| Facilities and Services | | | | | |
| Civil Assets | | | | | |
| Community and Recreational Assets | 7,589 | 8,164 | 150 | - | 8,164 |
| Design and Project Development | 3,573 | 4,729 | 1,590 | - | 4,729 |
| Drainage | 1,050 | 1,597 | 19 | - | 1,597 |
| Community and Recreation | | | | | |
| Library Services | 278 | 278 | 3 | - | 278 |
| Facilities and Services Total | 12,490 | 14,768 | 1,762 | - | 14,768 |
| Total | 19,074 | 25,491 | 2,610 | 250 | 25,742 |

Notes:

1. Revised Budget = Original Budget +/- approved budget changes in previous quarters
2. Proposed Budget = Revised Budget +/- recommended changes this quarter
3. Revised Budget includes revotes and carry forwards and Central Ward Funds allocations adopted by Council on 27 September 2011

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

Council's original capital budget for 2011/12 was incorporated as part of the Integrated Plans and was adopted by Council on 28 June 2011.

This statement sets out the details of variations between Council's revised capital budget and the September Quarterly Budget Review. There are minor budgetary changes proposed which require an increase in capital expenditure of \$250,000, which is wholly funded from funds held in reserve. The amendments are detailed below under each Section.

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

| | Budget Change | |
|--|----------------------|------------|
| | \$'000 | F/U |
| CAPITAL EXPENDITURE | | |
| Commercial Enterprises | 62 | U |
| An additional \$62,000 requested to establish a Marquee at Samurai Beach Resort (\$55K) and the replacement of electric hot water systems with gas reticulation systems at Soldiers Point Holiday Park (\$6.5K). These items are to be funded from the Commercial Enterprises Restricted Fund. | | |
| Commercial Property | 175 | U |
| An additional \$175,000 requested to conduct an Environmental Report for 398 Cabbage Tree Rd (\$40K) and for consultant's costs to obtain a Construction Certificate that has been requested for Salamander Waters Stage 1 (\$135K). These items are to be funded from the Commercial Property Restricted Fund. | | |
| Corporate Services Group Manager's Office | 14 | U |
| An additional \$14,000 requested for Legal Expenses. The Legal Expenses are made up of preparation of contract for sale and expressions of interest for 155 Salamander Way, call for detailed proposals for the Raymond Terrace Sports Fields and to create an Asset Protection Zone and Easement on land adjacent to Colonial Ridge as the result of a Council Resolution. These items are to be funded from the Commercial Property Restricted Fund. | | |

5. Cash and Investments Budget Review Statement

This statement shows the original budgeted cash and investment position and projected year end position. This statement also includes detail on transfers to and from Council's reserves.

| | Opening Balance | Transfers | | Closing Balance |
|--|-----------------|------------|----------------|-----------------|
| | \$'000 | To | From | \$'000 |
| Externally Restricted | | | | |
| Developer Contributions – General | 8,351 | 0 | (2,871) | 5,480 |
| Specific Purpose Unexpended Grants | 1,078 | 0 | (1,078) | 0 |
| Domestic Waste Management | 737 | 448 | 0 | 1,185 |
| Crown Holiday Parks | 5,577 | 0 | (5,281) | 296 |
| Total | 15,743 | 448 | (9,230) | 6,961 |
| Externally Restricted Internally Restricted | | | | |
| Administration Building | 116 | 95 | 0 | 211 |
| Sinking Fund Asset | 180 | 0 | (180) | 0 |
| Rehabilitation Reserve | 61 | 0 | 0 | 61 |
| Bonds held for Developer's Works | 7 | 0 | 0 | 7 |
| Builder's Security Deposits | 44 | 0 | (44) | 0 |
| Drainage Reserve | | | | |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| | | | | |
|---|-------|-------|-------|--------|
| Election Reserve | 146 | 100 | 0 | 246 |
| Employees Leave Entitlements | 2,588 | 0 | 0 | 2,588 |
| Holiday Parks Information | 0 | 0 | 0 | 0 |
| Technology Strategy | 38 | 0 | (9) | 29 |
| Investment Properties Depreciation Function | 16 | 254 | 0 | 270 |
| Investment Properties Reserve | 0 | 4,033 | 0 | 4,033 |
| Levies and Special Rates | 0 | 0 | 0 | 0 |
| Other Waste Reserve | 146 | 0 | 0 | 146 |
| Parking Meter Reserve | 38 | 120 | 0 | 158 |
| Plant and Vehicle Replacement | 238 | 1,329 | 0 | 1,567 |
| Rehabilitation Quarry | 58 | 6 | 0 | 64 |
| Road and Environment Asset Rehab | 30 | 0 | (30) | 0 |
| RTA Bypass | 143 | 0 | (143) | 0 |
| RTA Contributions | 57 | 0 | 0 | 57 |
| Ward Funds | 135 | 533 | 0 | 668 |
| Works Depot Reserve | 113 | 281 | 0 | 394 |
| Newcastle Airport Limited | 6,771 | 3,607 | 0 | 10,378 |
| Sustainable Energy and Water Reserve | 18 | 0 | 0 | 18 |
| Sec 355c Committees | 673 | 0 | 0 | 673 |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| | | | | |
|-------------------------------------|---------------|---------------|--------------|---------------|
| Total Internally Restricted | 11,616 | 10,358 | (406) | 21,568 |
| Total Restricted | 27,359 | | | 28,529 |
| Total Cash & Investments | 27,359 | | | 28,529 |
| Available Cash ¹ | 0 | | | 0 |

Notes:

1. The available cash position excludes restricted funds. External restrictions are funds that must be spent for a specific purpose and cannot be used by Council for general operations. Internal restrictions are funds that Council has determined will be used for a specific future purpose.

6. Key Performance Indicators (KPIs) Budget Review Statement

The KPIs are intended to be indicative of the financial health and presence of business management practices being conducted at Council. The KPIs included in the QBRs are:

- Debt Service Ratio
- Building & Infrastructure Renewal Ratio
- Collection Performance

A colour coding 'traffic light' system has been developed to rate and present the relative position of the KPIs, using:

Green

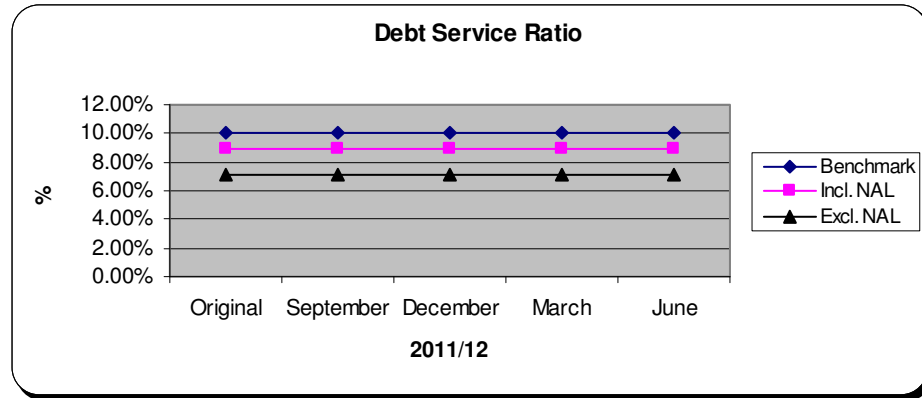
Amber

Red

| KPI Summary | Original Budget | Revised Budget | Recommended Changes for Council Resolution | Proposed Budget |
|-------------------------|-----------------|----------------|--|-----------------|
| Debt Service Ratio | 8.95% | 8.95% | 0.02% | 8.97% |
| Buildings Renewal Ratio | 67.56% | 67.56% | - | 67.56% |
| Collection Performance | 4.96% | 4.96% | - | 4.96% |

Debt Service Ratio (DSR)

This ratio demonstrates the cost of servicing Council's debt obligations (principal + interest) with available revenue from ordinary activities.



The Gauge

- Greater than 15%
- Between 10 – 15%
- Less than 10%



Comment

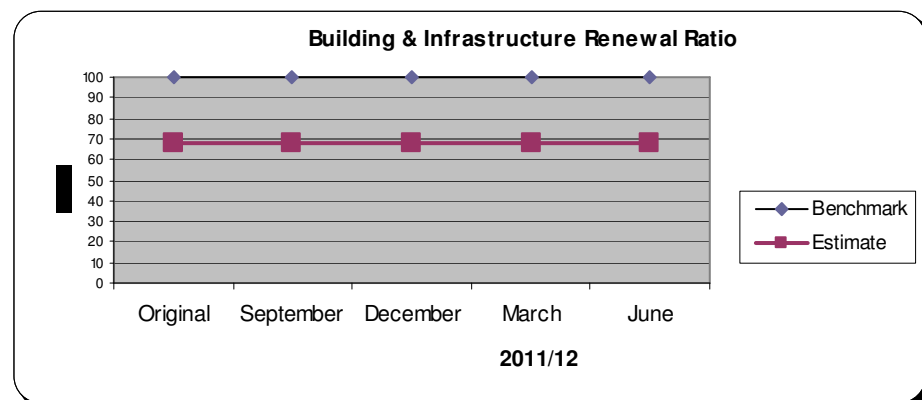
The DSR is expected to increase by 0.02% from 8.95% to 8.97% mainly as a result of budgeted income decreasing. This has little impact and indicates that Council remains in a stable position to cover interest charges and principal payable on borrowings with budgeted income. Council's debt position remains manageable

The DSR excluding the loans made to the Newcastle Airport is forecasted to be 7.09%.

A DSR of less than 10% is an industry accepted measure.

Building & Infrastructure Renewal Ratio

This measure is intended to reflect the extent to which Council is maintaining the condition of its assets. This is a longer term indicator of the condition and cost to maintain public infrastructure assets which assessed against annual depreciation.



The Gauge

Less than 100%
Greater than 100%

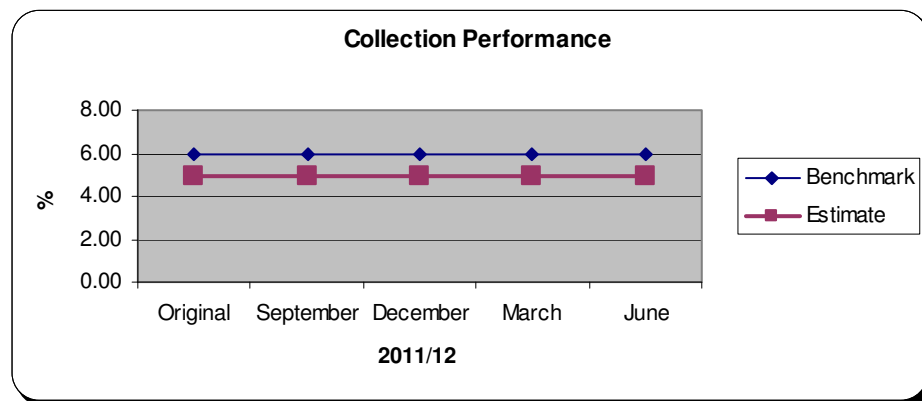


Comment

The Building & Infrastructure Renewal Ratio remains unchanged and highlights that insufficient funds are currently being spent on renewing existing assets to maintain them in an 'as new' condition.

Collection Performance

Council in conducting its business is entitled to the receipt of fees and rates which need to be collected efficiently. A measure of its success in this regard is the amount of legally receivable proceeds that are still outstanding at the end of the financial year, in comparison to the total fees receivable for the year.



The Gauge

Greater than 9%
Between 6 – 9%
Less than 6%



Comment

Council has a sound record in collecting outstanding rates and this is expected to continue in 2011/12.

7. Budget Review Contracts and Other Expenses

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

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

- Were entered into during the quarter ending 30 September 2011; and
- Have a value equal to or more than \$50,000

Part B of the report shows expenditure as at 30 September 2011 for:

- Consultancies
- Legal fees

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

**Part A
Contracts Listing**

| Contractor | Contract Detail & Purpose | Contract Value (\$) | Commencement Date | Duration of Contract | Budgeted (Y/N) |
|----------------------------------|---|---------------------|-------------------|----------------------|----------------|
| Downer EDI Works | Seaham Rd Raymond Terrace Capitalised Rehabilitation. | 57,696 | 20/09/2011 | 3 days | Y |
| Moduplay Commercial Play Systems | Capital Works, Tomaree Playgrounds Fingal Bay Playground Upgrade. | 84,714 | 20/09/2011 | 2 weeks | Y |
| Newcastle Isuzu Ute | Supply of 4 Vehicles. | 140,045 | 12/09/2011 | 1 day | Y |
| Gilbert & Roach Pty Ltd | Supply of 1 Isuzu NPR400 Medium Truck. | 51,180 | 26/07/2011 | 1 day | Y |

**Part B
Consultancy & Legal Expenses**

| Expense | Annual Budget (\$) | Expenditure YTD (\$) | Budgeted (Y/N) |
|---------------|-----------------------|-------------------------|-------------------|
| Consultancies | 696,161 | 276,168 | Y |
| Legal Fees | 783,000 | 372,496 | Y |

8. Financial Risks

Issues that have been identified which may pose financial risks are detailed in the table below:

| IDENTIFIED ISSUES | RESPONSIBILITY | ACTION REQUIRED | EXPECTED COMPLETION DATE |
|--|--|--|---|
| Department of Environment and Climate Change. | Operations. | Complete identified actions from recent voluntary environmental audit across all Council waste generation activities. Estimated cost of corrective actions is \$165,000 over a two year period. | Final submissions on penalty made to the Land and Environment Court on 19 August, 2011. Now awaiting Judge's decision. |
| Fingal Bay Link Road – Acquisition of road reserve and final design. | Civil Assets, with assistance from Property Section. | Negotiations are in progress with Worimi to purchase part of the road reserve. Acquisition of parts of two blocks of land at Shoal Bay have been put on hold pending outcome with Worimi's. | Further reports will be submitted to Council in due course as issues are concluded. Completion of action cannot be predicted. |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| IDENTIFIED ISSUES | RESPONSIBILITY | ACTION REQUIRED | EXPECTED COMPLETION DATE |
|--|---|--|---------------------------------|
| <p>Contract review of (1) Waste Levy cost sharing and (2) take or pay methodology in Waste Disposal Agreement with Port Stephens Waste Management Group. Potential impact modelled on 2010/2011 is an extra \$1,580,000 on Waste Reserve. Potential total impact from 2012 to 2018 is \$16,700,000 in extra contract payments.</p> | <p>Community and Recreation/Waste Team.</p> | <p>Dispute resolution process in Waste Disposal Agreement commenced September 2010. Legal Advice Request activated 20 October 2010 with Harris Wheeler. Legal strategy being prepared. Modelling of options for negotiated outcomes is progressing. Letter to Department of Environment, Climate Change and Water sent 19 October 2010 to advise of intention to use revenue from Waste and Sustainability Improvement Payment Program to part fund potential cost impact from take or pay methodology issue should negotiations fails to deflect entire claim.</p> <p>Issue 1 – Waste Levy claim has been rejected by PSC on legal advice. Sita advised of this position.</p> <p>Issue 2 – PSC made offer to resolve issue in 2011/12. No response from Sita as at 7/3/11. Future impact has been budgeted for in 2011/12 budget.</p> | <p>December 2011.</p> |

ITEM NO. 6

FILE NO: PSC2005-0829

RATES FINANCIAL ASSISTANCE – TILLIGERRY CREEK OYSTER FARMERS

REPORT OF: DAMIEN JENKINS - FINANCIAL SERVICES MANAGER

GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the proposal to provide means tested rates financial assistance to Tilligerry Creek oyster farmers who meet hardship criteria on public display for 28 days;
- 2) Report to Council on any submissions received, and in the absence of any submissions, approve provision of the financial assistance without further reference to Council.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|---|
| | Councillor John Nell Councillor Geoff Dingle |
| | That the recommendation be adopted. |

MATTER ARISING

| | |
|--|--|
| | Councillor Geoff Dingle Councillor Sally Dover |
| | That Council investigate the use of sewage waste on rural land around the Tilligerry area. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 400 | Councillor Geoff Dingle Councillor John Nell |
| | It was resolved that the recommendation be adopted. |

MATTER ARISING

| | |
|------------|--|
| 401 | Councillor Geoff Dingle Councillor John Nell |
| | It was resolved that Council investigate the use of sewage waste on rural land around the Tilligerry area. |

BACKGROUND

The purpose of this report is to offer means tested rates hardship assistance in 2011/2012 to oyster farmers affected by the closure of Tilligerry Creek to oyster harvesting.

Part of Zone 5B remains closed to oyster harvesting. Last year Council received and approved one application for hardship assistance in the amount of \$669.64.

Hardship criteria is aligned with Australian Government Drought Assistance.

FINANCIAL/RESOURCE IMPLICATIONS

The amount involved represents a very small component of Council's annual expenditure.

LEGAL, POLICY AND RISK IMPLICATIONS

To qualify for assistance under Section 356 of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Oyster farmers in Port Stephens directly fund the Port Stephens Shellfish Quality Assurance Program. The water monitoring associated with this program assists Council in the exercise of its functions as the oyster industry is an early indicator of water quality issues.

Section 356 (2) of the Local Government Act requires a notice to be placed in the Port Stephens Examiner calling for public submissions.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed relief for farmers is an appropriate response to a special circumstance. The measure supports the continuation of the local oyster industry which is a measure of the health of Port Stephens waterways.

CONSULTATION

Environmental Services Manager.

OPTIONS

- 1) Accept the Recommendation;
- 2) Reject the Recommendation;
- 3) Amend the Recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

FILE NO: PSC2011-00933

SUSTAINABILITY REVIEW – LEGAL SERVICES

REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the information contained in the Service Strategy – Legal Services;
- 2) Maintain the current gatekeeper model for the delivery of Legal Services and proceed to the next legal services tender (early 2012);
- 3) Further investigate the cost benefit of employing a paralegal or legal administration officer and decreasing external legal expenditure;
- 4) Investigate Hunter Councils legal services model when available as part of the legal services contract tender;
- 5) Investigate structure alignment with Executive Services in the General Manager's Office particularly with a view to sharing of paralegal support.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|---|
| | Councillor John Nell Councillor Ken Jordan |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 402 | Councillor Ken Jordan Councillor John Nell |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

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

The review of the service accords with the principles of Best Value. The service links to Strategic Direction 5 in the Community Strategic Plan 2021 (Governance and Civic Leadership), in particular 5.6.4 – ensure the provision of quality legal services to the Council. The key driver for the service is operational.

By way of background, the sustainability reviews currently being undertaken across all Council services comprise three key stages:

- Stage 1 Reviewing what is currently delivered – ie service drivers (legal, financial, operational).
- Stage 2 Reviewing what should be delivered – ie service levels (at what standard and at what cost).
- Stage 3 Reviewing how it should best be delivered – ie service delivery method (delivery model).

The findings of all stages of the review are documented into a comprehensive service strategy, with recommendations on the way forward.

Legal Services

As part of its function, Legal Services:

- Provides legal advice and advocacy.
- Coordinates the Legal Services contract, manages Council's legal budget and applies triage to use of legal services resources.
- Establishes and improves processes.
- Co-ordinates litigation.
- Oversees legislative compliance, legislative review and provides advice on legislative interpretation.
- Provides regular legal briefings to Council.
- Coordinates Council response to subpoenas.
- Provides back-up to the governance function in the General Manager's Office.

There are a number of ongoing challenges facing legal services:

- Resourcing – both human and financial.
- Litigious Environment – the nature of Council functions and its profile in the local community make it a highly visible target of litigation.
- Broad Legislative Framework – Council's Legislative Compliance Register identifies more than 140 key Acts with which Council must comply. There is a further 800 or so statutes affecting local government in general in NSW. Legal risk management in the face of such a broad legislative framework presents a large and ongoing challenge.
- Increasing complexity of day to day legal issues – this impacts services across Council & makes legal risk management all the more imperative.
- Knowledge Management – logistics and resourcing required.

Resources available during the current financial year for Legal Services comprise:

- Operating expenditure incl. overheads & salaries: \$1.118m
- Capital expenditure: \$35,000
- Legal staff (Legal Services Manager) – EFT 0.8: \$87,000
- Revenue: \$185,000.

SERVICE REVIEW FINDINGS

Benchmarking

As part of Stage 3 of the review, a brief survey was undertaken of legal support structures at other NSW councils. In short, the survey found there is no consistent approach to the provision of legal services in Local Government in NSW. As such, there is no consistent data from which to draw comparison.

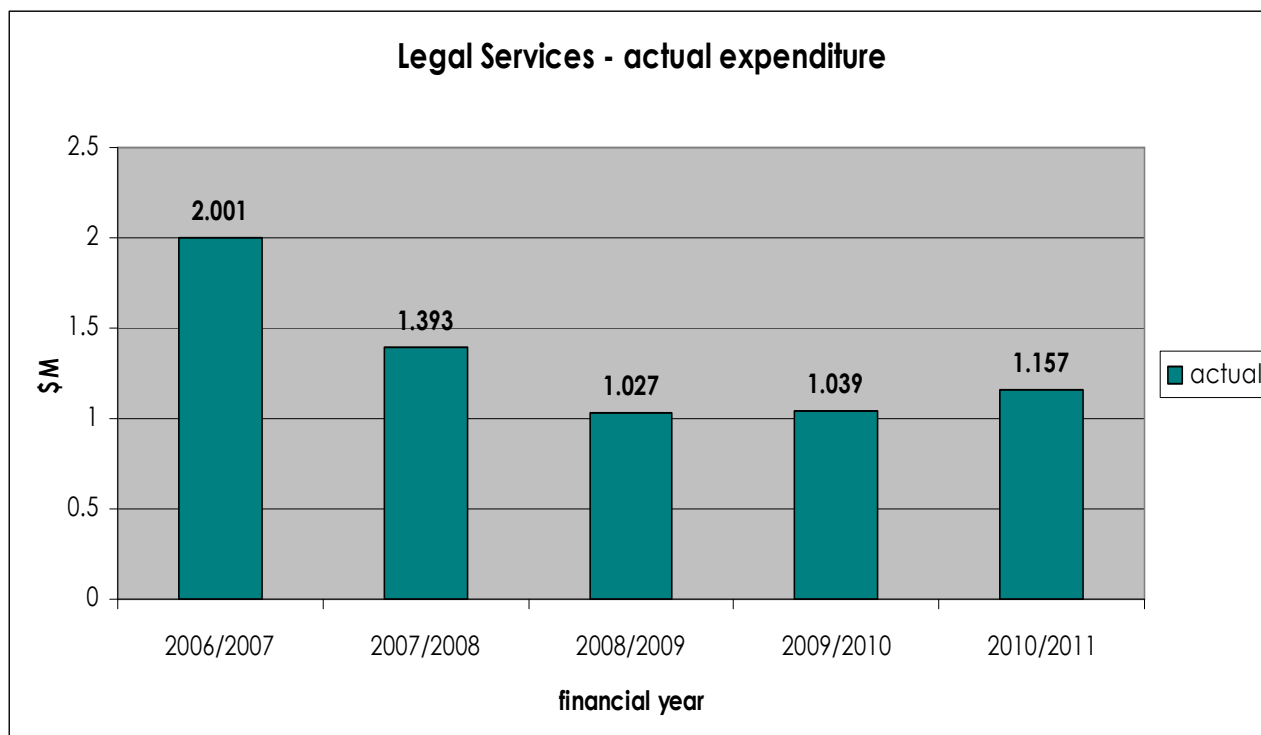
Benchmarking was then undertaken against nearby Hunter councils. In essence, the councils in the Hunter and Central Coast Regions reflect the varied approach to provision of legal services that can be seen across the State.

While two (2) Hunter councils have a decentralised approach to the legal services function (that is there is no centralised in-house legal function) the other councils have established legal support structures with legal staff numbers ranging from 3.0 EFT to 7.0 EFT.

It should be noted that in this benchmarking exercise two (2) councils included additional governance activities within legal services.

Internal Efficiencies and Options

The centralised legal (gatekeeper) function at Port Stephens Council has seen a significant decrease in legal expenditure during the past four years.



Apart from removal of the gatekeeper function entirely, there is no practical way to reduce coordination resource usage as resourcing is already at a minimum. Continuing process improvement will assist in enhancing efficiency and there may be some scope for aligning the legal services function with the governance function in the General Manager's Office (that is, resource sharing). There may also be opportunity for enhancing efficiency by utilising the Hunter Councils legal unit when it is established.

The way to optimise current staff productivity would be to engage a paralegal or legal administration officer in-house. The provision of an additional in-house resource would enable Legal Services to better co-ordinate legal matters and to take a more proactive and strategic approach to legal services delivery. A paralegal could undertake legal research, general document preparation and legal administrative tasks currently undertaken by the Legal Services Manager.

This would in turn result in a reduction in external legal services expenditure as some of the work undertaken at both paralegal and solicitor level by Council's external legal services provider would be dealt with in-house.

The current median base salary for paralegals in Newcastle is \$50,000 (the equivalent of Grade 10/11 at Council). With on-costs, that would amount to approximately \$68,000 per annum. Effectively, the hourly rate would be a fraction of the hourly fee charged by an external legal services provider.

SERVICE REVIEW RECOMMENDATIONS

The review resulted in the following recommendations:

- Maintain the current gatekeeper model for the delivery of legal services and proceed to the next legal services tender (early 2012).
- Further investigate the cost benefit of employing a paralegal or legal administration officer and decreasing external legal expenditure.
- Investigate Hunter Councils legal services model when available as part of legal services contract tender.
- Investigate structure alignment with Executive Services in the General Manager's Office, particularly with a view to sharing of paralegal support.

FINANCIAL/RESOURCE IMPLICATIONS

Current EFT in Legal Services is 0.8. Any increase in that EFT (employment of a paralegal or legal administration officer) would be off-set against savings in external legal expenditure.

Should Council adopt a recommendation to reduce or cease the internal provision of this service then the conditions of the Port Stephens Council Enterprise Agreement Clause 28 will come into effect. This clause establishes Council's duty to notify affected staff and relevant Unions regarding an intention to introduce major changes to programs, sets out the duties of the parties, establishes procedures to be followed and conditions relating to staff redeployment or redundancies.

Redundancies could incur costs of up to 39 weeks ordinary pay for each employee displaced.

LEGAL, POLICY AND RISK IMPLICATIONS

A return to the pre-2007 model whereby each Group/Section is responsible for its own legal matters and costs would mean there would be no central co-ordination of matters and no central control over costs.

An increase in resourcing would enable the Legal Services Manager to better focus on process improvement, strategic planning and case assessment and provision of more advice in-house. This in turn would enhance efficiency and assist in the drive to reduce Council's legal costs.

SUSTAINABILITY IMPLICATIONS

Better utilisation of skills in-house has provided more sustainable outcomes at other nearby councils.

CONSULTATION

Six consultation sessions were conducted with key stakeholders across the organisation.

Some of the key findings were:

- Concept of gatekeeper is a must/would be a backwards step to take that function away.
- Legal Services management of the legal services tender contract means staff do not have to worry about those details when seeking legal advice.
- Query capacity of co-ordinator to undertake all the work the gatekeeper role involves given the level of resourcing available to the coordinator.
- Limited number of external providers means better flow of work.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Legal Services Service Strategy.
- 2) Sustainability Review – Legal Services Service Strategy – Annexure.

ITEM NO. 8

FILE NO: A2004-0111

REVISED GATHERING INFORMATION FOR INCIDENT MANAGEMENT POLICY**REPORT OF: ANNE SCHMARR - ORGANISATION DEVELOPMENT MANAGER****GROUP: CORPORATE SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the revised 'Gathering Information for Incident Management' policy as contained in Attachment 1.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|--|
| | Councillor Geoff Dingle Councillor Steve Tucker |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 403 | Councillor Ken Jordan Councillor Steve Tucker |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

The purpose of this report is to update the Gathering Information for Incident Management policy to reflect minor changes in Council's organisation structure, updates to documents referenced in the policy and a revised incident procedure flowchart.

The purpose of the policy and procedures is to ensure that such systems provide a clear audit trail for investigators as they attempt to reconstruct Council's response to a particular event or incident. The collection and retrieval of accurate information is critical when defending public liability and professional indemnity claims. In many litigated cases, it is often the objective of the Council to substantiate that it has acted in a manner which was not in breach of its duty of care to the plaintiff. The primary source of evidence is often only the internal records which Council itself maintains, detailing its own activities.

As well as being an effective tool in the defence of liability claims, such accurate and consistent record keeping may discourage other potential claimants from

seeking redress from Council. This also reflects on Council's image as it presents itself as a well organised and capable organisation with comprehensive, well documented work management systems that clearly outline Council's regard for its duty of care to the community.

The original Gathering Information policy was adopted in March 2002, following release by Council's Public Liability/Professional Indemnity insurer, Statewide Mutual, of the Gathering Information Best Practice Manual. The manual was intended as a generic guide for member councils to assist them in their ability to produce records, in any data medium, that are complete, concise, accurate and acceptable to a court of law. The policy has been revised and updated regularly with amendments being adopted by Council in March 2004 and August 2005.

After considering the generic manual, minor alterations were made to customise the document to Port Stephens Council's requirements. The incident procedure flowchart and 'Gathering Information Document – Checklist' form the procedures showing the process for incident reporting and the minimum data/information requirements to support future claims.

Council already had many of the information systems in place and, following consultation with group representatives across Council, compliance was achieved with only minor alterations to the existing systems and forms.

FINANCIAL/RESOURCE IMPLICATIONS

While review and update of the policy does not have any resource implications, failure to update the policy and supporting documents and failure to comply with the minimum requirements may expose Council to financial loss through the inability to appropriately defend a claim for compensation.

Compliance with the minimum requirements may help to minimise the strain on resources in collating and producing information required by our insurer and legal representatives in a timely manner.

LEGAL AND POLICY IMPLICATIONS

In litigated claims, it is often the objective of the Council to substantiate that it acted in a manner, which was not in breach of its duty of care to the plaintiff. The only source of proof for this position is often the internal records, which Council itself maintains, of its own activities. Potential plaintiffs, when faced with a well-organised, comprehensive and well documented work management system, which clearly outlines Council's regard for its duty of care to the public, may be less inclined to seek the intervention of the courts to resolve their disputes with Council.

The original Gathering Information Best Practice Manual was developed with reference to AS/NZS 4360:1999 and provides a sound approach to the management of risk arising from the collection and retrieval of information required to best defend claims in the courts.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council creates many documents that are available to the public including reports, forms, correspondence, brochures, fliers and registers. They also make available information via websites, newsletters and signs. Council needs to manage the risk that these documents, and other medium for disseminating information, pose if they are inaccurate, misleading, and out of date; Council also needs to ensure that its documents contain sufficient data to be acceptable in court.

Council's documents often demonstrate Council's actions in regard to its role as a provider of public services. Clearly Council should have systems in place to record their activities, and additional systems to readily recover this data when needed.

CONSULTATION

The original policy and supporting documents and subsequent amendments were developed in consultation with representatives across all Council groups. During September 2011, a working party comprising representatives of each group revised and updated the document checklist in consultation with their work areas.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Revised Gathering Information for Incident Management Policy;
- 2) Gathering Information – Document Checklist 6 October 2011.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Adopted: 26 March 2002
Minute No: 102
Amended: 9 March 2004
Minute No: 099
Amended: 23 August 2005
Minute No: 246
Reviewed: August 2010 (no changes)

FILE NO: A2004-0111

TITLE: GATHERING INFORMATION FOR INCIDENT MANAGEMENT

BACKGROUND

Council requires a formal policy supporting the consistent and systematic treatment and collection of information ~~systems and procedures. Councils are constantly being asked to provide information that is to be used to defend public liability and professional indemnity claims. The information is often valuable and needs to be formatted so that it is not rendered inadmissible when defending claims in court.~~ for the defence of public liability and professional indemnity claims.

In many litigated cases, it is often the objective of the Council to substantiate that it acted in a manner which was not in breach of its duty of care to the plaintiff. The only source of proof for this position is often the internal records, which Council itself maintains, of its own activities.

This policy, supported by procedures and processes, will assist Council in its ability to produce records, in any data medium, that are complete, concise, accurate and acceptable to a court of law.

OBJECTIVE

To document the required minimum standard of Council generated information and data needed to assist in defending a public liability or professional indemnity claim and to ensure that such information and data ~~they~~ constitute admissible evidence.

To support procedures for the gathering of information for incident management and the defence of public liability and professional indemnity claims. ~~such purposes.~~

Insert "FOR INCIDENT MANAGEMENT"

Delete "systems and procedures. Councils ..."

Insert "for the defence of public liability and professional indemnity claims."

Insert paragraph "In many litigated ... its own activities."

Insert paragraph "This policy ...court of law."

Insert "minimum"

Insert "to" and "such information and data"
Delete "they"

Insert "incident management and the defence of public liability and professional indemnity claims"
Delete "such purposes"

PRINCIPLES

- 1) To meet operational business needs, accountability requirements and community expectations.
- 2) The protection of Council's financial position through risk management.
- 3) To facilitate the minimum data requirements for information required to be used defending possible public and professional liability claims.

POLICY STATEMENT

Port Stephens Council aims to provide sustainability to the community, by providing services and making decisions that enhance our quality of life, our economic and our natural environment. The Corporate Risk Management Team ~~Section~~ is committed to documenting and assisting groups within Council by distributing the adopted procedures for gathering information and information systems.

This policy, together with the procedures, provides the minimum data standards for the gathering of information for incident management. It is aimed at reducing the information supplied by Council to its lawyers that is currently inadmissible, together with either information or data that is not sufficiently detailed or contains unwanted additions, that may render the information of little value in the defence of a potential claim. The checklist should be used to ensure that all the appropriate data is gathered and contains the appropriate information. Listed Information Source documentation from the checklist must be appropriately recorded and archived in accordance with Council's Records Management - Management Directive (adopted 6 October 2010) ~~18 July 2001~~ (currently being reviewed) and in accordance with the State Records Act 1998 and associated standards.

Council will, within its budgetary constraints and using existing information systems available to it, endeavour to ensure accurate and systematic information is ~~ere~~ maintained and stored appropriately.

By adopting the policy, Council is working towards enhancing Port Stephens' image in keeping with Council's Vision and Mission.

RELATED POLICIES

Assessment and Maintenance of Footpaths and Cycleways

Related Documents:

- Incident Procedure Flowchart.
- Gathering Information Document Checklist

Insert "Corporate" and "Team" and Delete "Section"

Insert "for incident management"

Insert "sufficiently" and "contains"

Insert "6 October 2010"
Delete "18 July 2001"

Delete "are" and Insert "is"

Insert "Gathering Information Document Checklist" and Delete "\\portstephens.nsw.gov ..."

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

➔ [\\portstephens.nsw.gov.au\psc\Minutes\MINUTES\Policies\Current\Gathering Information Document – Checklist \(Review Procedures\).doc](\\portstephens.nsw.gov.au\psc\Minutes\MINUTES\Policies\Current\Gathering Information Document – Checklist (Review Procedures).doc) (~~click this document title to access this table~~)

➤ Records Management - Management Directive dated 6 October 2010

REVIEW DATE

The policy will be reviewed within two (2) years ~~12 months~~ of it being adopted by Council.

RELEVANT LEGISLATIVE PROVISIONS

State Records Act 1998
Evidence Act 1995
Interpretation Act 1987
Civil Liability Act 2002

IMPLEMENTATION RESPONSIBILITY

Corporate Services Group, Organisation Development Section
~~Business and Support Group – Finance and Administration Section.~~

Insert "dated 6 October 2010"

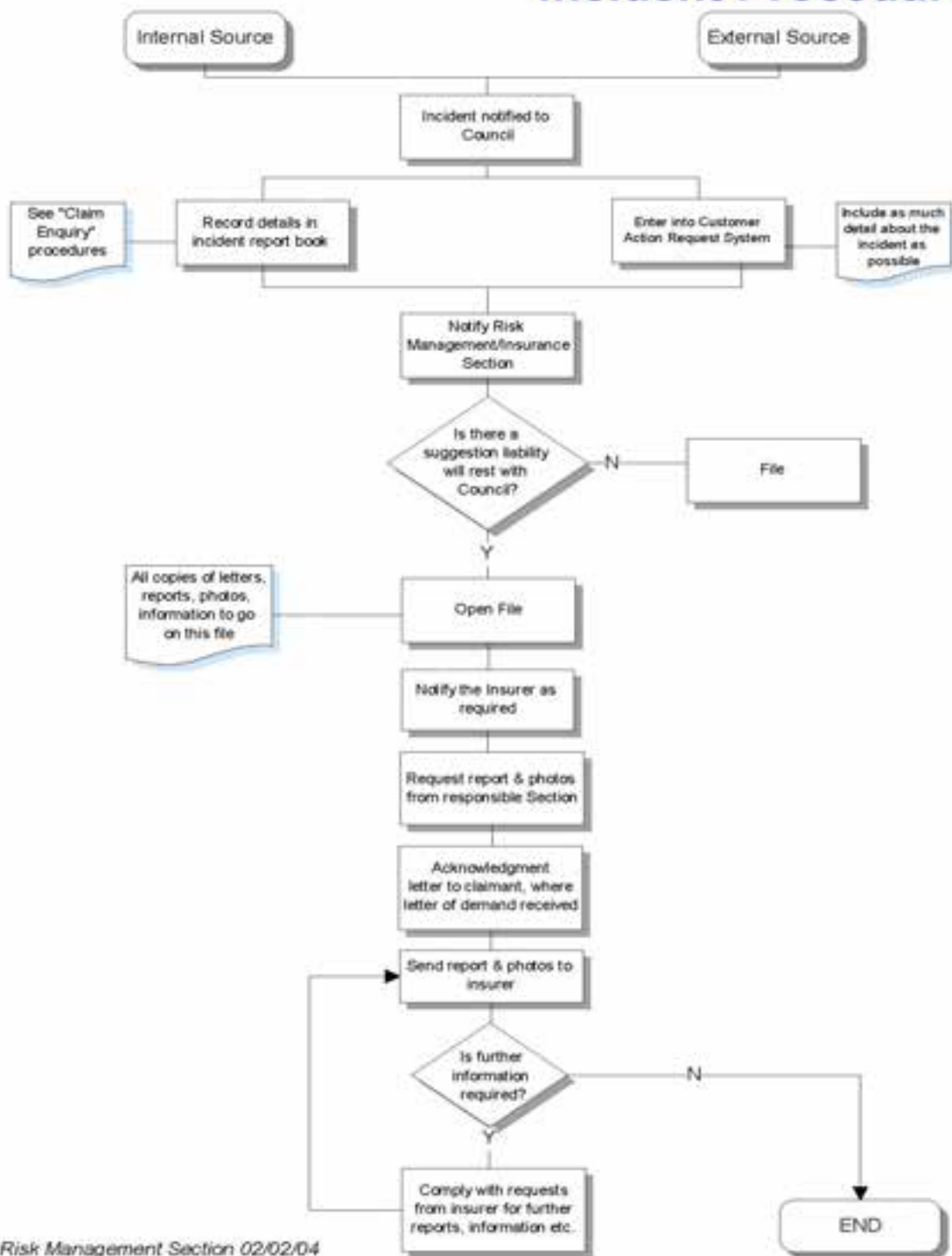
Delete "12 months" and Insert "two (2) years)

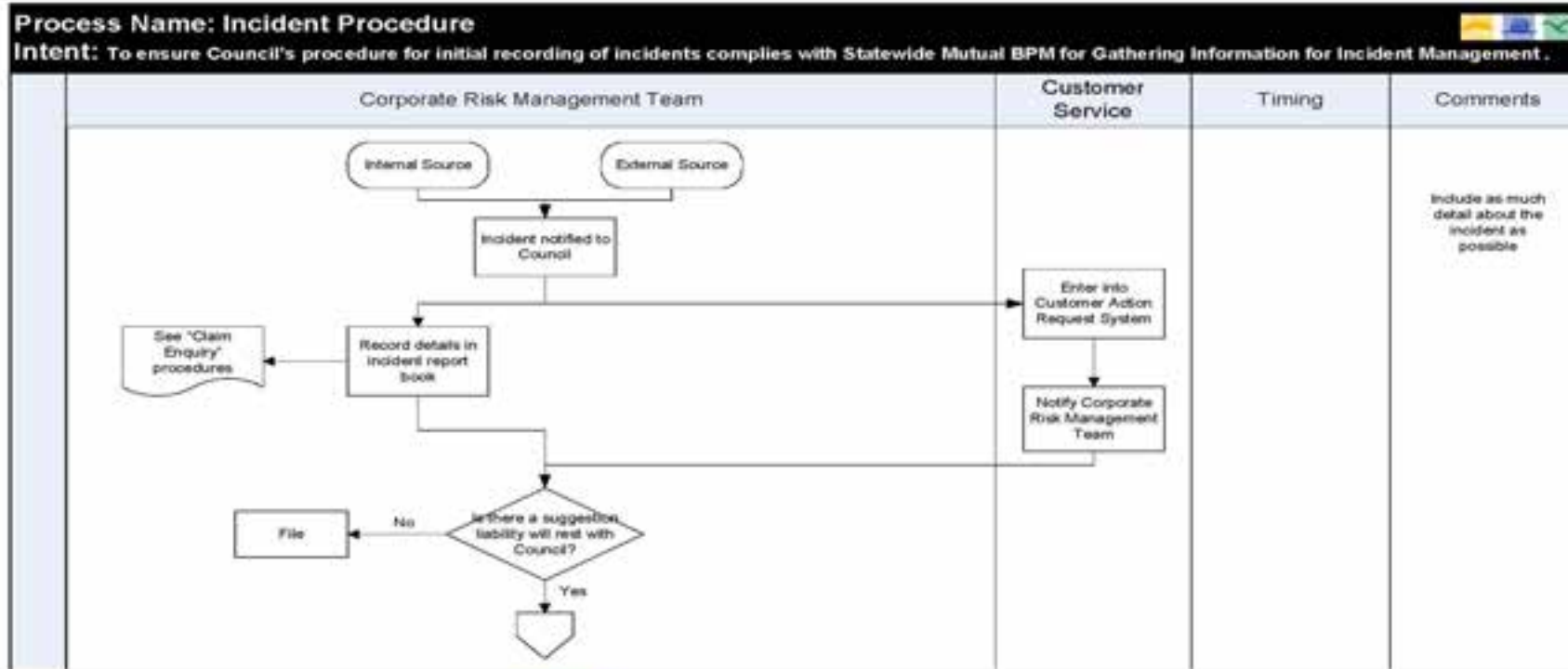
Insert "Civil Liability Act 2002"

Delete " Business and Support Group – Finance and Administration Section" and Insert " Corporate Services Group, Organisation Development Section"

Delete Incident Procedure flowchart dated 02/02/04 over page, insert Incident Procedure flowchart in new format

Incident Procedure

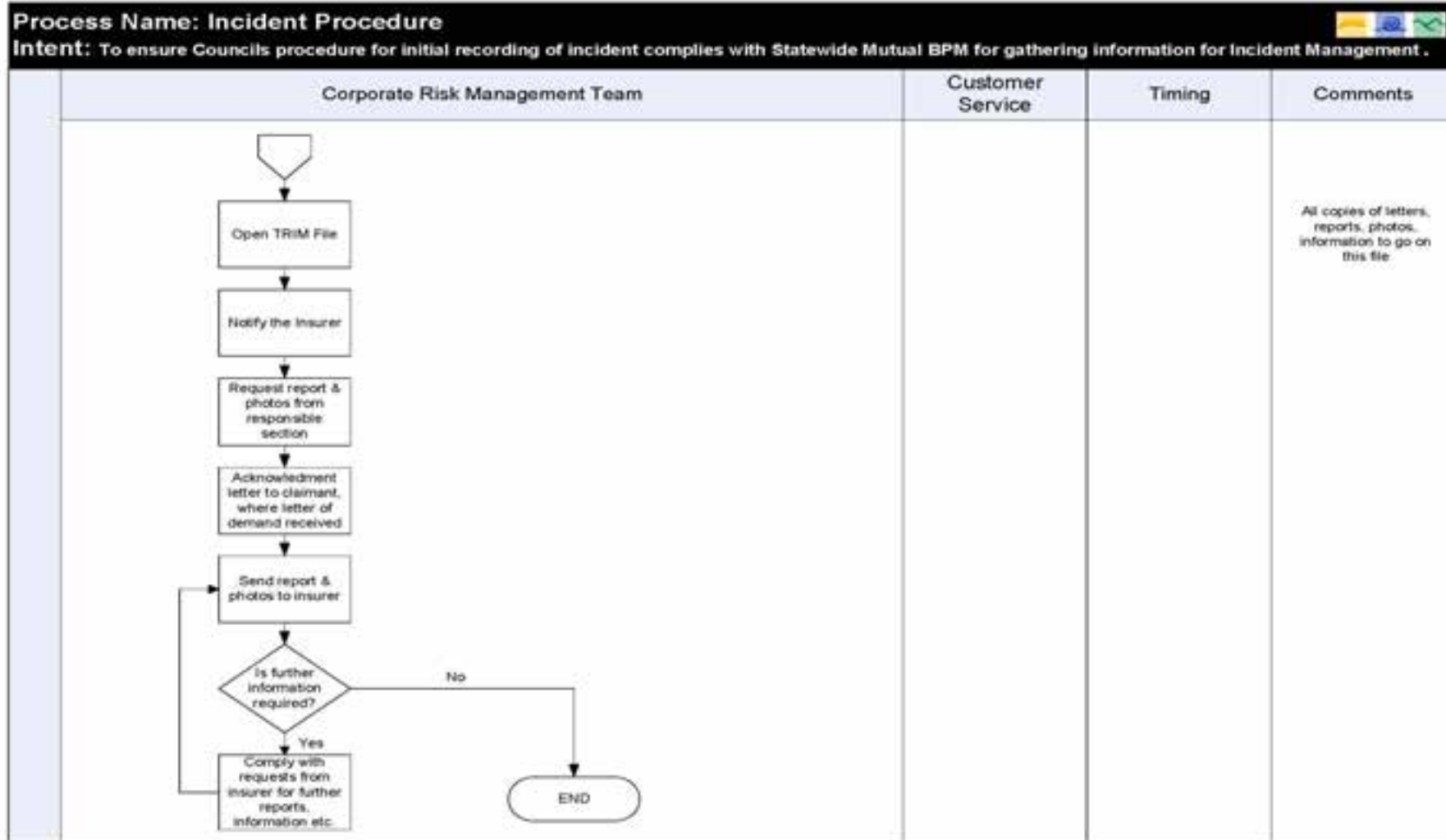




| | | |
|-----------------------|-------|----------------|
| Port Stephens Council | | |
| Drawn: | Date: | Process Owner: |



E:\ORGDEV\Corporate Risk Management\Deployment Flowcharts\Incident Procedure V1.vsd



ATTACHMENT 2

GATHERING INFORMATION FOR INCIDENT MANAGEMENT
DOCUMENT CHECKLIST

Table 1: Internal Information - List of Internal Information, Uses and Minimum Data Requirements

| INFORMATION SOURCE | DESCRIPTION | TYPICAL USE | REQUIREMENTS | ADDITIONAL INFORMATION |
|----------------------------|--|--|---|--|
| 1. Works Program | A strategic document that prioritises works, linking timeframe and resources for individual capital works, projects and/or maintenance activities. | Used to highlight Council's level of commitment to its infrastructure relative to its financial strength. Could be used to defend a statement claiming inaction by Council. | Financial year and date of preparation Version number and date of preparation Council minute of change (if appropriate) | Responsible Group: Facilities & Services Medium/ Storage Details: Access database |
| 2. Work or Service Request | A document requesting work to be completed by Council as a result of a potential risk found by an employee or a member of the public. | Used to highlight Council's identification of risks programme. Could be used to defend a statement claiming inaction by Council. | Date Name of originator Specific location Unique identifier Referred to Priority Action taken Date action taken Name and signature of person completing action (currently only when physical works carried out & on original document only) | Responsible Group: General Medium/ Storage Details: Authority Customer Request System |
| 3. Inspection Record | A pro-forma document used by Council Officers to report on the general condition of the infrastructure and assets of Council. | Used to highlight Council's identification of risks programme. Could be used to show that Council was there, has inspected and made recommendations including repair, thus able to defend a statement claiming negligence by Council. | Date Name of inspecting officer Signature of inspecting officer Inspecting officer's position and department Specific location Unique identifier (currently based on date of repair) Recoverable List of recommendations | Responsible Group: General Medium/ Storage Details: Not specified |

| INFORMATION SOURCE | DESCRIPTION | TYPICAL USE | REQUIREMENTS | ADDITIONAL INFORMATION |
|---|--|---|---|---|
| 4. Maintenance Management System | MMS is used for the planning, organising, directing and controlling of maintenance work. It was originally developed by the RTA for use on road maintenance, but can be adapted to virtually any maintenance activity of a given asset. | Work scheduling can be used to defend a statement claiming inaction by Council. The system can also record the type of maintenance activity performed at any given time and location. This data could be used to defend a statement claiming inaction or negligence . | Daily running sheet recoverable Date Name and signature of originator (<i>this will not appear on this document, it will be linked to the request or inspection record</i>) List of employees in gang Activity Number of employees Work achieved Location Audit trail Limited access via permissions | Responsible Group: Facilities & Services Medium/ Storage Details: Reflect.net |
| 5. Environmental Due Diligence Programmes | A strategic document, dealing primarily with environmental management issues that prioritises works and sets out a timetable for completion. | Used as a defence in the case of a breach under the Protection of the Environment Operations Act (POEO Act) or a third party action claiming negligence or inaction by Council. | Date Name of originator Signature of originator (Endorsed by Council) Action plan with timetable for completion | Responsible Group: Sustainable Planning Medium/ Storage Details: Not specified |
| 6. Time and Plant Sheets | System of recording and allocating labour and plant costs, primarily for the purpose of payroll and project costing. | Useful in verifying the location of staff and resources on a particular day. Can assist in defending a statement claiming negligence by Council. | Date All changes crossed out are to be initialled Signature of employee All relevant data to be completed | Responsible Group: General Medium/ Storage Details: Not specified |
| 7. Diary Entries | Diary entries are often used to record details of the scene of an incident and are regularly the basis of the 'Initial Council Report'. They can be a source for information such as weather, times, locations etc as well as staff attendances. | Used for evidence of staff attendances and actions taken or not taken. Could be used to defend a statement claiming negligence by Council. | Name Date Department Unique identifier Black Ink (preferable) Photocopy should show book binding Legible writing All entries signed and dated (full date dd/mm/yy) All activities noted | Responsible Group: General Medium/ Storage Details: Hard copy diaries collected by Information Services annually, electronic diaries (Outlook) save to back up by IT |

| INFORMATION SOURCE | DESCRIPTION | TYPICAL USE | REQUIREMENTS | ADDITIONAL INFORMATION |
|-------------------------------|---|--|---|--|
| 8. Work Practices/ Procedures | Written procedures used to standardise Council's response to a particular task. | Used in verifying that the work undertaken by Council is routine and is performed to a prescribed level of quality. Could be used to defend a statement claiming negligence by Council. | Recoverable Details of implementation Dates | Responsible Group: General Medium/ Storage Details: Not specified |
| 9. Photographs | Pictures of specific locations or job. | Used to provide evidence of the physical appearance of a defect or work at a particular point in time. Could be used to defend a statement claiming negligence by Council. | Date taken (preferably recorded on the photograph) Photographer and signature Claim Number Location and direction facing at location Colour 35 mm Electronic photos require completion of TRIM profile for photographs. | Responsible Group: General Medium/ Storage Details: 35mm film Electronic image saved to TRIM or hard copy file for DAs Electronic image on CD |
| 10. Training Records | A detailed record of the training activities of all members of staff. | Used to verify Council's commitment to ensuring that staff are well trained. Could be used to defend a claim of negligence . | Name of employee Name of trainer Employer of trainer Date of training Title of course(s) Brief course outline Duration of course Indication of successful completion Any results, certificates, licenses etc | Responsible Group: Corporate Services Medium/ Storage Details: Authority, copies in TRIM personnel training files |
| 11. Standards | A predetermined "benchmark" by which results or performance is measured. The "benchmark" can be set either by the particular industry or Council. | Used to highlight Council's commitment to best practice within its resources. Could be used to defend a statement claiming negligence by Council. | Name of standard Citation number of standard Name of issuing standards organisation Date standard approved/implemented Full copy of standard | Responsible Group: General Medium/ Storage Details: Not specified |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| INFORMATION SOURCE | DESCRIPTION | TYPICAL USE | REQUIREMENTS | ADDITIONAL INFORMATION |
|--------------------|--|--|--|--|
| 12. Site Visits | Routine site inspection documented by the inspecting officer, noting conditions found at the site. | Used to produce a detailed description of the condition of the site at a given point in time. Could be used to defend a statement claiming negligence and/or inaction by Council | Date of visit Location, address of site Name of inspector Names of any additional inspectors, escorts etc Field notes, photographs, diagrams all to be dated, signed | Responsible Group: General Medium/ Storage Details: Not specified |
| 13. Interviews | As a result of a claim a recorded discussion between the relevant Council employees and the interviewing officer. | This is used to extract fact which dictates the course of the investigation. Could be used to defend a statement claiming negligence and/or inaction by Council. | Name of interviewer Name of individual being interviewed Job title of staff being interviewed Date of interview Time of interview Location interview taken Witness to interview Typed format for interview notes | Responsible Group: General Medium/ Storage Details: Not specified |
| 14. Statements | Is a first party testimony of fact. | It can be used as a record of an individual's account of the event. Could be used to defend a statement claiming negligence and/or inaction by Council. | Name of individual making statement Job title of staff making statement Date of statement Time of statement Location statement taken Witness to statement Signature (black pen) of person making statement Signature of person taking statement and witness Typed format for statement | Responsible Group: General Medium/ Storage Details: Not specified |
| 15. Annual Budget | A financial statement that details the projected income and expenditure for a financial year. It indicates the amount of financial resources able to be allocated to each function/project of Council. | Used to highlight Council's level of commitment to its infrastructure relative to its financial strength. Could be used to defend a statement claiming inaction by Council. | Date of report Version of report Financial year of report Date of adoption or Budget Review | Responsible Group: General Medium/ Storage Details: Budget as adopted by Council or Budget Review |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| INFORMATION SOURCE | DESCRIPTION | TYPICAL USE | REQUIREMENTS | ADDITIONAL INFORMATION |
|-----------------------|--|--|--|--|
| 16. Drawings or Plans | A graphical representation of the work area, work method or location of the incident. | Visually shows evidence of the work planned. Shows standards to which the work is to be performed. Could be used to defend a statement claiming professional negligence, inaction or design failure . | Legible format (size) A legend indicating name of draftsman, architect, company etc Reference to related drawings Total number of drawings in set Index number of drawing Direction of north recorded on drawing Scale of drawing Date of drawing or plan | <i>Responsible Group:</i> General <i>Medium/ Storage Details:</i> Paper/microfiche |
| 17. Maps | Defines the exact location of the event. | Visually shows the location of the incident. Could be used to defend a statement claiming responsibility for an event where Council may not even be liable. | Date map was made Person/organisation drafting map (source) Direction of north recorded on map Scale of map Area depicted by map Legible format | <i>Responsible Group:</i> Facilities & Services <i>Medium/ Storage Details:</i> GIS |
| 18. Phone logs | Chronological record of calls made or received by Council officers. | Used as a record of proceedings, conversations and advice given over the phone. Could be used to defend a statement claiming negligence and/or inaction by Council. | Contained in book with binding (manual) Name of log book user (manual) Page numbers (manual) Date of call (manual & TRIM) Time of call (manual & TRIM) Name of caller (manual & TRIM) Summary of call (manual & TRIM) | <i>Responsible Group:</i> General <i>Medium/ Storage Details:</i> TRIM or log book (manual) and Authority Customer Request System |
| 19. E-mail | Electronic mail, e-mail, email (computer science) a system of world-wide electronic communication in which a computer user can compose a message at one terminal that can be regenerated at the recipient's terminal when the recipient logs in. | Used in every aspect of Council functions; communications internally between staff at all levels and communications externally with any number of stakeholders or parties totally unknown to council. | Captured in server Name/email address Date and Time sent Sender/email address Name of person copy sent to Subject header Subject text | <i>Responsible Group:</i> General <i>Medium/ Storage Details:</i> Catalogued to TRIM or hard copy file for DAs |

| INFORMATION SOURCE | DESCRIPTION | TYPICAL USE | REQUIREMENTS | ADDITIONAL INFORMATION |
|---------------------|--|--|---|---|
| 20. Facsimiles | Records of requests or details made or received by Council Officers. | Used as a record of proceedings, conversations and advice received by facsimile. Could be used to defend a statement claiming negligence and/or inaction by Council. | Name of person sent to Name of company (if applicable) Facsimile number sent to Total number of pages sent Name of person sent from Date sent: Facsimile number sent from Contact Council telephone number Subject summary/title Details | <i>Responsible Group:</i> General <i>Medium/ Storage Details:</i> Paper To be filed on relevant case file (hard copy) or catalogued to TRIM or hard copy file for DAs |
| 21. Incident Report | Records of incidents recorded in the field, in person or over the telephone. | Used as a record of incidents. Could be used to defend a statement claiming negligence and/or inaction by Council. | Minimum requirements should comply with the guidelines inserted into the front cover of each Incident Report book or mandatory fields for electronic Incident Reports and in accordance with the type of incident being recorded. | <i>Responsible Group:</i> General <i>Medium/ Storage Details:</i> Scanned/saved to relevant TRIM file |
| 22. File Notes | Records of requests, phone calls, informal meetings or other details made or received by Council Officers. | Used as a record of proceedings, conversations and advice received by Council Officer. Could be used to defend a statement claiming negligence and/or inaction by Council. | File Number: Name of person composing note: Date: Time: Subject summary/title: Details: Signature (black pen) and date (full date dd/mm/yy) Legible writing or typed on standard form template *signed file notes must be scanned into TRIM for signature storage | <i>Responsible Group:</i> General <i>Medium/ Storage Details:</i> To be filed on relevant case file (if hard copy) and TRIM or hard copy file for DAs |

| INFORMATION SOURCE | DESCRIPTION | TYPICAL USE | REQUIREMENTS | ADDITIONAL INFORMATION |
|----------------------------------|--|--|--|--|
| 23. Council Policies | Is a formally written general statement of the governing body (Council). | Used as a record of proceedings, conversations and advice received by Council Officer. Could be used to defend a statement claiming negligence and/or inaction by Council. | Date adopted Minute number File number Title Responsible Office Background Objective Principles Policy Statement | <i>Responsible Group:</i> General <i>Medium/ Storage Details:</i> MyPort (intranet) |
| 24. Management Directives | Is formally written and refers to a staff related matter, on the day-to-day administration of the Council. | Used as a record of proceedings, conversations and advice received by Council Officer. Could be used to defend a statement claiming negligence and/or inaction by Council. | Date adopted File number Title Responsible Office Background Objective Principles Statement | <i>Responsible Group:</i> General <i>Medium/ Storage Details:</i> MyPort (intranet) |

Table 1: External Information - List of External Information, Uses and Minimum Data Requirements

| INFORMATION SOURCE | DESCRIPTION | TYPICAL USE | REQUIREMENTS | ADDITIONAL INFORMATION |
|--------------------------|--|---|---|---|
| 1. Medical reports | Is a written summary from an attending physician summarising the patient's condition. | Used to establish the degree of injury and disability and thus challenge general damages . | Name of examining physician Date of examination Reason for examination Type written format Signed by attending physician | Responsible Group: Medical Practitioner (external) Medium/ Storage Details: Not specified |
| 2. Loss Adjuster reports | A written formal independent summary of the facts of the claim. | Used to verify the facts. Could be used in the determination of liability and negligence . | Name of loss adjusting firm Name of loss adjuster Claim reference number Date of all inspections Names and dates of all interviews Numbered pages in report Clear annotations to document, photographs, etc | Responsible Group: Loss Adjuster (external) Medium/ Storage Details: Not specified |
| 3. Expert reports | A written formal summary of certain circumstances of the claim, prepared by a specialist in the field of the incident. | Used to verify the specific facts of the incident by an expert with the relevant experience. Could be used to justify action or inaction . | Name of expert CV of expert List of publications by expert Reference number Signature of expert Date of investigation | Responsible Group: Specific Expert (external) Medium/ Storage Details: Not specified |
| 4. Weather Reports | A record of the weather conditions that prevailed at a given time and location. | Used to verify the conditions at the time of the incident. | Date of event Date of inquiry Name of weather service Symbol of authority (letterhead, stamp) Contact telephone number of issuing authority | Responsible Group: Bureau of Meteorology (external) Medium/ Storage Details: Not specified |

ITEM NO. 9

FILE NO: PSC2011-00819

ALLOCATION OF WARD FUNDS – EAST AND WEST WARDS

REPORT OF: JASON LINNANE - GROUP MANAGER

GROUP: FACILITIES & SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopts the proposed allocation of Ward Funds for East and West Wards contained in Annexure 1.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|--|
| | Councillor John Nell Councillor Sally Dover |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 404 | Councillor Ken Jordan Councillor Glenys Francis |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

The purpose of this report is to advise Council of the outcome of the exhibition period for the allocation proposed related to Ward Funds for East and West Wards and to make recommendation regarding that allocation.

The proposed allocation (Annexure 1) was in the form of a list of projects and associated expenditure and was placed on public exhibition for 28 days to 7 October 2011. During that time no submissions were received.

Council should note however, that during the previous exhibition period related to allocation of Ward Funds for Central Ward, a submission was received from the Tomaree Residents & Ratepayers Association, which contained objection to the use of Ward Funds for projects, and instead advocated that the Ward Funds be used to retire debt. The content of that submission could be considered to apply to the allocation of Ward Funds for East and West Wards, as well as Central Ward.

FINANCIAL/RESOURCE IMPLICATIONS

Expenditure will be made from Ward Funds for projects in East and West Wards as contained in Annexure 1 amounting to a total of \$4,136,500 for East Ward and \$685,000 for West Ward. The total to be allocated from Ward Funds to contribute to these total project expenditures is \$557,500 for East Ward and \$421,000 for West Ward. 93% of the total \$4,136,500 proposed expenditure is to fund renewal type works on existing assets and hence reduce the asset backlog.

LEGAL, POLICY AND RISK IMPLICATIONS

There are no implications as the proposed allocation of funds is in line with Council's legal, policy and risk responsibilities.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The allocation of these funds includes expenditure for projects associated with sporting and recreation assets, parks and reserves, surf club, and other projects designed to enhance the amenity of Port Stephens citizens and increase their ability to enjoy a great lifestyle in a treasured environment. As such these projects contribute to both social and environmental pillars of sustainability and meet Council's obligations under its Charter (Chapter 8 of the Local Government Act 1993).

The proposed allocation to these projects is in compliance with Council's Delivery Program item 1.2: Provide a safe environment for people to enjoy their lifestyle; Item 1.3: Provide people with disabilities and the ageing population and their families support mechanisms and services in an accessible environment; Item 1.4: Plan and provide for appropriate facilities, services and opportunities for children and young people; Item 2.1: provide passive and active lifestyle opportunities; Item 2.4: Ensure there are appropriate infrastructure and spaces for participation in lifestyle activities; Item 5.4: Develop, review and manage Council's assets in accordance with best practice asset lifecycle principles.

CONSULTATION

The proposed allocation and details of total project expenditure for East and West Wards was placed on public exhibition through the Port Stephens Examiner and on Council's website for 28 days to 7 October 2011. No direct submissions were received. Council is advised that the submission received from Tomaree Residents & Ratepayers Association in relation to allocation of Central Ward Funds contained objection to allocation of Ward Funds generally and may be considered a submission related to the allocation of Ward Funds for East and West Wards.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Annexure 1: List of proposed expenditure including projects' total cost and Ward Fund allocations.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

| EAST WARD | TOTAL ESTIMATE | WARD ALLOCATION | OTHER ALLOCATIONS |
|---|-----------------------|------------------------|--------------------------|
| Bagnall Beach Rd- Footpath West side from Sandy Pt Rd to Helm Cl | \$32,500.00 | \$32,500.00 | \$0.00 |
| Pt Stephens Dr- Shared Path from Kanimbla to Soldiers Pt Rd | \$29,000.00 | \$29,000.00 | \$0.00 |
| Public Amenities Assets - Little Beach Public Amenities - Replace water service supply infrastructure such as external showers, pipes, fittings, etc to public amenities. | \$31,000.00 | \$11,000.00 | \$20,000.00 |
| Bagnall Ave- Footpath from Ash St to Soldiers Pt Rd, north side | \$56,000.00 | \$56,000.00 | \$0.00 |
| Missing link on Nelson Bay Rd from end of cycleway past pool (External route only) | \$80,000.00 | \$80,000.00 | \$0.00 |
| Victoria Parade East pedestrian crossing to Fly Pt Reserve | \$15,000.00 | \$15,000.00 | \$0.00 |
| Extend and install stairs at dutchies beach and bagnalls beach; Add concrete path from bagnalls beach walkway to shared path western walkway | \$20,000.00 | \$20,000.00 | \$0.00 |
| Parks & Reserves Assets - Dutchies Beach - Twin unit bbq's at Dutchies East Foreshore + double shelter | \$16,000.00 | \$16,000.00 | \$0.00 |
| Parks & Reserves Assets - Shoal Bay Foreshore - 2 single bbq's + 1 canopy. | \$15,500.00 | \$15,500.00 | \$0.00 |
| Parks & Reserves Assets - Little Beach - 2 singles bbq's + 2 canopies | \$16,000.00 | \$16,000.00 | \$0.00 |
| Parks & Reserves Assets - Fingal Bay Foreshore - 2 singles bbq's 1 canopy | \$15,500.00 | \$15,500.00 | \$0.00 |
| Parks & Reserves Assets - Conroy Park - 2 single bbq's + 2 canopies | \$16,000.00 | \$16,000.00 | \$0.00 |
| Nelson Bay- Gan Gan Lookout rehabilitation | \$150,000.00 | \$75,000.00 | \$75,000.00 |
| Nelson Bay- Apex Park improvements | \$240,000 | \$10,000.00 | \$30,000.00 |
| Surf Club Assets - Fingal Bay Surf Club - re construction of surf club | \$3,404,000.00 | \$150,000.00 | \$3,254,000.00 |
| TOTAL | \$4,136,500.00 | \$557,500.00 | \$3,379,000.00 |

ATTACHMENT 1

| WEST WARD | TOTAL ESTIMATE | WARD ALLOCATION | OTHER ALLOCATIONS |
|---|---------------------|---------------------|---------------------|
| Raymond Terrace - Sturgeon St Seal unsealed shoulders | \$30,000.00 | \$30,000.00 | \$0.00 |
| Raymond Terrace - The Hub Carpark | \$45,000.00 | \$45,000.00 | \$0.00 |
| Parks & Reserves Assets - Seaham Park - New skatepark | \$90,000.00 | \$26,000.00 | \$64,000.00 |
| Sports Assets - Brandon Park - wicket & surface improvements | \$60,000.00 | \$20,000.00 | \$40,000.00 |
| Cemetery Assets - Raymond Terrace - steel pipe vehicle barrier fence | \$15,000.00 | \$15,000.00 | \$0.00 |
| Cemetery Assets - Raymond Terrace - Pioneer Hill fencing | \$30,000.00 | \$30,000.00 | \$0.00 |
| Sports Assets - Raymond Terrace Aquatic Club - removal of tower and relocation of power | \$35,000.00 | \$30,000.00 | \$0.00 |
| Sports Assets - Raymond Terrace Tennis - Remove & replace umpire chairs | \$35,000.00 | \$35,000.00 | \$5,000 |
| Sports Assets - Hinton - Cricket Nets | \$20,000.00 | \$10,000.00 | \$10,000.00 |
| Sports Assets - Raymond Terrace - netball court drainage | \$50,000.00 | \$35,000.00 | \$15,000.00 |
| Sports Assets - Raymond Terrace - King Park field drainage | \$100,000.00 | \$50,000.00 | \$50,000.00 |
| Raymond Terrace - Playgrounds, foreshore, and picnic shelter | \$135,000.00 | \$55,000.00 | \$80,000.00 |
| Parks & Reserves - Across West Ward Park Furniture and BBQs | \$20,000.00 | \$20,000.00 | \$0.00 |
| Parks & Reserves - Seaham Park - picnic shelter | \$20,000.00 | \$20,000.00 | \$0.00 |
| TOTAL | \$685,000.00 | \$421,000.00 | \$259,000.00 |

ITEM NO. 10

FILE NO: PSC2005-3572

355(C) COMMITTEES ANNUAL FINANCIAL STATEMENT

**REPORT OF: STEVEN BERNASCONI – COMMUNITY AND RECREATION SERVICES
MANAGER**

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive the 355(c) Committees Annual Financial Statement for the period 1 January 2010 to 31 December 2010.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|---|
| | Councillor John Nell Councillor Ken Jordan |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 405 | Councillor Ken Jordan Councillor Geoff Dingle |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

The purpose of this report is to recommend to Council the receipt of the 355(c) Committees Annual Financial Statement for 2010 allowing \$1,000 subsidies to be paid to eligible committees.

Section 355(c) of the Local Government Act, 1993, allows Council to delegate certain functions. A section 355(c) committee is an entity of Port Stephens Council and as such is subject to the same legislation, accountability and probity requirements as Council.

Committees financial activities are held to the same scrutiny, auditing, tax requirements as Council. Funds administered by 355(c) committees must be recorded and reported according to a pre set Council format which includes an annual financial summary.

The 355(c) Committees Annual Financial Statement for the period 1 January 2010 to 31 December 2010 (TABLED DOCUMENT 1) (ATTACHMENT 1) is a summary of all committees annual financial summaries.

This links to Council's Community Strategic Plan 15.3 Community Involvement & Engagement – "Involve the community in service delivery where appropriate through volunteer and community groups".

FINANCIAL/RESOURCE IMPLICATIONS

The total amount of funds held by committees at 30 December 2010 was \$668,517.96.

Out of this total amount:

| | |
|---|-----------------------|
| Eight committees held over \$20,000 | \$357,697.73 (53.51%) |
| Six committees held between \$15,000 and \$20,000 | \$104,705.10 (15.66%) |
| Thirty two committees held less than \$15,000 | \$206,115.13 (30.83%) |

There has been a decrease of \$31,042.88 in total funds held between December 2009 and December 2010.

The use of these funds should be in line with Council's strategic directions and be committed to the objectives of each committee's constitution. A focus on maintenance and renewal of facilities will ensure the long term sustainability of these community facilities.

LEGAL, POLICY AND RISK IMPLICATIONS

Section 355(c) of the Local Government Act, 1993, allows Council to delegate certain functions. A section 355(c) committee is an entity of Port Stephens Council and as such is subject to the same legislation, accountability and probity requirements as Council.

All funds and assets held by the Committee belong to Council. The Committee is responsible for the care and control of these funds.

Funds administered by 355(c) committees must meet Council's standards of compliance, management and transparency and committees are required to comply with standard record keeping practices, including submission of reports by due dates.

355(c) committees use a cash book style financial record keeping system (format supplied by Council in the form of a carbonised book or Excel Spreadsheet). The cash book is completed each month and the totals of each month are entered into the Annual Summary Reporting page, which is forwarded to Council annually.

The system was developed in line with recommendations/requirements of Council's auditors to provide a uniform format and transparent auditing of committee financial transactions, which meet the requirements for accountability and GST reporting. The

system provides committees with a simplified financial process and staff support through the Facilities & Services Finance Co-ordinator.

The Cash Book System provides a process that minimises risk to both Council and committees.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council establishes community committees to undertake projects, and to assist in the management of parks, reserves, services and facilities. This is part of Council's commitment to community partnerships and provides opportunities for the community to be involved with the management of the facilities they use.

The activities and projects undertaken by committees are often those not financially possible for Council without this assistance.

There are no environmental implications.

CONSULTATION

- 1) Facilities & Services Finance Co-ordinator;
- 2) Volunteer Strategy Co-ordinator;
- 3) 355(c) Committees.

OPTIONS

- 1) Accept the recommendation;
- 2) Reject the recommendation.

ATTACHMENTS

- 1) 355(c) Summary of Funds held by 355(c) Committees for 2010.

COUNCILLORS ROOM

- 1) 355(c) Committees Annual Financial Statement Spreadsheet for 2010.

TABLED DOCUMENTS

- 1) 355(c) Committees Annual Financial Statement Spreadsheet for 2010.

ATTACHMENT 1

355(c) Summary of funds held by 355(c) Committees for 2010

| Committee Name | Opening Balance 1/1/2010 | Closing Balance 31/12/2010 |
|--|---------------------------------|-----------------------------------|
| Anna Bay , Birubi Point Reserves, Hall and Tidy Town Committee | \$5,451.52 | \$4,161.49 |
| Boat Harbour Parks & Reserves Committee | \$6,916.57 | \$7,443.9 |
| Bobs Farm Public Hall Committee | \$6,898.02 | \$7,348.68 |
| Corlette Headland Committee | \$3,367.23 | \$4,193.27 |
| Corlette Reserves & Hall 355(b) Committee | \$10,437.36 | \$8,333.45 |
| Fern Bay Public Hall, Reserves and Tidy Towns Committee | \$5,177.07 | \$5,934.29 |
| Fingal Bay Parks & Reserves Committee | \$2,624.78 | \$2,471.47 |
| Hinton School of Arts Committee | \$11,294.47 | \$13,304.44 |
| Karuah Tidy Towns / Parks / Reserves and Wetlands Committee | \$7,034.58 | \$8,545.93 |
| LTP Parks & Reserves Committee | | \$6,459.14 |
| Mallabula Community Centre Committee | \$13,252.34 | \$11,389.59 |
| Mallabula Parks & Reserves Committee | \$6,099.73 | \$5,165.62 |
| Mambo Wanda Wetlands, Reserves & Landcare 355(b) Committee | \$6,574.93 | \$4,185.75 |
| Medowie Community Centre Committee | \$16,923.20 | \$19,641.04 |
| Medowie Sports Council | \$57,033.06 | \$61,110.93 |
| Medowie Tidy Town & Cycleway Committee | \$3,322.76 | \$3,955.97 |
| Nelson Bay Senior Citizens Hall Committee | \$22,395.54 | \$22,290.19 |
| Nelson Bay West Parkcare Committee | \$4,049.26 | \$4,236.72 |
| Ngioka Centre Committee | \$56,542.41 | \$50,608.16 |
| Port Stephens Adult Choir Committee | \$3,938.42 | \$4,279.45 |
| Port Stephens Community Bands Committee | \$4,458.43 | \$5,940.16 |
| Port Stephens Native Flora Garden Committee | \$2,319.98 | \$667.86 |
| Port Stephens Sister Cities Committee | \$24,350.55 | \$24,817.99 |
| Raymond Terrace Parks, Reserves & Tidy Towns Committee | \$12,065.47 | \$13,156.65 |
| Raymond Terrace Senior Citizens Hall Management Committee | \$75,496.96 | \$60,051.04 |
| Raymond Terrace Sports Council | \$15,142.22 | \$1,7820.45 |
| Rural West Sports Council | \$43,534.02 | \$1,6009.47 |
| Salamander Ecology Group | \$1,690.95 | \$1,883.83 |
| Salt Ash Community Hall, Reserves and Tennis Courts Committee | \$8,845.39 | \$7,548.52 |
| Salt Ash Sports Ground Committee | \$24,358.95 | \$40,016.65 |
| Seaham Park Committee | \$8,836.79 | \$7,100.80 |
| Seaham School of Arts and Community Hall Committee | \$882.19 | \$2,737.85 |
| Shoal Bay Beach Preservation | \$13,463.93 | \$12,800.21 |

| |
|--|
| MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011 |
|--|

| | | |
|--|---------------------|---------------------|
| Committee | | |
| Soldiers Point - Salamander Bay Parks, Reserves and Hall Committee | \$18,607.24 | \$10,906.28 |
| Soldiers Point/Salamander Bay Tidy Towns and Landcare Committee | \$2,988.44 | \$3,423.98 |
| Tanilba Bay Parks, Reserves and Hall Committee | \$4,998.41 | \$6,855.74 |
| Taylor's Beach Reserves, Tidy Town and Landcare Committee | \$9,510.50 | \$10,327.64 |
| Tomaree Education Complex Multi-Purpose Centre Committee | \$11,601.94 | \$18,722.94 |
| Tilligerry Aquatic Centre Advisory Committee | \$14,715.45 | \$16,115.90 |
| Tilligerry Community Centre Committee | \$22,784.24 | \$21,087.79 |
| Tilligerry Sports Council | \$24,671.41 | \$16,395.30 |
| Tomaree Sports Council | \$74,917.79 | \$77,714.98 |
| Tilligerry Tidy Towns and Landcare Committee | \$4,770.33 | \$4,580.01 |
| West Ward Cemeteries Committee | \$3,525.45 | \$1,677.28 |
| WW-subcommittee Karuah Columbarium | \$5,733.68 | \$5,662.64 |
| Williamstown Public Hall Committee | \$15,956.88 | \$9,436.52 |
| TOTAL | \$699,560.84 | \$668,517.96 |

ITEM NO. 11

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 4 OCTOBER 2011

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the recommendations contained in the minutes of the Local Traffic Committee meeting held on 4th October 2011.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|---|
| | Councillor John Nell Councillor Geoff Dingle |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|--|
| 406 | Councillor Peter Kafer Councillor Caroline De Lyall |
| | It was resolved that the recommendation be adopted. |

MATTER ARISING

| | |
|------------|--|
| 407 | Councillor Steve Tucker Councillor Geoff Dingle |
| | It was resolved that the matter of installing double lines through Campvale between Grahamstown and Medowie Road be referred to the Local Traffic Committee for consideration. |

MATTER ARISING

| | |
|------------|---|
| 408 | Councillor Bruce MacKenzie Councillor Peter Kafer |
| | It was resolved that Council write the NSW Police Force requesting advice on any infringements issued between Tanilba Bay and Oyster Cove Road over the weekend of 19 and 20 November 2011. |

BACKGROUND

The purpose of this report is to bring to Council's attention traffic issues raised and detailed in the Traffic Committee minutes and to meet the legislative requirements for the installation of any regulatory traffic control devices associated with Traffic Committee recommendations. (Community Strategic Plan Section 5.4)

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$41 000 (\$25 000 grant from the RTA and General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. The construction of capital works such as traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding and are to be listed within Council's "Forward Works Plan" for consideration in the annual budget process.

The recommendations relating to the installation of regulatory traffic controls contained within the local Traffic Committee minutes can be completed within the current Traffic Committee budget allocations and without additional impact on staff or the way Council's services are delivered.

LEGAL, POLICY AND RISK IMPLICATIONS

The local Traffic Committee is not a Committee of Council; it is a technical advisory body authorised to recommend regulatory traffic controls to the responsible Road Authority. The Committee's functions are prescribed by the Transport Administration Act with membership of the Traffic Committee extended to the following stakeholder representatives; the Local Member of Parliament, NSW Police, the Roads & Traffic Authority and Port Stephens Council.

The procedure followed by the local Traffic Committee satisfies the legal requirements required under the Transport Administration (General) Act furthermore there are no policy implications resulting from any of the Committee's recommendations.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The recommendations from the local Traffic Committee aim to improve traffic management and road safety.

CONSULTATION

The Committee's technical representatives are the Police, Roads and Traffic Authority, and Council Officers; they investigate issues brought to the attention of the Committee and suggest draft recommendations for further discussion during the scheduled meeting. One week prior to the local Traffic Committee meeting copies of the agenda are forwarded to the Committee members, Councillors, Facilities and Services Group Manager and Council's Road Safety Officer. During this period comments are received and taken into consideration during discussions at the Traffic Committee meeting.

Additional consultation was undertaken for item C2 – Magnus Street Nelson Bay.

OPTIONS

- 1) Adopt all or part of the recommendations;
- 2) Reject all or part of the recommendations;
- 3) Council may choose to adopt a course of action other than that recommended by the Traffic Committee for a particular item. In which case Council must first notify the RTA and NSW Police representatives in writing. The RTA or Police may then lodge an appeal to the Regional Traffic Committee.

ATTACHMENTS

- 1) Local Traffic Committee Meeting Minutes of 4 October 2011.

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 4TH OCTOBER 2011
AT 9:30AM**

Present:

Craig Baumann MP, Cr Bob Westbury – Mayor, Cr Peter Kafer, Snr Const Simon Chappell - NSW Police, Mr Dean Simmons, Mr Nick Trejevski – RTA, Mr John Meldrum – Hunter Valley Buses, Mr Joe Gleeson (Chairperson), Mr Graham Orr – Port Stephens Council

Apologies:

Cr Geoff Dingle, Mr Bill Butler – RTA, Mr Dave Davies – Busways, Mr Mark Newling - Port Stephens Coaches, Ms Lisa Lovegrove, Ms Michelle Page – Port Stephens Council

A. ADOPTION OF MINUTES OF MEETING HELD 6TH SEPTEMBER, 2011

The minutes of the previous Local Traffic Committee Meeting were adopted.

B. BUSINESS ARISING FROM PREVIOUS MEETING

C. LISTED MATTERS

D. INFORMAL MATTERS

E. GENERAL BUSINESS

**PORT STEPHENS
LOCAL TRAFFIC COMMITTEE AGENDA**

**INDEX OF LISTED MATTERS
TUESDAY 4TH OCTOBER, 2011**

- A. ADOPTION OF THE MINUTES OF 6TH SEPTEMBER, 2011**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- C. LISTED MATTERS**
- C.1 36_10/11 FERODALE ROAD MEDOWIE - REQUEST FOR INSTALLATION OF 'NO STOPPING' ACROSS THE DRIVEWAYS OF NO. 17**
- C.2 37_10/11 MAGNUS STREET NELSON BAY – REQUEST FOR REVIEW OF 'NO PARKING' RESTRICTIONS AT NO.87**
- C.3 38_10/11 DONALD STREET NELSON BAY - REQUEST FOR INSTALLATION OF 5 MINUTE PARKING AT NO.61**
- C.4 39_10/11 DONALD STREET NELSON BAY - REQUEST FOR REMOVAL OF 'NO STOPPING' RESTRICTIONS AT THE FORMER AMBULANCE STATION**
- D. INFORMAL MATTERS**
- E. GENERAL BUSINESS**
- E.1 620_10/11 RICHARDSON ROAD CAMPVALE – REQUEST FOR A REVIEW OF THE SPEED LIMIT**
- E.2 621_10/11 MEDOWIE ROAD MEDOWIE – REQUEST FOR A REVIEW OF THE SPEED LIMIT**

Listed Matters

C.1 Item: 36_10/11

FERODALE ROAD MEDOWIE - REQUEST FOR INSTALLATION OF 'NO STOPPING' ACROSS THE DRIVEWAYS OF NO. 17

Requested by: A resident
File: PSC2005-4189/048
Background:

The eastern neighbour of Medowie Public School has concerns about access to his driveways being restricted by cars parking on the northern and southern sides of Ferodale Road adjacent to and opposite both driveways.

Comment:

Traffic Inspection Committee members noted that Ferodale Road is relatively wide and that parking would only become an issue at school pick-up times. Installation of part-time 'No Parking' restrictions will mean that the spaces between the driveways can still be used during school pick-up and drop-off times.

The NSW Road Rules does not list the option of applying times of operation to 'No Stopping' restrictions.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule168 – No parking signs
RTA signs database – R5-41
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

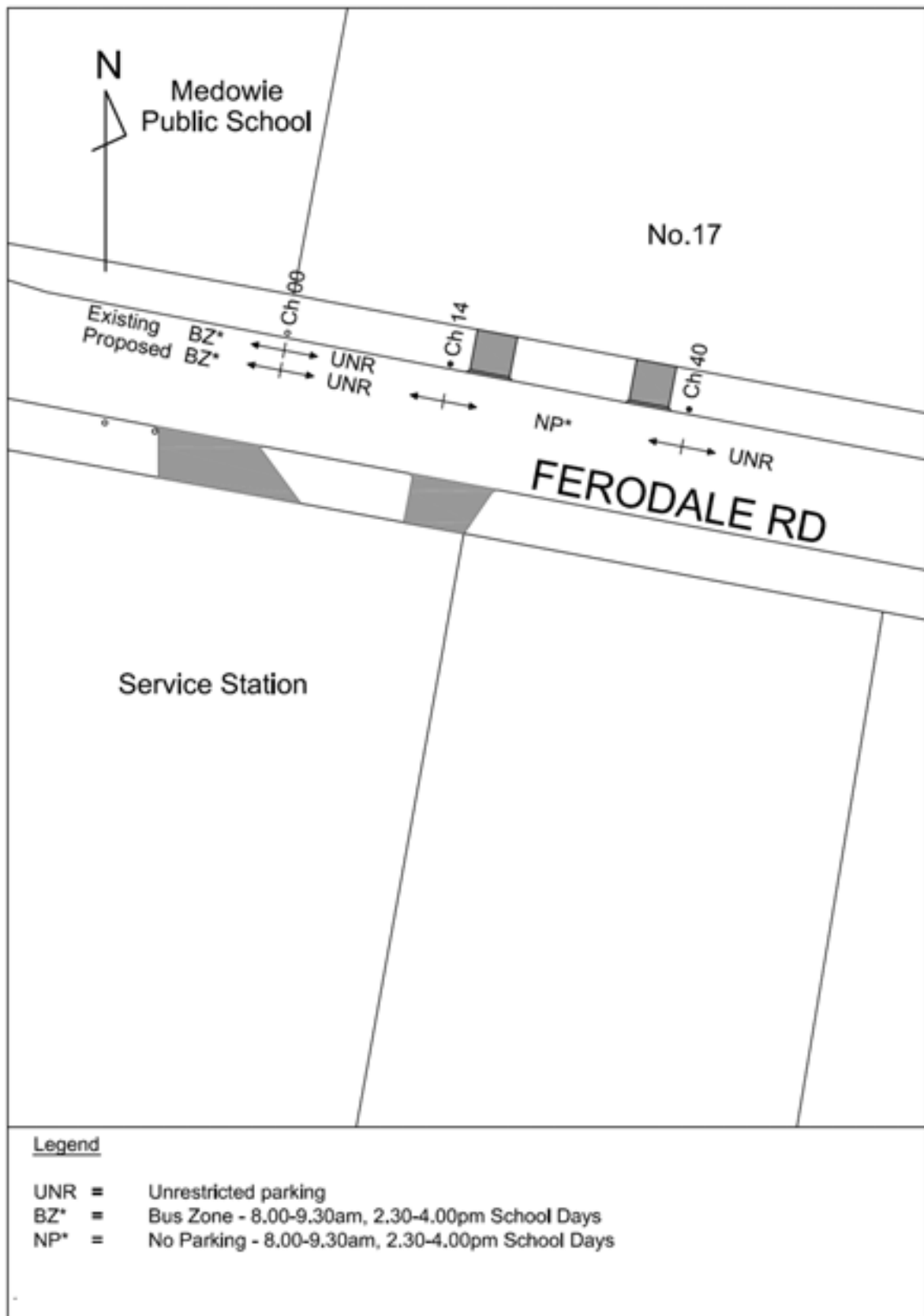
Recommendation to the Committee:

Approve the installation of 'No Parking' restrictions at No.17 Ferodale Road Medowie, as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

| | | |
|---|-------------------|---|
| 1 | Unanimous | ✓ |
| 2 | Majority | |
| 3 | Split Vote | |
| 4 | Minority | |
| | Support | |
| 5 | Unanimous decline | |



C.2 Item: 37_10/11

MAGNUS STREET NELSON BAY – REQUEST FOR REVIEW OF 'NO PARKING' RESTRICTIONS AT NO.87

Requested by: Council Rangers
File: PSC2005-4189/049
Background:

Council's Rangers have stated that the existing signs outside the newsagent in Magnus Street Nelson Bay are faded and not enforceable. The signs currently are '1/4P – 6.30am-6.00pm' and 'No Parking – 12.30am-6.30am'. The signs are very faded and the zone is in need of review.

Comment:

The reason for the existence of 'No Parking' restrictions operating from 12.30am-6.30am is not clear and the Traffic Inspection Committee recommended removal of the 'No Parking' component to simplify the signs.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules –Part 12 Div.2 – Rule 205 – Parking for longer than indicated
AS 1742.11 – Parking Controls
RTA signs database – R5-15
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

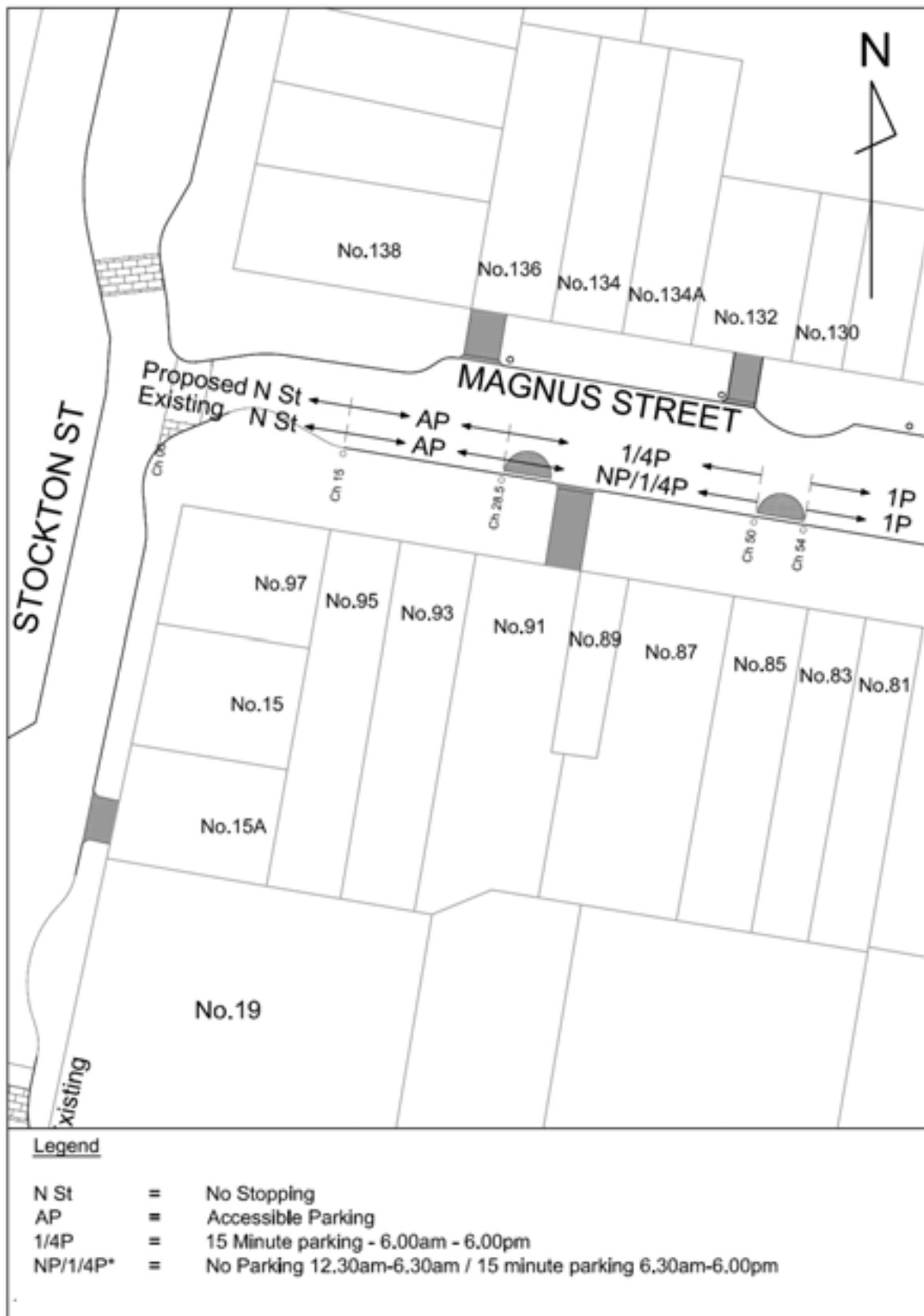
Approve removal of the part-time 'No Parking' restrictions in Magnus Street Nelson Bay, as shown on the attached sketch, Annexure A.

Discussion:

Cr Westbury requested that Council officers contact the newsagent to determine if short term parking restrictions were still required. If not, the area should be returned to 1 hour parking and the recommendation changed accordingly.
NOTE: This has since been done and the operator of the newsagency has specifically requested that the 15 minute parking remain.

Support for the recommendation:

| | | |
|---|-------------------|---|
| 1 | Unanimous | ✓ |
| 2 | Majority | |
| 3 | Split Vote | |
| 4 | Minority | |
| | Support | |
| 5 | Unanimous decline | |



C.3 Item: 38_10/11

DONALD STREET NELSON BAY - REQUEST FOR INSTALLATION OF 5 MINUTE PARKING AT NO.61

Requested by: A business operator

File: CRM 142111-2011

Background:

The manager of the Cote D Azur Apartments at No. 61 Donald Street has requested short term parking to allow guests to park while checking in and out.

Comment:

The Traffic Inspection Committee noted that the driveways of the apartments are currently covered by an extensive 'No Stopping' restriction. There is room on either side of the driveway which could allow a vehicle to park without blocking access to the building.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules –Part 12 Div.2 – Rule 205 – Parking for longer than indicated

Australian Standard AS 1742.11 Parking Controls

RTA signs database – R5-13

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

Approve installation of 5 minute parking in the existing 'No Stopping' zone at No.61 Donald Street Nelson Bay, as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

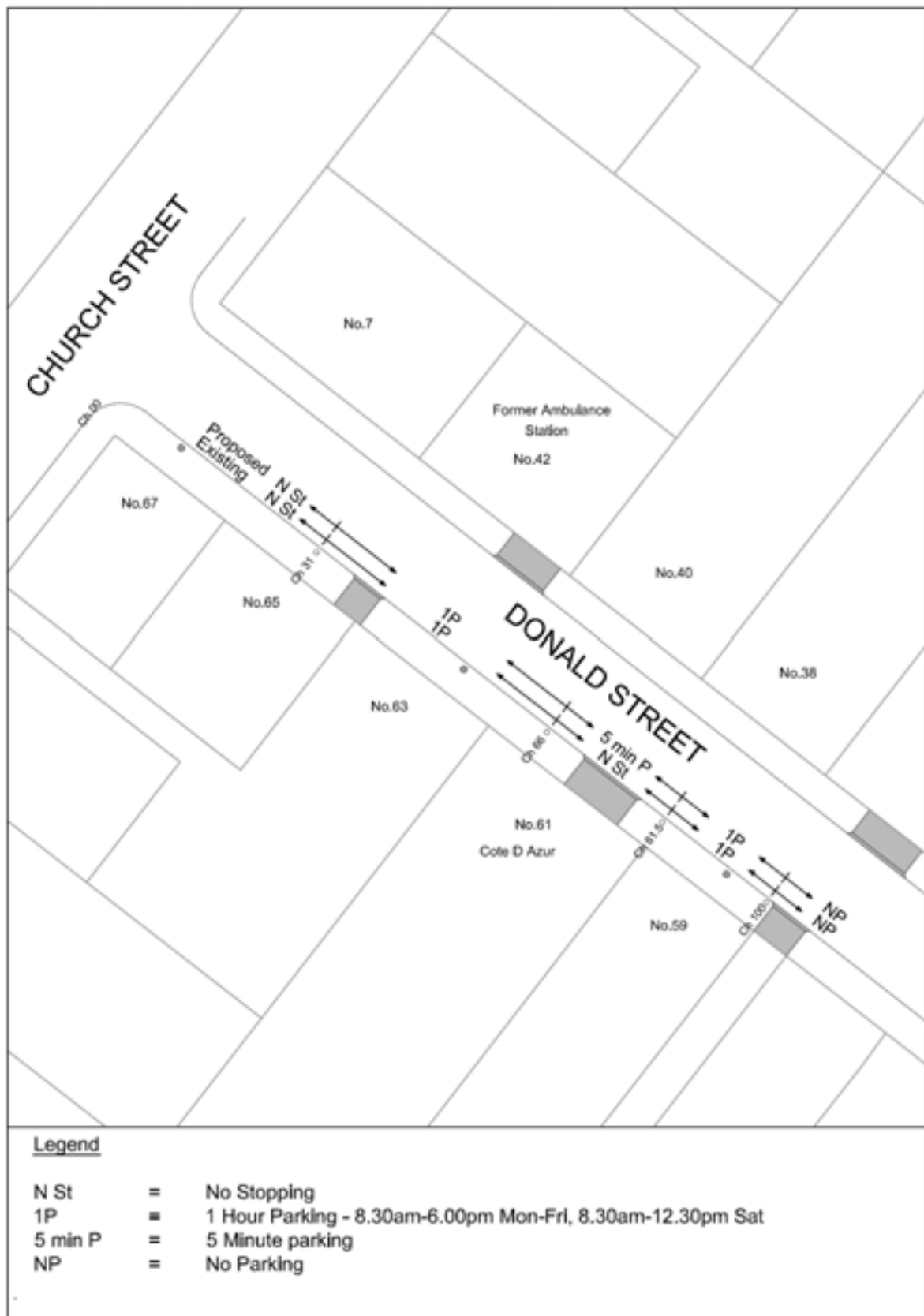
| | | |
|---|-------------------|---|
| 1 | Unanimous | ✓ |
| 2 | Majority | |
| 3 | Split Vote | |
| 4 | Minority Support | |
| 5 | Unanimous decline | |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

PORT STEPHENS TRAFFIC COMMITTEE
 Tuesday 4 October 2011

ITEM NO. 38_10/11
 Street: Donald Street

ANNEXURE A
 Page 1 of 1



C.4 Item: 39_10/11

DONALD STREET NELSON BAY - REQUEST FOR REMOVAL OF 'NO STOPPING' RESTRICTIONS AT THE FORMER AMBULANCE STATION

Requested by: A business operator

File: CRM142111-2011

Background:

The manager of the Cote D Azur apartments has requested that the existing 'No Stopping' restrictions in front of the former ambulance station in Donald Street Nelson Bay, be removed.

Comment:

The Traffic Inspection Committee noted that the existing 'No Stopping' restrictions were in place to improve safety and ease of access to the ambulance station. Now that the ambulance station has relocated to new premises on Salamander Way, the area can be returned to general parking.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules –Part 12 Div.2 – Rule 205 – Parking for longer than indicated

Australian Standard AS 1742.11 Parking Controls

RTA signs database – R5-1

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

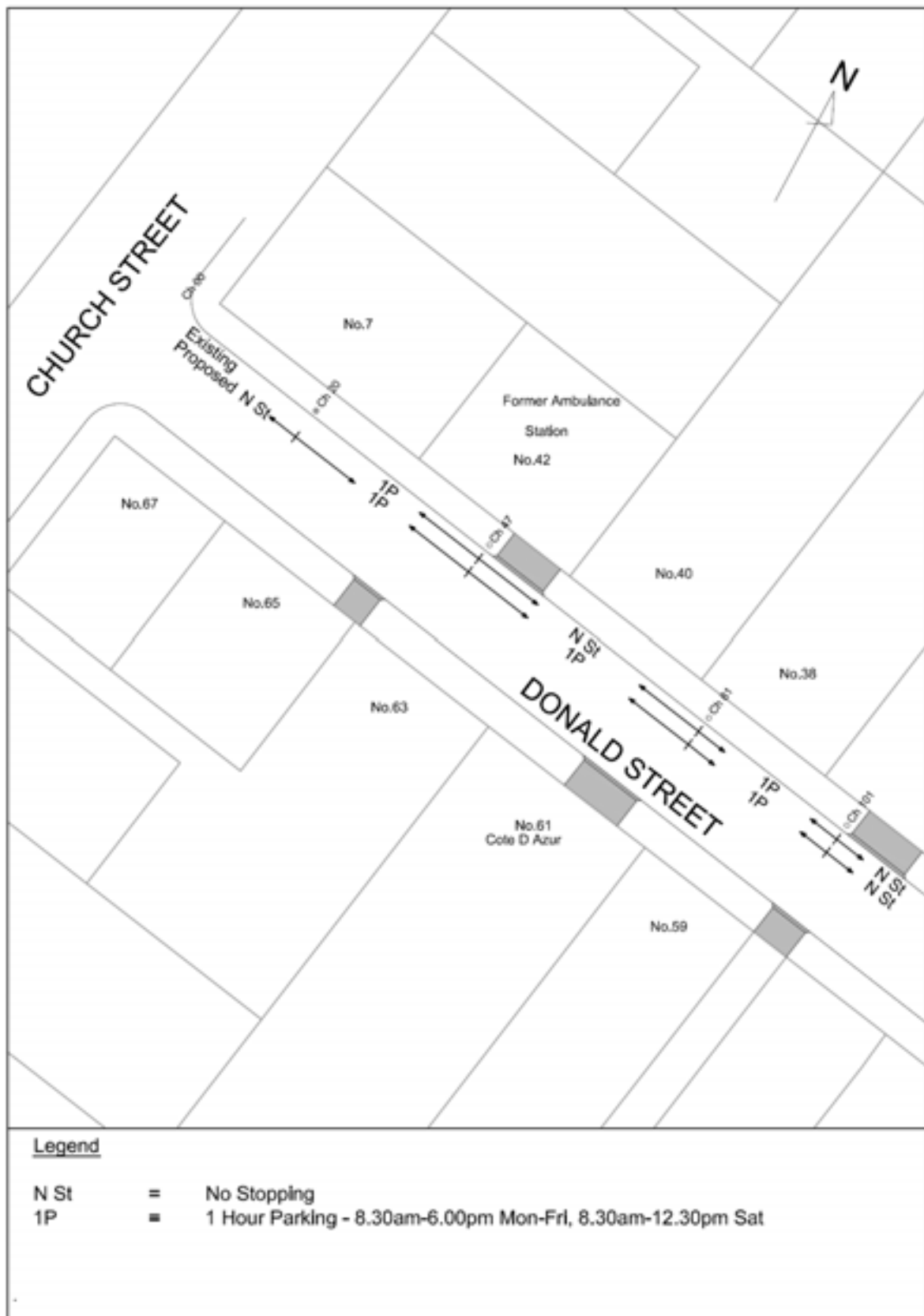
Recommendation to the Committee:

Approve installation of 1 hour parking restrictions in the existing 'No Stopping' zone at No.40 Donald Street Nelson Bay, as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

| | | |
|---|-------------------|---|
| 1 | Unanimous | ✓ |
| 2 | Majority | |
| 3 | Split Vote | |
| 4 | Minority Support | |
| 5 | Unanimous decline | |



E. General Business

E.1 Item: 620_10/11

RICHARDSON ROAD CAMPVALE – REQUEST FOR A REVIEW OF THE SPEED LIMIT

Requested by: Craig Baumann MP

File:

Background:

Mr. Baumann requested a review of the speed limit on Richardson Road between Medowie Road, Campvale and Raymond Terrace.

Legislation, Standards, Guidelines and Delegation:

Discussion:

Mr. Baumann stated that since the Blackspot program roadworks which have improved road safety, that the reduced speed limit may no longer be justified. The recent roadworks included installation of a central, wire rope barrier around Finnan Park and improvements to the Grahamstown Road intersection.

Council officers advised that Council has obtained recent speed and volume data for Richardson Road and this (attached as Annexure A) could be included in a request to the RTA.

Committees Advice:

That the request for a speed limit review of Richardson Road be referred to the RTA for consideration.

Accident History

Council accident data indicates that over the most recent 5 year reporting period there has been:

- **2 Fatal crashes**
- **11 Injury crashes**
- **17 non-casualty crashes**

These accidents all occurred in the section of Richardson Road between Campvale and the entry to Raymond Terrace.

Speed Data

Council conducted a speed and volume survey during August 2011 on Richardson Road, 200m east of the Grahamstown Road intersection.

The data indicates that the 85th% speed was 86.8km/h for westbound traffic and 88.6km/h for eastbound traffic. Approximately 2% of vehicles heading in either direction exceeded 90km/h.

The average daily traffic volume recorded was 4237 eastbound and 4403 westbound.

E.2 Item: 621_10/11

MEDOWIE ROAD MEDOWIE – REQUEST FOR A REVIEW OF THE SPEED LIMIT

Requested by: Craig Baumann MP

File:

Background:

Mr. Baumann requested a review of the speed limit on Medowie Road between Ferodale Road and Kindlebark Drive.

Legislation, Standards, Guidelines and Delegation:

Discussion:

Mr. Baumann stated that the 50km/h speed limit should not apply in this area where residences are set well back from the road and do not have driveway access to Medowie Road. He also stated that the 50km/h speed limit was installed at a time when there were no footpaths and pedestrians had to walk along the road shoulder.

Committees Advice:

That the request for a speed limit review of Medowie Road be referred to the RTA for consideration.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Item 12 was dealt with following Item 14 due to the potential Code of Meeting Practice implications between the two reports.

ITEM NO. 13

FILE NO: 1190-001

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a) Rapid Response – Cr Francis – Raymond Terrace Lions Ladies - Donation towards the costs of the 55th Anniversary Celebrations of Lions in Raymond Terrace - \$100.00;
 - b) Rapid Response – Cr Dover and Cr Ward – Corlette Halls Parks & Reserves – Donation towards the cost of installation of tap/shower at Conroy Park - \$500.00;
 - c) Rapid Response – Cr Dingle – Medowie Public School – Donation towards the cost of presentation ceremony - \$200.00;
 - d) Requisition for Funds – Crs Francis and Jordan – Karuah P&C – Donation towards the cost of painting the interior of a school classroom - \$2,200.00.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|---|
| | Councillor John Nell Councillor Ken Jordan |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 409 | Councillor Glenys Francis Councillor Caroline De Lyall |
| | It was resolved that the recommendation be adopted. |

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Financial Assistance Policy gives Councillors a wide discretion to either grant or to refuse any requests.

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

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

1. Mayoral Funds;
2. Rapid Response;
3. Community Financial Assistance Grants – (bi-annually);
4. Community Capacity Building.

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act. This would mean that the financial assistance would need to be included in the Management Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below is provide through Mayoral Funds, Rapid Response or Community Capacity Building:-

WEST WARD – Councillors De Lyall, Francis, Jordan & Kafer

| | | |
|------------------------|--|------------|
| Cr Francis | Raymond Terrace Lions Ladies - Donation towards the costs of the 55 th Anniversary Celebrations of Lions in Raymond Terrace | \$100.00 |
| Crs Francis and Jordan | Karuah P&C - Donation towards the cost of painting the interior of a school classroom | \$2,200.00 |

CENTRAL WARD – Councillors Dingle, MacKenzie, O'Brien & Tucker

| | | |
|-----------|---|----------|
| Cr Dingle | Medowie Public School -Donation towards the cost of presentation ceremony | \$200.00 |
|-----------|---|----------|

EAST WARD – Councillors Westbury, Dover, Nell, Ward

| | | |
|----------------------|--|----------|
| Cr Dover and Cr Ward | Corlette Halls Parks & Reserves - Donation towards the cost of installation of tap/shower at Conroy Park | \$500.00 |
|----------------------|--|----------|

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor;
- 2) Councillors.
- 3) Port Stephens Community.

OPTIONS

- 1) Adopt the recommendation;
- 2) Vary the dollar amount before granting each or any request;
- 3) Decline to fund all the requests.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 14

FILE NO: PSC2011-02748

INTERNET BROADCASTING OF MEETINGS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the options available contained in the report.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|--|
| | Councillor John Nell Councillor Peter Kafer |
| | That Council upgrade the system to allow for the broadcasting meetings via the internet. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

Cr Bruce MacKenzie left the meeting at 7.21pm prior to voting.
 Cr Bruce MacKenzie returned to the meeting at 7.25pm prior to voting.

| | |
|------------|--|
| 410 | Councillor Peter Kafer Councillor Glenys Francis |
| | It was resolved that Council: <ul style="list-style-type: none"> 1) Install a separate internet service in the Council Chamber and public access areas of Council's Administration Building to allow for the webcasting of Council meetings; 2) That webcasting only be available in the Council Chambers; 3) That the Code of Meeting Practice be immediately amended allowing for webcasting of Council meetings. |

BACKGROUND

The purpose of this report is to provide information in response to a Notice of Motion on Internet Broadcasting of Meetings submitted by Councillors Kafer and Dingle on 14 June 2011.

"That Council call on the General Manager to investigate and report to Council on the following matters:

- 1) The broadcasting of Committee and Council meetings via the internet (podcasting) in real time using the Council's website;
- 2) The timeframe needed to allow this to occur."

After researching the capacity of Council's internet bandwidth it would appear that it is not at a sufficient level to accommodate podasting/webcasting of Council/Committee meetings at this time. The current advice is that Council would need in the vicinity of 150kb/sec to broadcast in real time. The current internet bandwidth is only 15kb/sec.

However, to provide Council with the cost involved in providing this service preliminary costings have been sought. These costs would need to be confirmed by a site visit from a preferred supplier. The indicative costs for both the Council Chambers and Committee rooms would be in the order of:

| | |
|-------------------------|-------------------|
| Upfront equipment costs | \$19,120 |
| Ongoing costs | \$9,264 per year. |

There would also be installation costs involved.

These costs are based on the current meeting cycle of one Council meeting and one Committee meeting per month. These costs would increase should the meeting cycle change.

The installation would take approximately a month once all the equipment has been received.

FINANCIAL/RESOURCE IMPLICATIONS

The 2011-12 budget does not allow for the upfront or ongoing costs. At the conclusion of each meeting additional staff time would be required to finalise and store the files. This would divert staff from other duties.

Given Council is conducting a series of Sustainability Reviews at present it is considered that this service should not proceed given the financial implications.

LEGAL, POLICY AND RISK IMPLICATIONS

As Council is aware a number of Councils across Australia are moving towards broadcasting meetings of Council. This however does come with an element of legal risk. Any person speaking at a meeting would need to ensure that they do not breach the privacy legislation and also defamation is a factor. As Council would appreciate, generally speaking once the files are available on the internet they can be difficult to completely remove should there be a breach of legislation. Councillors do not have parliamentary privilege, unlike Federal and State politicians.

Council is also required to comply with the State Records Act with regarding to storage and retention of these files. Given the size of the files this matter may have an impact of the electronic management system (TRIM) in the long term.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The provision of broadcasting via the internet would allow members of the community who are not allowed to attend the meeting, or who reside a distance from the Council Chambers, to view the proceedings. This does provide for greater level of openness and transparency.

From the research conducted no other Hunter Council is currently providing internet broadcasting. A number of Sydney Councils are webcasting however from the limited research the number of "hits" is very low at this time.

CONSULTATION

- 1) Information Management section;
- 2) External supplier.

OPTIONS

- 1) That Council not proceed with broadcasting of Council and Committee meetings via the internet at this time and consider the matter again once the Council internet bandwidth is adequate to support broadcasting via the internet and that a further report be provided to Council at that time;
- 2) That Council not proceed with broadcasting of Council and Committee meetings via the internet.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 12

FILE NO: A2004-0284

REVIEW OF THE CODE OF MEETING PRACTICE**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**
GROUP: GENERAL MANAGER'S OFFICE**RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the previous Code of Meeting Practice dated 14 December 2010, Min No. 414;
- 2) Adopt the tabled Code of Meeting Practice.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|---|
| | Councillor John Nell Councillor Ken Jordan |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|--|
| 411 | Councillor Bruce MacKenzie Councillor Shirley O'Brien |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

The purpose of the report is to provide Council with any response received from the community following public exhibition of the Code of Meeting Practice.

Council at its meeting on 13 September 2011 resolved to place the Code of Meeting Practice on public exhibition for a period of 28 days. Public exhibition was from 22 September 2011 to 20 October 2011. No submissions were received.

The changes related to the change of Council and Committee meeting cycles for the trial period. The Committee meetings being held on the 2nd Tuesday and the Council meeting on the 4th Tuesday of the month.

Council is now asked to consider the adoption of the Code.

FINANCIAL/RESOURCE IMPLICATIONS

The Code will be implemented within current financial and human resources.

Once adopted, the Code of meeting practice must be available for public inspection free of charge at the office of the Council during ordinary office hours. Copies of the Code must be available free of charge or, if the Council determines, on payment of the approved fee.

LEGAL AND POLICY IMPLICATIONS

Under Section 361 of the Local Government Act, the draft Code must be placed on public exhibition for not less than 28 days. The council must consider all submissions received before determining the Code.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The code allows Councillors to effectively carry out their responsibilities at meetings of the council and committees of which all the members are councillors.

CONSULTATION

- 1) General Manager;
- 2) Councillors;
- 3) Port Stephens Community.

OPTIONS

- 1) Adopt the recommendation;
- 2) Retain the existing Code of Meeting Practice.

ATTACHMENTS

Nil.

TABLED DOCUMENTS

- 1) Draft Code of Meeting Practice.

ITEM NO. 15

FILE NO: A2004-0284

RECORDING OF COUNCIL MEETINGS FOR THE PURPOSE OF THE MINUTES

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Continue with the current practice of not recording of minutes at Council meetings; and
- 2) Continue to display the minutes "live" on the screens within the Council Chambers and Committee room.

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|--|
| | Councillor Frank Ward Councillor Steve Tucker |
| | That the recommendation be adopted. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|--|
| 412 | Councillor Glenys Francis Councillor Caroline De Lyall |
| | It was resolved that Council: <ol style="list-style-type: none"> 1) Continue with the current practice of not tape recording the minutes at Council meetings; and 2) Continue to display the minutes "live" on the screens within the Council Chambers and Committee room. |

BACKGROUND

The purpose of this report is to provide information to Council following a request from Councillor Kafer that Council consider recording (using tape) of the Council meetings and that the recorded copy be retained for a period of a fortnight following the meeting.

This report also is to respond to the Notice of Motion from Cr Nell, adopted by Council at its meeting on 24 May 2011 as follows:-

"That Council call for a report on the following matters:

- 1) *The recording of oral proceedings of its Council meetings electronically;*
- 2) *Allow the recording of oral proceedings of its Committee and Council meetings by the members of the public and the press electronically;*
- 3) *Allow members of the public and the press to take photographs at its Committee and Council meeting;*
- 4) *That any recording of proceedings and the taking of photographs is done unobtrusively, so as not to interfere with the proceedings of meetings."*

Council at its meeting of 13 October 2009, resolved to remove the "recording" of Council meeting section from the Code of Meeting Practice (Code) in line with the recommendations from Privacy NSW.

Council originally included this section in its Code in 1997, for the purposes of verifying the minutes of the Ordinary Council meetings. This was prior to the introduction of the *Privacy and Personal Information Protection Act 1998*. Privacy NSW strongly recommends to Councils not to record their meetings in this form given the legal implications that may arise through a breach of the legislation. The release of personal information without the consent of the individual concerned could be a potential breach of the legislation. It should be noted that the taping of the meetings was only for the open sessions, not the confidential session of Council meetings.

Council in September 2008 introduced the electronic recording of the minutes at its Committee and Ordinary Council meetings. This provides Council with the opportunity to ensure the minutes are accurately recorded and removes the need to continue to record the meetings by audio tapes. It is worth noting that the audio tapes, at the time of recording Council meeting, has not been required to be used to verify the accuracy of the minutes for more than eight (8) years.

With respect to the matter of allow members of the public and the press to take photographs and recordings, currently the Code of Meeting Practice allows for approval to be granted conjointly by the Mayor and General Manager or by resolution of Council.

Council's Code of Meeting Practice would require amendment should Council resolve to make any change. This would involve public exhibition for a period of 28 days.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with this report are provided for within the current budget.

LEGAL, POLICY AND RISK IMPLICATIONS

There is no legal requirement for Council to record Council meetings.

Council is required for ensure compliance with the *Privacy and Personal Information Protection Act 1998*, and protect the personal information of individuals when dealing with matter before Council.

The Local Government Act 1993 and the Regulations requires Council to confirm the minutes from the previous meeting at the commencement of each meeting.

Council should also consider the impact of others who are attending the meeting in the public gallery with respect to photographs being taken, should Council wish to alternate the current approval process contained in the Code of Meeting Practice.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 16

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 8 November 2011.

| No: | Report Title | Page: |
|-----|--|-------|
| 1 | CASH AND INVESTMENTS HELD AT 30 SEPTEMBER 2011 | |
| 2 | REPEALED SECTION 94 CONTRIBUTIONS | |

COUNCIL COMMITTEE MEETING 8 NOVEMBER 2011

| | |
|--|--|
| | Councillor Ken Jordan Councillor Frank Ward |
| | That Item 1 of the recommendation be adopted. |

| | |
|--|--|
| | Councillor Steve Tucker Councillor Sally Dover |
| | That Council: 1) Defer Item 2 for a discussion between Councillors and Council staff; and; 2) That a Section 94 Committee meeting be convened. |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|--|
| 413 | Councillor John Nell Councillor Shirley O'Brien |
| | It was resolved that: 1) Item 1 be adopted; 2) Defer Item 2 for a discussion between Councillors and Council staff; and 3) That a Section 94 Committee meeting be convened. |

COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

CASH AND INVESTMENTS HELD AT 30 SEPTEMBER 2011

REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES MANAGER
GROUP: COMMERCIAL SERVICES

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 30 September 2011.

ATTACHMENTS

- 1) Cash and investments held at 30 September 2011
- 2) Monthly cash and investments balance September 2010 – September 2011
- 3) Monthly Australian term deposit index September 2010 – September 2011

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

ATTACHMENT 1

CASH & INVESTMENTS HELD - As at 30 September 2011

| INVESTED WITH | INV. TYPE | CURRENT RATING | MATURITY DATE | AMOUNT INVESTED | % of Total Portfolio | Current Int Rate | Market Value July | Market Value August | Market Value September | Current Mark to Market Exposure |
|--|---------------------------|----------------|---------------|--------------------|----------------------|------------------|--------------------|---------------------|------------------------|---------------------------------|
| GRANGE SECURITIES | | | | | | | | | | |
| MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA" | Floating Rate CDO | NR | 20-Mar-12 | \$1,000,000 | 3.83% | 6.49% | \$871,990 | \$871,990 | \$871,990 | -\$128,010 |
| NEXUS BONDS LTD "TOPAZ AA" | Floating Rate CDO | | 23-Jun-15 | \$412,500 | 1.58% | 0.00% | \$289,781 | \$286,688 | \$287,760 | -\$124,740 |
| HELIUM CAPITAL LTD "ESPERANCE AA+" * | Floating Rate CDO | NR | 20-Mar-13 | \$1,000,000 | 3.83% | 0.00% | \$0 | \$0 | \$0 | -\$1,000,000 |
| GRANGE SECURITIES "KAKADU AA" | Floating Rate CDO | CCC | 20-Mar-14 | \$1,000,000 | 3.83% | 6.39% | \$396,600 | \$340,400 | \$207,300 | -\$792,700 |
| GRANGE SECURITIES "COOLANGATTA AA" * | Floating Rate CDO | NR | 20-Sep-14 | \$1,000,000 | 3.83% | 0.00% | \$0 | \$0 | \$0 | -\$1,000,000 |
| TOTAL GRANGE SECURITIES | | | | \$4,412,500 | 16.90% | | \$1,558,371 | \$1,499,078 | \$1,367,050 | -\$3,045,450 |
| ABN AMRO MORGANS | | | | | | | | | | |
| GLOBAL PROTECTED PROPERTY NOTES VII | Property Linked Note | matured | | | 0.00% | 0.00% | \$962,800.00 | \$962,800 | | \$0 |
| TOTAL ABN AMRO MORGANS | | | | \$0 | 0.00% | | \$962,800 | \$962,800 | \$0 | \$0 |
| ANZ INVESTMENTS | | | | | | | | | | |
| PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA" | Floating Rate CDO | B | 30-Dec-11 | \$1,000,000 | 3.83% | 0.00% | \$907,200 | \$910,200 | \$900,900 | -\$99,100 |
| ANZ ZERO COUPON BOND | Zero Coupon Bond | AA | 1-Jun-17 | \$1,017,876 | 3.90% | 0.00% | \$697,897 | \$701,053 | \$727,365 | -\$290,511 |
| TOTAL ANZ INVESTMENTS | | | | \$2,017,876 | 7.73% | | \$1,605,097 | \$1,611,253 | \$1,628,265 | -\$389,611 |
| RIM SECURITIES | | | | | | | | | | |
| GENERATOR INCOME NOTE AAA (2011) | Floating Rate CDO | | 8-Oct-11 | \$2,000,000 | 7.66% | 0.00% | \$1,936,000 | \$1,954,020 | \$1,954,020 | -\$45,980 |
| SUNCORP METWAY QUEENSLAND COUNTRY CREDIT UNION | Term Deposit | A1 | 21-Oct-11 | \$1,000,000 | 3.83% | 5.52% | \$1,000,000 | \$1,000,000 | \$1,000,000 | \$0 |
| BEIRUT HELLENIC BANK LTD | Term Deposit | N/R | 20-Dec-11 | \$1,000,000 | 3.83% | 5.80% | \$1,000,000 | \$1,000,000 | \$1,000,000 | \$0 |
| | Term Deposit | N/R | 13-Jan-12 | \$1,000,000 | 3.83% | 5.95% | | | \$1,000,000 | \$0 |
| TOTAL RIM SECURITIES | | | | \$5,000,000 | 19.15% | | \$3,936,000 | \$3,954,020 | \$4,954,020 | -\$45,980 |
| WESTPAC INVESTMENT BANK | | | | | | | | | | |
| MACKAY PERMANENT BUILDING SOCIETY | Floating Rate Sub Debt | N/R | 21-Nov-11 | \$500,000 | 1.92% | 6.09% | \$495,590 | \$496,490 | \$497,030 | -\$2,970 |
| TOTAL WESTPAC INV. BANK | | | | \$500,000 | 1.92% | | \$495,590 | \$496,490 | \$497,030 | -\$2,970 |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

ATTACHMENT 1

| | | | | | | | | | | |
|---|--------------------------|-----------|-----------|--------------------|---------------|-------|-----------------------|--------------------|--------------------|------------------|
| CURVE SECURITIES | | | | | | | | | | |
| BANK OF CYPRUS AUSTRALIA LIMITED | Term Deposit | withdrawn | | | | | \$1,000,000 | \$1,000,000 | | |
| QANTAS STAFF CREDIT UNION | Term Deposit | N/R | 11-Oct-11 | \$1,000,000 | 3.83% | 5.71% | | \$1,000,000 | \$1,000,000 | \$0 |
| CITIGROUP PTY LTD | Term Deposit | A1 | 17-Oct-11 | \$1,000,000 | 3.83% | 5.65% | | | \$1,000,000 | \$0 |
| ING BANK AUSTRALIA | Term Deposit | A1 | 25-Jan-12 | \$1,000,000 | 3.83% | 6.00% | | | \$1,000,000 | \$0 |
| TOTAL CURVE SECURITIES | | | | \$3,000,000 | 11.49% | | \$1,000,000.00 | \$2,000,000 | \$3,000,000 | \$0 |
| LONGREACH CAPITAL MARKETS | | | | | | | | | | |
| LONGREACH SERIES 16 PROPERTY LINKED NOTE | Property Linked Note | A+ | 7-Mar-12 | \$500,000 | 1.92% | 0.00% | \$482,835 | \$484,900 | \$487,750 | -\$12,250 |
| LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE | Property Linked Note | A+ | 7-Sep-12 | \$500,000 | 1.92% | 0.00% | \$462,400 | \$470,350 | \$475,050 | -\$24,950 |
| TOTAL LONGREACH CAPITAL | | | | \$1,000,000 | 3.83% | | \$945,235 | \$955,250 | \$962,800 | -\$37,200 |
| COMMONWEALTH BANK | | | | | | | | | | |
| EQUITY LINKED DEPOSIT ELN SERIES 2 | Equity Linked Note | AA | 05-Nov-12 | \$500,000 | 1.92% | 3.00% | \$483,050 | \$483,500 | \$489,750 | -\$10,250 |
| BENDIGO BANK SUBORDINATED DEBT | Floating Rate Sub Debt | BBB | 09-Nov-12 | \$500,000 | 1.92% | 5.98% | \$500,290 | \$502,385 | \$493,645 | -\$6,355 |
| BANK OF QUEENSLAND BOND | Bond | BBB+ | 16-Mar-12 | \$1,000,000 | 3.83% | 5.35% | \$1,000,000 | \$1,000,000 | \$1,000,000 | \$0 |
| COMMONWEALTH BANK | Term Deposit | AA | 31-Oct-11 | \$1,000,000 | 3.83% | 5.75% | | \$1,000,000 | \$1,000,000 | \$0 |
| TOTAL COMMONWEALTH BANK | | | | \$3,000,000 | 11.49% | | \$2,478,340 | \$3,480,835 | \$2,983,395 | -\$16,605 |
| FIGG SECURITIES | | | | | | | | | | |
| TELSTRA LINKED DEPOSIT NOTE | Principal Protected Note | | 30-Nov-14 | \$500,000 | 1.92% | 6.02% | \$480,800 | \$481,210 | \$500,000 | \$0 |
| GATEWAY CREDIT UNION LIMITED | Term Deposit | N/R | 17-Oct-11 | \$1,000,000 | 3.83% | 5.81% | | \$1,000,000 | \$1,000,000 | \$0 |
| TOTAL FIGG SECURITIES | | | | \$1,500,000 | 5.75% | | \$480,800 | \$1,481,210 | \$1,500,000 | \$0 |
| MAITLAND MUTUAL | | | | | | | | | | |
| MAITLAND MUTUAL SUB DEBT | Floating Rate Sub Debt | N/R | 30-Jun-13 | \$500,000 | 1.92% | 6.54% | \$500,000 | \$500,000 | \$500,000 | \$0 |
| MAITLAND MUTUAL SUB DEBT | Floating Rate Sub Debt | N/R | 31-Dec-14 | \$500,000 | 1.92% | 6.54% | \$500,000 | \$500,000 | \$500,000 | \$0 |
| TOTAL M'LAND MUTUAL | | | | \$1,000,000 | 3.83% | | \$1,000,000 | \$1,000,000 | \$1,000,000 | \$0 |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

ATTACHMENT 1

| | | | | | | | | | | |
|--|--------------|-----|-----------|---------------------|----------------|-------|---------------------|---------------------|---------------------|---------------------|
| FARQUHARSON SECURITIES | | | | | | | | | | |
| POLICE & NURSES CREDIT SOCIETY LTD | Term Deposit | N/R | 7-Oct-11 | \$1,000,000 | 3.83% | 5.63% | | \$1,000,000 | \$0 | |
| PEOPLES CHOICE CREDIT UNION | Term Deposit | N/R | 7-Nov-11 | \$1,000,000 | 3.83% | 5.74% | | \$1,000,000 | \$0 | |
| TEACHERS CREDIT UNION | Term Deposit | N/R | 14-Dec-11 | \$1,000,000 | 3.83% | 5.82% | | \$1,000,000 | \$0 | |
| TOTAL FARQUHARSON SECURITIES | | | | \$3,000,000 | 11.49% | | \$0 | \$0 | \$3,000,000 | \$0 |
| TOTAL INVESTMENTS | | | | | | | | | | |
| | | | | \$24,430,376 | 93.58% | | \$14,462,233 | \$17,440,936 | \$20,892,560 | -\$3,537,816 |
| AVERAGE RATE OF RETURN ON INVESTMENTS | | | | | | 4.04% | | | | |
| CASH AT BANK | | | | \$1,676,078 | 6.42% | | \$1,657,498 | \$5,766,851 | \$1,676,078 | \$0 |
| AVERAGE RATE OF RETURN ON INVESTMENTS + CASH | | | | | | 4.08% | | | | |
| TOTAL CASH & INVESTMENTS | | | | \$26,106,454 | 100.00% | | \$16,119,731 | \$23,207,787 | \$22,568,638 | -\$3,537,816 |
| BBSW FOR PREVIOUS 3 MONTHS | | | | | | 4.93% | | | | |

* Lehman Brothers is the swap counterparty to these transactions and as such the deals are in the process of being unwound. No valuation information is available.

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

I, Peter Gesling, being the Responsible Accounting Officer of Council, hereby certify that the investments have been made in accordance with the Local Government Act 1993, the Regulations and Council's investment policy.

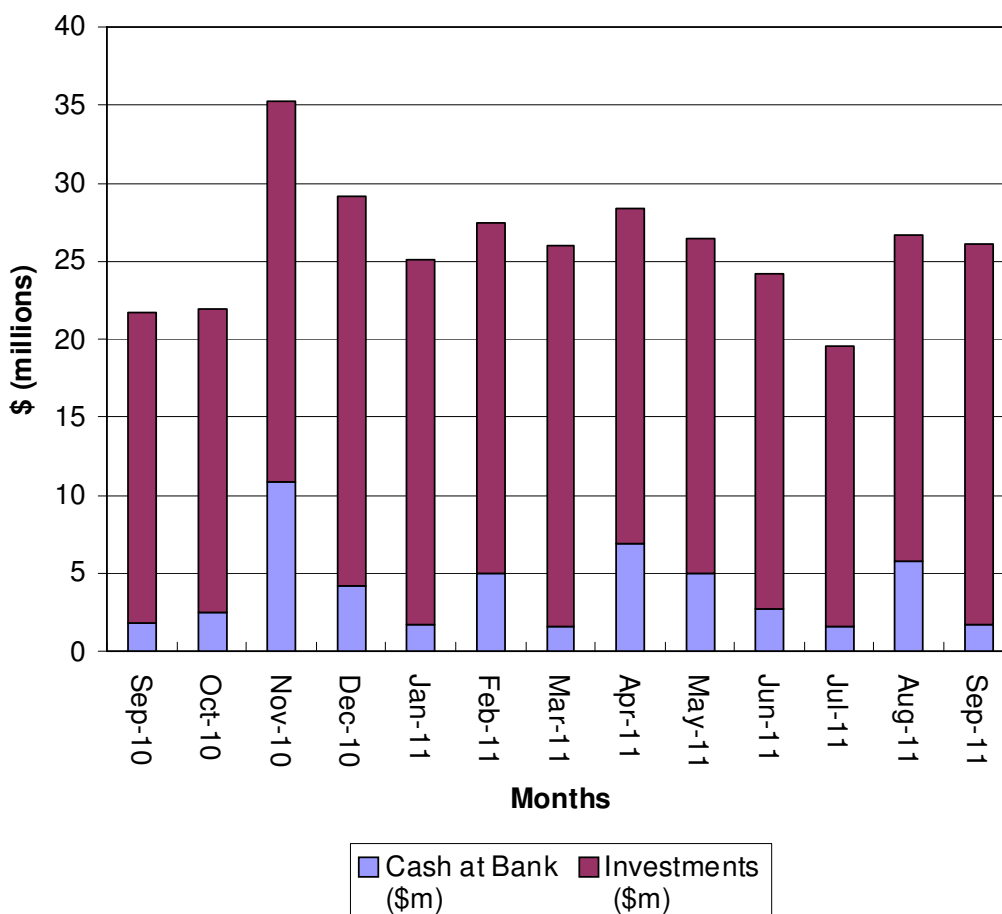
P GESLING

ATTACHMENT 1

Cash and Investments Held

| Date | Cash at Bank (\$m) | Investments (\$m) | Total Funds (\$m) |
|--------|--------------------|-------------------|-------------------|
| Sep-10 | 1.879 | 19.880 | 21.759 |
| Oct-10 | 2.512 | 19.380 | 21.892 |
| Nov-10 | 10.822 | 24.380 | 35.202 |
| Dec-10 | 4.175 | 24.930 | 29.106 |
| Jan-11 | 1.690 | 23.430 | 25.120 |
| Feb-11 | 4.988 | 22.430 | 27.419 |
| Mar-11 | 1.604 | 24.430 | 26.035 |
| Apr-11 | 6.975 | 21.430 | 28.406 |
| May-11 | 4.976 | 21.430 | 26.406 |
| Jun-11 | 2.752 | 21.430 | 24.182 |
| Jul-11 | 1.657 | 17.930 | 19.588 |
| Aug-11 | 5.767 | 20.930 | 26.697 |
| Sep-11 | 1.676 | 24.430 | 26.106 |

Cash and Invested Funds for the Period ended 30/09/2011

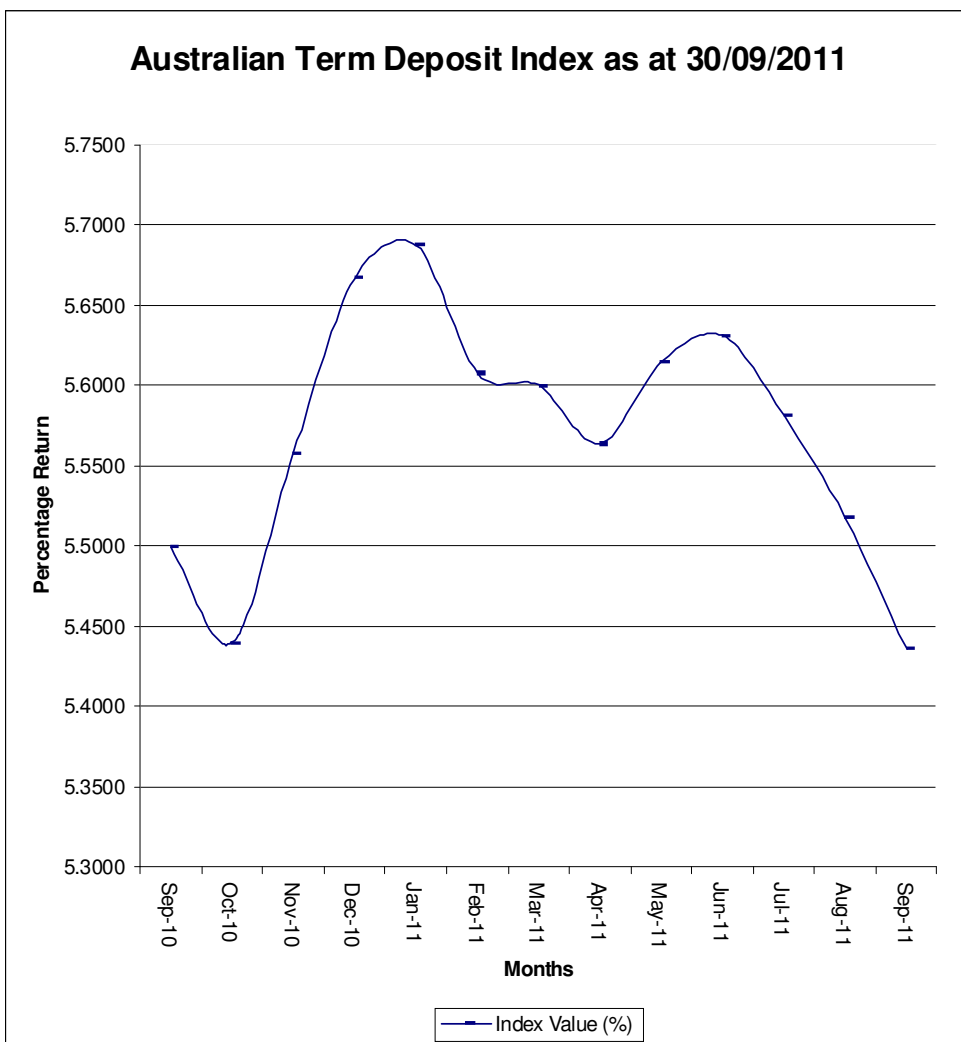


ATTACHMENT 2

Australian Term Deposit Accumulation Index

| Date | Index Value (%) |
|--------|-----------------|
| Sep-10 | 5.4991 |
| Oct-10 | 5.4396 |
| Nov-10 | 5.5583 |
| Dec-10 | 5.6675 |
| Jan-11 | 5.6877 |
| Feb-11 | 5.6079 |
| Mar-11 | 5.6000 |
| Apr-11 | 5.5637 |
| May-11 | 5.6147 |
| Jun-11 | 5.6312 |
| Jul-11 | 5.5814 |
| Aug-11 | 5.5178 |
| Sep-11 | 5.4358 |

Australian Term Deposit Index as at 30/09/2011



INFORMATION ITEM NO. 2

REPEALED SECTION 94 CONTRIBUTIONS

REPORT OF: DAMIEN JENKINS FINANCIAL SERVICES MANAGER

GROUP: COMMERCIAL SERVICES

FILE: A2004-0217

BACKGROUND

The purpose of this report is to respond to the Notice of Motion of 8 February 2011, Min No: 020A.

On 26 September 2006 Council resolved to allocate the remaining funds from the repealed Section 94 Plans, firstly to those projects detailed in Attachment 1 and then to those in Attachment 2, (Council Minute 682).

Attached is the list of projects adopted as Attachment 1 with the status of the project and the amount of repealed section 94 funds utilised to fund each project.

There were a total of seventy one (71) projects on the approved list. Of these, 94% or sixty seven (67) individual projects have been completed. The total expenditure on these sixty seven (67) projects was \$21,268,846. The amount of section 94 repealed funds allocated was approximately 30% or \$7,055,226 of the total expenditure.

The balance of the repealed section 94 funds is \$2,714,512. It's important to note that this amount is included in the total Section 94 balance reported each year so, this is not in addition to the Section 94 balance.

Council should be aware that roles and responsibilities for Section 94 management across Council have changed substantially in recent times. Processes are being identified, documented and improved where possible. The Finance Services team now have a much stronger role in the accounting processes of Section 94. This is certainly assisting Council in our management of the overall process and had delivered many efficiencies.

ATTACHMENTS

- 1) Section 94 repealed program.

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

ATTACHMENT 1

Port Stephens Council Section 94 Repealed Funds

Council Minute 682 from Ordinary Meeting held on 26 September 2006

| | Balance as at - 30/06/2006 | From Council Report | | Project Completion | | Financial Transactions | | Allocation Remaining |
|--|-------------------------------|---------------------|----------------|--------------------|---------|------------------------|--------------------|----------------------|
| | | Total Est. | Repeal | Completed | Year | Total Spent | S94 Transferred | |
| | | Cost | Allocation | (Y/N) | | \$ | \$ | |
| 1 Rural West Section 94 Plan | 464,692 | 905,000 | 350,130 | | | 1,063,231 | 355,949 | 108,743 |
| 2 Community Facilities | 154,490 | 120,000 | 95,000 | | | 101,831 | 80,816 | 73,674 |
| Hinton School of Arts - upgrade | | 120,000 | 95,000 | Y | 2007/08 | 101,831 | 80,816 | |
| 3 Open Space | 231,679 | 265,000 | 200,000 | | | 289,100 | 222,201 | 9,478 |
| Seaham Park Playground | | 40,000 | 25,000 | Y | 2006/07 | 35,743 | 25,000 | |
| Hinton Foreshore Improvements | | 45,000 | 45,000 | Y | 2006/07 | 51,371 | 51,371 | |
| Bowthorne Park awning, shelter and storeroom | | 100,000 | 65,000 | Y | 2008/09 | 115,383 | 70,553 | |
| Greenwattle Creek Extension of riding area | | 80,000 | 65,000 | Y | 2008/09 | 86,603 | 75,277 | |
| 8 Recreation | 56,338 | 65,000 | 33,000 | | | 52,834 | 30,802 | 25,536 |
| Stuart Park fencing and tennis courts | | 65,000 | 33,000 | Y | | 52,834 | 30,802 | |
| 10 Roads | 22,185 | 455,000 | 22,130 | | | 619,466 | 22,130 | 55 |
| Paterson Road | | 455,000 | 22,130 | Y | 2007 | 619,466 | 22,130 | |
| Raymond Terrace | (853,897) | 1,020,000 | 604,350 | | | 977,287 | (1,941,482) | 1,087,585 |
| 12 Open Space | 97,257 | 440,000 | 97,025 | | | 214,330 | 91,355 | 5,902 |
| Raymond Terrace Foreshore Works - Stages 1 & 2 | | 440,000 | 97,025 | Y | 2006/07 | 214,330 | 91,355 | |
| 14 Roads | 1,117,622 | 580,000 | 507,325 | | | 762,958 | 867,163 | 250,459 |
| Sturgeon Street - Rehab | | 100,000 | 30,000 | Y | 2007 | 59,098 | 30,000 | |
| Morton Street - Rehab | | 50,000 | 50,000 | Y | 2008 | 12,202 | 12,202 | |
| Dawson Street - Rehab | | 80,000 | 80,000 | N | | | | |
| Glenelg Street - Reconst | | 80,000 | 80,000 | Y | 2008 | 159,604 | 159,604 | |
| Irrawang Street - Rehab | | 100,000 | 100,000 | Y | 2008 | 225,866 | 100,000 | |
| Wahroonga Street - Rehab | | 50,000 | 50,000 | Y | 2007 | 48,032 | 48,032 | |
| Charles Street - Rehab | | 50,000 | 50,000 | Y | 2008 | 86,396 | 50,000 | |
| Kia-ora Street - Rehab | | 70,000 | 67,325 | Y | 2008/09 | 171,760 | 67,325 | |
| 23 Repayment of debt to RT Recreation | | | | | | | 400,000 | |
| 24 Community Facilities | 645,715 | | | | | | | 645,715 |
| Recreation | (2,901,448) | | | | | | (2,900,000) | (1,448) |
| Repayment of debt from RT Roads category | | | | | | | (400,000) | |
| Repayment from Investment Property Depreciation Fund | | | | | | | (1,000,000) | |
| Repayment of debt from Tomoree | | | | | | | (1,500,000) | |
| 25 Parking | 117,637 | | | | | | | 117,637 |
| 26 Heatherbrae Intersection | 27,848 | | | | | | | 27,848 |
| 27 Richardson Road | 41,472 | | | | | | | 41,472 |
| Medowie | 1,235,112 | 845,000 | 635,000 | | | 2,328,284 | 1,437,211 | (202,099) |
| 28 Open Space | 337,339 | 275,000 | 250,000 | | | 264,863 | 216,929 | 120,410 |
| Grahamstown Dam Disabled Toilets | | 30,000 | 30,000 | Y | 2006/07 | 34,950 | 30,000 | |
| Ferodale Park drainage | | 65,000 | 40,000 | Y | 2006/07 | 68,225 | 40,000 | |
| Medowie East Parks | | 70,000 | 70,000 | Y | | 70,003 | 70,000 | |
| Medowie West Parks | | 110,000 | 110,000 | Y | 2008/09 | 91,685 | 76,929 | |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| | | | | | | | | | |
|------|---|------------------|------------------|------------------|---|-----------|-------------------|------------------|------------------|
| 33 | Recreation | 185,416 | 360,000 | 175,000 | | | 838,925 | 530,853 | (345,437) |
| 34 | Medowie skatepark | | 100,000 | 70,000 | Y | 2008/09 | 112,103 | 66,253 | |
| 35 | Boyd Oval amenities stage 1 | | 10,000 | 5,000 | Y | 2009/10 | 24,932 | 20,000 | |
| 36 | Yulong carparking, netball courts and lighting | | 250,000 | 100,000 | Y | 2009/10 | 701,890 | 444,600 | |
| 37 | Roads | 232,928 | 210,000 | 210,000 | | | 423,835 | 210,000 | 22,928 |
| 38 | Kula Road - Rehab | | 100,000 | 100,000 | Y | 2008/09 | 197,557 | 100,000 | |
| 39 | Grahamstown Road - Rehab | | 110,000 | 110,000 | Y | 2008/09 | 226,278 | 110,000 | |
| 40 | Community Facilities | 479,429 | | | | | 800,661 | 479,429 | 0 |
| 40.1 | Expansion of Medowie Community Centre Car Park | | | | Y | | 800,661 | 479,429 | |
| | Karuah/Swan Bay | 289,657 | 598,530 | 203,661 | | | 770,833 | 153,399 | 136,258 |
| 41 | Open Space | 40,232 | 40,132 | 40,132 | | | 21,129 | 21,129 | 19,103 |
| 42 | Boatramp | | 40,132 | 40,132 | Y | 2006/2007 | 21,129 | 21,129 | |
| 43 | Recreation | 105,394 | 500,000 | 105,131 | | | 495,313 | 65,985 | 39,409 |
| 44 | Boatramp | | 500,000 | 105,131 | Y | 2010/11 | 495,313 | 65,985 | |
| 45 | Community Facilities | 85,489 | | | | | | | 85,489 |
| 46 | Roads | 58,542 | 58,398 | 58,398 | Y | 2009 | 254,391 | 66,285 | (7,743) |
| | Tilligerry | 942,794 | 2,077,037 | 726,334 | | | 1,987,805 | 839,232 | 103,562 |
| 47 | Open Space | 297,750 | 402,037 | 297,037 | | | 98,896 | 24,503 | 273,247 |
| | Henderson Park Upgrades (incl boating infrastructure) | | 237,037 | 237,037 | Y | 2006/07 | 86,243 | 11,850 | |
| 48 | Tanilba Foreshore Improvements | | 165,000 | 60,000 | Y | 2006/07 | 12,653 | 12,653 | |
| 49 | Recreation | 307,258 | 1,175,000 | 300,000 | | | 1,406,816 | 476,661 | (169,403) |
| 50 | Mallabula Masterplan stage 1 - roadworks | | 200,000 | 100,000 | Y | 2006/07 | 0 | 158,473 | |
| 51 | Dressing shed works at MSC #1 Field | | 400,000 | 110,000 | Y | | 1,406,816 | 300,875 | |
| 52 | Mallabula Masterplan stage 2 - amenities upgrade | | 575,000 | 90,000 | Y | 2007/08 | 0 | 17,313 | |
| 53 | Roads | 129,610 | 500,000 | 129,297 | | | 482,093 | 338,068 | (208,458) |
| 54 | Diggers Drive reconstruction | | 500,000 | 129,297 | Y | 2006/07 | 482,093 | 338,068 | |
| 55 | Community Facilities | 208,176 | | | | | | | 208,176 |
| | Tomaree | 6,352,433 | 7,299,000 | 3,595,355 | | | 10,892,480 | 4,905,202 | 1,447,231 |
| 56 | Anna Bay/Boat Harbour Drainage | 24,629 | 600,000 | 23,972 | | | 0 | 23,972 | 657 |
| 57 | Blanch Street Boat Harbour | | 600,000 | 23,972 | Y | 2007/08 | 0 | 23,972 | |
| 58 | Boat Harbour Drainage | 17,424 | 600,000 | 17,383 | | | 0 | 17,383 | 41 |
| 59 | Blanch Street Boat Harbour | | 600,000 | 17,383 | Y | 2007/08 | 0 | 17,383 | |
| 60 | Community Facilities | 1,738,351 | 300,000 | 300,000 | | | 536,679 | 466,137 | 1,272,214 |
| 61 | Ngioka Expansion | | 300,000 | 300,000 | Y | 2008/09 | 536,679 | 466,137 | |
| 62 | Open Space | 1,215,638 | 1,405,000 | 990,000 | | | 504,976 | 310,490 | 905,148 |
| 63 | Tomaree Bushland Reserves - vehicle barriers | | 100,000 | 100,000 | Y | 2006/07 | 102,090 | 100,000 | |
| 64 | Anzac park carpark and access | | 380,000 | 370,000 | Y | 2006/07 | 113,211 | 35,000 | |
| 65 | Anzac park new amenities, beach road, facilities | | 405,000 | 200,000 | N | | | | |
| 66 | Shoal Bay foreshore - wharf upgrade | | 400,000 | 200,000 | Y | 2006/07 | 111,884 | 9,000 | |
| 67 | Upgrade Foreshore toilets | | 25,000 | 25,000 | Y | | 25,000 | 25,000 | |
| 68 | Disabled toilet Tomaree pool | | 45,000 | 45,000 | Y | 2007/08 | 91,490 | 91,490 | |
| 69 | Upgrade Toilets Birubi Point | | 50,000 | 50,000 | Y | 2007/08 | 61,301 | 50,000 | |
| 70 | Recreation | 2,090,495 | 2,475,000 | 1,635,000 | | | 7,211,964 | 1,893,747 | 196,748 |
| 71 | Little Beach access ramp | | 40,000 | 40,000 | Y | 2005/06 | 128,464 | 115,732 | |
| 72 | Salamander recreation area | | 400,000 | 400,000 | Y | 2006 | 2,527,848 | 400,000 | |
| 73 | Fingal Bay Surf Club improvements and amenities | | 600,000 | 400,000 | Y | 2008/09 | 1,915,042 | 620,000 | |
| 74 | Strong Oval Clubhouse extensions | | 100,000 | 50,000 | Y | 2007/08 | 102,304 | 59,178 | |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| | | | | | | | | | |
|-----|---|------------------|-------------------|------------------|---|---------|-------------------|------------------|------------------|
| 75 | Tomaree Ovals lighting upgrade and electrical a) | | 160,000 | 90,000 | Y | 2006/07 | 380,579 | 114,800 | |
| 76 | Provide croquet facilities at Tomaree | | 250,000 | 130,000 | Y | 2007/08 | 116,114 | 100,000 | |
| 77 | Soldiers Point Boat ramp precinct improvements | | 650,000 | 250,000 | Y | 2008/09 | 446,303 | 210,000 | |
| 78 | Upgrade Tomaree Pool facility | | 75,000 | 75,000 | Y | | 1,575,483 | 254,209 | |
| 79 | Anna Bay/Boat Harbour Com & Recreation Facility | | 200,000 | 200,000 | Y | | 19,828 | 19,828 | |
| 80 | Roads | 839,435 | 1,919,000 | 629,000 | | | 2,638,861 | 693,473 | 145,962 |
| 81 | Cromarty Road | | 70,000 | 20,000 | Y | 2007 | 291,267 | 180,000 | |
| 82 | Dowling Street - Rehab | | 250,000 | 80,000 | Y | 2009 | 273,544 | 80,070 | |
| 83 | Fingal Bay Link Road - Land negotiations | | 250,000 | 125,000 | N | | | | |
| 84 | Foreshore Drive | | 400,000 | 140,000 | Y | 2007/08 | 732,151 | 140,000 | |
| 85 | Gowrie Avenue | | 349,000 | 149,000 | Y | 2006/07 | 709,347 | 173,903 | |
| 86 | Blanch Street Boat Harbour | | 600,000 | 115,000 | Y | 2008 | 632,552 | 119,500 | |
| 87 | Parking | 426,461 | | | | | | | 426,461 |
| | Repayment of debt to RT Recreation | | | | | | | 1,500,000 | (1,500,000) |
| | Rural Balance | 309,558 | 370,000 | 242,657 | | | 1,613,481 | 242,590 | 66,968 |
| 88 | Recreation | 12,370 | 20,000 | 12,340 | | | 0 | 12,273 | 97 |
| 89 | Salt Ash tennis courts | | 20,000 | 12,340 | Y | 2006/07 | 0 | 12,273 | |
| 90 | Roads | 230,872 | 350,000 | 230,317 | | | 1,613,481 | 230,317 | 555 |
| 91 | Lemon Tree Passage Road - Rehab | | 350,000 | 230,317 | Y | 2009 | 1,613,481 | 230,317 | |
| 92 | Community Facilities | 61,645 | | | | | | | 61,645 |
| 93 | Fern Bay | 4,671 | | | | | | | 4,671 |
| | Fern Bay | 135,055 | 98,000 | 47,593 | | | 54,605 | 63,559 | 71,496 |
| 94 | Recreation | 42,379 | 50,000 | 38,000 | | | 54,605 | 53,966 | (11,587) |
| 95 | Fern Bay Tennis Improvements | | 50,000 | 38,000 | Y | 2007/08 | 54,605 | 53,966 | |
| 96 | Roads | 9,616 | 48,000 | 9,593 | | | 0 | 9,593 | 23 |
| 97 | Masonite Road - Rehab | | 48,000 | 9,593 | Y | 2009/10 | 0 | 9,593 | |
| 98 | Bus Shelters | 4,618 | | | | | | | 4,618 |
| 99 | Community Facilities | 61,065 | | | | | | | 61,065 |
| 100 | Open Space | 17,377 | | | | | | | 17,377 |
| 101 | Bush Fire & Emergency Facilities | 789,384 | 787,474 | 787,474 | | | 810,380 | 817,566 | (28,182) |
| 102 | Salt Ash Fire Station - Fit out of new training room | | 18,000 | 18,000 | Y | 2006/07 | 22,360 | 22,360 | |
| 103 | Seaham Fire Station - Const. carpark and widen roller doors | | 35,000 | 35,000 | Y | 2006/07 | 27,814 | 35,000 | |
| 104 | Wallalong Fire Station - Extend existing building | | 28,000 | 28,000 | Y | 2006/07 | 41,289 | 41,289 | |
| 105 | Duns Creek Fire Station - Install toilet/washroom | | 30,000 | 30,000 | Y | 2006/07 | 36,857 | 36,857 | |
| 106 | Anna Bay Fire Station - New Building | | 310,000 | 310,000 | Y | 2006/07 | 682,060 | 682,060 | |
| 107 | Port Stephens EOC & SES Emergency Centre | | 366,474 | 366,474 | N | | | | |
| 108 | Library Resources | 104,950 | 480,000 | 104,588 | | | 770,460 | 182,000 | (77,050) |
| 109 | Library resources program | | 480,000 | 104,588 | Y | 2006/07 | 770,460 | 182,000 | |
| | Grand Totals | 9,769,738 | 14,480,041 | 7,297,142 | | | 21,268,846 | 7,055,226 | 2,714,512 |

GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1

FILE NO: A2004-0323

ANNUAL FINANCIAL REPORTS 2010-2011**REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES MANAGER****GROUP: COMMERCIAL SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the 2010/11 General Purpose Financial Reports and accept the Auditor's Report, as submitted by PricewaterhouseCoopers.
- 2) The audited Financial Reports for the year ending 30 June 2011, together with the Auditor's Reports, be presented to the public.

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 414 | Councillor Bruce MacKenzie Councillor Ken Jordan |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

The purpose of this report is to advise Council that Council Officers have prepared the 2010/11 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 and Financial Reporting.

The Reports have been reviewed by Council's auditors (PricewaterhouseCoopers) and this report is to formally present Council's Financial Reports for the year ending 30 June 2011, together with the Auditor's Reports, to the public in accordance with section 419 of the Local Government Act 1993 (as amended).

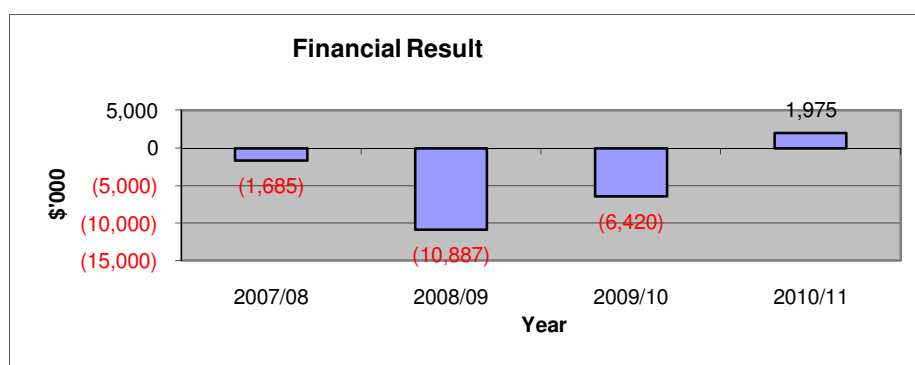
Public notice of the presentation of the audited Financial Reports has been advertised in The Examiner on 10 November 2011 and copies of the Financial Reports have been available at the customer service desk and on Council's website.

The Financial Reports, including the audit reports, have been circulated separately to Councillors for their information and a two way conversation was held on 8 November 2011 with a representative from PricewaterhouseCoopers regarding these reports.

A summary of the Financial Reports is outlined below.

FINANCIAL RESULT (Income Statement)

The Income Statement shows a surplus of \$1.97 million before capital amounts (previous year, 2009/10 was \$5.26 million deficit) which includes non cash items such as depreciation and movements in provisions for expenses accrued but not yet paid. The graph on the following page illustrates the financial result for the last 4 years.



Revenue

Revenue increased by \$9.62 million from the previous year. Revenue from rates & annual charges totalled 39.47% of Council's revenue. Given the nature of these charges, this revenue stream is considered secure in the long term.

Government grants represent a significant portion of Council's income. The majority of these grants are tied to specific works and cannot be used for any other purpose. Total income received in operating grants and contributions in 2010/11 was \$10.56 million (previous year, 2009/10 was \$9.74 million). This represents a percentage of total income in 2010/11 of 10.89% (previous year, 2010/11 was 10.2%). The increase in grants is mainly attributable to the increase in bushfire and emergency services grants of \$872,000 from the previous year.

Interest and investment revenue for the year totalled \$2.33 million (previous year, 2009/10, was \$2.32 million). The average rate of return on Council's cash investment portfolio for the year was 3.68%.

Profit on disposal of assets was \$5.85 million mainly attributable to the sale of a parcel of land at Heatherbrae.

Revenue highlights during the year included:

Profit from disposal of real estate assets was \$5.73 million

Income generated from holiday parks totalled \$9.18 million, an increase of \$183,000
 Income earned from Council's investment property portfolio totalled \$1.92 million
 Fees provided to Council from the RTA to maintain state roads was \$5.09 million.

Expenditure

Total expenses for the year totalled \$95.07 million, an increase of \$1.52 million on the previous year.

Total employment costs for the year were \$35.43 million (previous year, 2009/10 was \$34.38 million). This is an increase of \$1.05 million or 3% which represents a total percentage of total operating expenditure of 37.3% (previous year 2009/10, was 36.7%). There was an overall decrease in salaries and wages from the previous year of \$254,000 due to positions remaining vacant for extended period however, workers' compensation insurance increased by \$1.28 million.

Interest paid on loans was \$2.87 million.

Depreciation is the allocation of the cost of a non-current asset to expense over several periods to recognise the consumption of the asset's economic value. Total depreciation expense for the year was \$17.21 million. The majority of this relates to depreciation on Council's buildings, roads, bridges, footpaths and stormwater drainage assets.

Other significant expenditure items include:

Legal expenses of \$1.02 million

Waste collection and disposal services expenses of \$7.43 million

Insurance expenses (excluding workers' compensation) were \$1.73 million

Street lighting costs of \$853,000, an increase of \$205,000 (31.6%)

FINANCIAL POSITION (Balance Sheet)

Infrastructure, Property Plant & Equipment

The written down value of Infrastructure, Property Plant & Equipment (I,PP&E) at the end of the year was \$702.3 million, an increase of \$23.6 million. Capitalisations during the year totalled \$14.68 million. Major capital items during the year included:

Renewal of roads, bridges & footpaths totalled \$6.06 million

Upgrade & renewal to stormwater drainage assets totalled \$1.36 million

Renewal of buildings totalled \$1.75 million

Replacement of plant & motor vehicles was \$2.53 million

Cash/Liquidity Position

Council's overall cash and investments position has increased from \$21.34 million at the end 2009/10 to \$28.13 million at the end of 2010/11, an increase of \$6.8 million. All of Council's cash is restricted in its use to specific purposes by external bodies, legislation and Council resolution. Cash is attributable to:

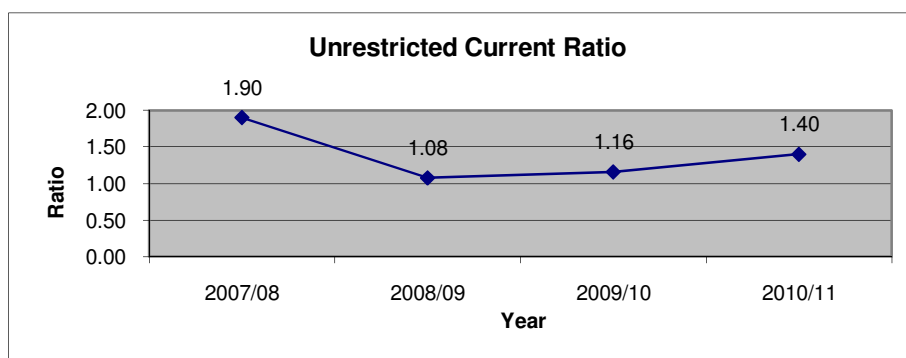
| | |
|------------------------------|---------------|
| attributable to: | \$'000 |
| External restrictions | 15,743 |
| Internal restrictions | 12,390 |
| Unrestricted | 0 |
| Total | 28,133 |

External restrictions are made up of the following:
\$'000

| | |
|----------------------------------|--------------|
| External restriction | |
| Section 94 contributions | 8,351 |
| Unexpended grants | 1,078 |
| Domestic Waste Management | 737 |
| Crown Holiday Parks | 5,577 |
| Total | 15,743 |

The most focus for Council's cash/liquidity position is on the Unrestricted Current Ratio (UCR). The UCR is the ratio of current assets to current liabilities after accounting for external reserves. This ratio demonstrates the ability of Council to satisfy its financial obligations in the short term, excluding the assistance of externally restricted funds.

Council's UCR was 1.40:1 (previous year, 2009/10 was 1.16:1) which indicates that Council has \$1.40 in unrestricted current assets to every \$1 of unrestricted current liabilities.



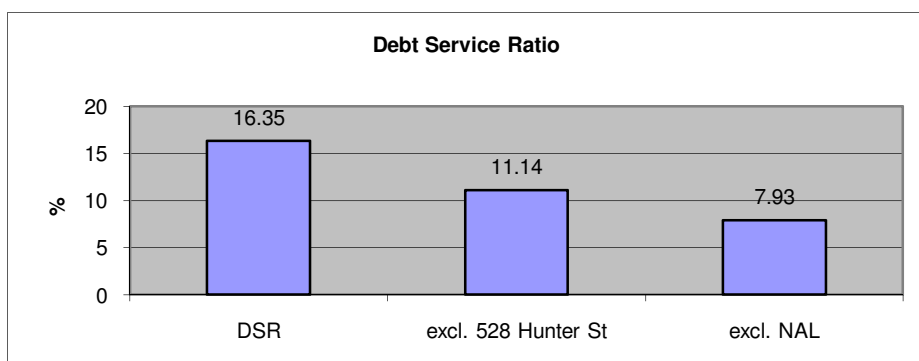
The increase in the UCR is a positive result for Council as some of the longer dated investments that Council holds will mature in the next 12 months providing greater flexibility in regards to cash flow management.

Debt Position

Council's debt position has dropped significantly with total loan principal outstanding decreasing from \$50.51 million at the beginning of the year to \$39.04 million at the end of the year. No new loans were raised during the year and the remaining outstanding debt (\$5.2 million) for the loan drawn down to purchase 528 Hunter Street, Newcastle was repaid in full during the year.

The Debt Service Ratio (DSR) demonstrates the cost of servicing Council's debt obligations (principal + interest) with available revenue from ordinary activities.

The DSR of 16.35% has increased over the previous year from 9% due to the principal repayment to retire the debt incurred to acquire 528 Hunter Street, Newcastle. If Council did not fully repay this loan the DSR would have been 11.74%. The DSR excluding the loans made to the Newcastle Airport was 7.93%.

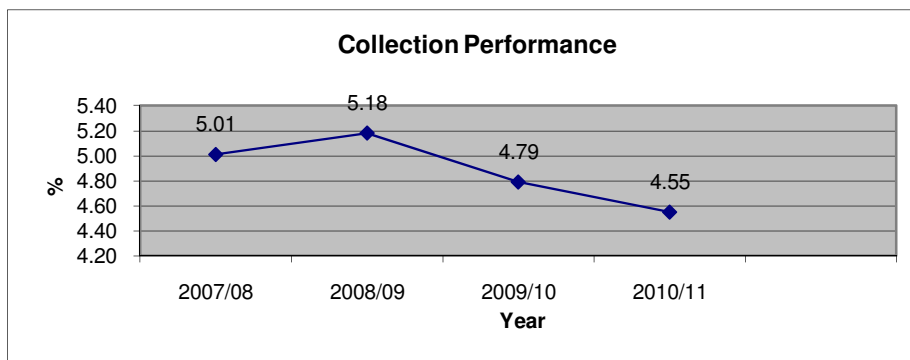


Receivables

Receivables have decreased by \$2.35 million mainly due to the insurance money from the HIH claim for aircraft noise being finalised during the year.

Council in conducting its business is entitled to the receipt of fees and rates which need to be collected efficiently. A measure of its success in this regard is the amount of legally receivable proceeds that are still outstanding at the end of the financial year, in comparison to the total fees receivable for the year (outstanding rates & annual charges percentage).

Council's outstanding rates & annual charges percentage was 4.55%. This is the lowest outstanding percentage in at least the last 9 years and is testament to the great work being done in collecting rates & annual charges.



Payables

Payables have increased by 1.77 million due to the timing of creditor payments at the end of the financial year.

Council's employee leave entitlements provision has decreased from \$12.86 million at the end of 2009/10 to 12.09 million at the end of 2010/11.

FINANCIAL/RESOURCE IMPLICATIONS

A complete set of audited Financial Reports have been circulated under separate cover.

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with Section 418 of the Local Government Act 1993 (as amended), public notice of the presentation of the Financial Reports was advertised in *The Examiner* on 10 November 2011.

Copies of the audited Financial Reports have been available for inspection by members of the public from 10 November 2011 and any person can make written submissions to Council with respect to the reports until 30 November 2011. Any submissions received will be subsequently reported to Council and forwarded to Council's auditors.

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.

CONSULTATION

- 1) PricewaterhouseCoopers (external auditors);
- 2) Division of Local Government.

OPTIONS

- 1) Accept the recommendations;
- 2) Reject the recommendations.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) 2010/11 Annual Financial Reports.

ITEM NO. 2

FILE NO: A2004-0168

NEWCASTLE AIRPORT LIMITED - DELEGATIONS**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**
GROUP: GENERAL MANAGER'S OFFICE**RECOMMENDATION IS THAT COUNCIL:**

- 1) Delegate the functions as shown in ATTACHMENT 1 to Newcastle Airport Limited to undertake the day to day function of control of Newcastle Airport Limited.

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|--|
| 415 | Councillor Bruce MacKenzie Councillor Caroline De Lyall |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

The purpose of this report is to review the delegations to the Newcastle Airport Limited (NAL).

The NAL delegations have been review in consultation with Newcastle City Council (NCC) with a number of clauses deleted and/or reworded to simplify the language used.

Council has consulted with NCC on the changes to the delegations as both Councils are required to have identical delegations issued to NAL. NCC will adopt a similar delegation at their November 2011 Ordinary Council meeting.

FINANCIAL/RESOURCE IMPLICATIONS

Financial and resource implications with respect to this report are all met by Newcastle Airport Ltd.

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the Local Government Act 1993, Council can delegate functions to the General Manager or any other person or body. This delegation allows Newcastle Airport Ltd to operate on a day to day basis.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The operation of Newcastle Airport has major economic benefits for the Port Stephens Local Government area and also for the Hunter as a region with the increase in traffic and demand. Areas such as business, tourism and leisure will all benefit from a social and economic view.

CONSULTATION

Council's Legal Services Manager;
Newcastle City Council.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation.
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Current Newcastle Airport Limited Delegations;
- 2) Proposed Newcastle Airport Limited Delegations.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



**INSTRUMENT OF DELEGATION TO NEWCASTLE
AIRPORT LIMITED**

Review Date: 22 May 2001
21 December 2004
25 August & 8 September 2009

Delegations.

Pursuant to Sections 355, 377 and 381 of the *Local Government Act 1993* (NSW) ("the Act") and in previous delegation reliance upon Declaration of Trust dated 3 June 1993 and executed by Newcastle Airport Limited ACN 060 254 542 ("the Company") a copy of which is set forth in the attached Schedule, Port Stephens Council hereby delegates the following powers, authorities, duties or functions to the body known as Newcastle Airport Limited. These delegations are to be exercised according to:

- the requirements of the *Local Government Act, 1993*, and Regulations thereunder;
 - the requirements of any other relevant Act, law or regulation;
 - any expressed resolution or policy of Port Stephens Council.
- Authority to establish, develop, maintain and regulate a facility for the conduct of civil aviation and all associated and/or supporting activities being a service and/or facility and/or activity within the meaning of Section 24 of the Act at the civil area of Williamstown Airport.

The authorisation immediately above is conditional upon:

- The delegation of authority by Newcastle City Council to the Company ("the Newcastle City delegation") in terms identical with this delegation; and
- The continuance in full force and effect of the Newcastle City Delegation.

This delegation shall be deemed revoked upon revocation of the Newcastle City delegation.

Nothing in this delegation shall be construed so as to amount to a power or function which cannot be delegated under Section 377 of the Act, being:-

- the appointment of a general manager
- the making of a rate
- a determination under section 549 as to the levying of a rate
- the making of a charge
- the fixing of a fee
- the borrowing of money
- the voting of money for expenditure on its works, services or operations
- the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)
- the acceptance of tenders which are required under this Act to be invited by the council
- the adoption of a management plan
- the adoption of a financial statement included in an annual financial report
- a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
- the fixing of an amount or rate for the carrying out by the council of work on private land
- the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work
- the review of a determination made by the council , and not by a delegate of the council , of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979
- the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
- a decision under section 356 to contribute money or otherwise grant financial assistance to persons
- the making of an application, or the giving of a notice , to the Governor or Minister
- this power of delegation
- any function under this or any other Act that is expressly required to be exercised by resolution of Council

The authorisation immediately above is delegated to Newcastle Airport Limited by Port Stephens Council as the authority for the Port Stephens Local Government Area and its continuance in full force and effect is not subject to identical delegation by Newcastle City Council.

The above delegations revoke all previous delegations to Newcastle Airport Limited.

The delegation to Newcastle Airport Limited is effective from the date of this Instrument of Delegation as authorised by Council.

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

The common seal of the Port Stephens Council)

was hereto affixed pursuant to a Resolution of)

.....
Mayor

the Council at its meeting of 25 August & 8
September 2009 (Min 275 & 296)

.....
Councillor

ATTACHMENT 2



**INSTRUMENT OF DELEGATION TO NEWCASTLE
AIRPORT LIMITED**

Review Date: 22 May 2001
21 December 2004
25 August & 8 September 2009

Delegations.

- (1) Pursuant to sections 355, 377 and 381 of the *Local Government Act 1993* (NSW) (**Act**) and the Declaration of Trust dated 3 June 1993, executed by Newcastle Airport Limited ACN 060 254 542 (**NAL**) (attached and marked "A"), the Council of the City of Newcastle (**Council**) delegates the following functions to NAL:
 - (a) authority to establish, develop, maintain and regulate a facility for the conduct of civil aviation and all associated and/or supporting activities being a service and/or facility and/or activity within the meaning of Section 24 of the Act at the civil area of Williamtown Airport.
- (2) The instrument of delegation:
 - (a) is conditional upon Port Stephens Council delegating authority in terms identical to clause (1) (a) above; and
 - (b) will be deemed revoked upon revocation of the Port Stephens Council delegation to NAL.
- (3) NAL must exercise all delegations under this instrument in a manner that is consistent with:
 - (a) all relevant legislation and regulations;
 - (b) all policies of Council; and
 - (c) all resolutions and decisions of Council.
- (4) This instrument of delegation takes effect from [insert date of Council meeting] and revokes all previous delegations of Council functions to NAL.

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

The common seal of the Port Stephens Council

was hereto affixed pursuant to a Resolution of

Mayor

the Council at its meeting of ***** Min ***

Councillor

ITEM NO. 3

2012 LOCAL GOVERNMENT ELECTION TENDER

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Accept the tender offered by Australian Election Company.

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|-----|---|
| 416 | Councillor Glenys Francis Councillor Caroline De Lyall |
| | It was resolved that the recommendation be adopted. |

BACKGROUND

The purpose of this report is to seek the approval of Council to enter into a contract to conduct the 2012 Local Government Election. The election costs include the election of the popularly elected Mayor and nine (9) Councillors.

As Councillors are aware Council now has two options available for conducting local government elections.

- Option:
- 1) Resolve to have the NSW Electoral Commission (NSWEC) manage the election;
 - 2) Outsource the management of the election.

The Returning Officer for the election must not be a staff member employed by Council, if option 2 is selected.

The NSWEC has advised that it is not possible at this time to provide Council with a full cost estimate, however they have advised that wages would increase 17% and other costs would increase by 12.8%, on top of the 2008 election costs. It would be expected that the costs for the 2012 election if managed by the NSWEC would be in the vicinity of \$352,742.10.

The Local Government Act and Regulations does not require the NSWEC to tender for the management services. It should be noted that the NSWEC costs could be higher than indicated above. This will depend on the number of Councils that elect to have their elections managed by the NSWEC. Council is required to advise the NSWEC by 30 November 2011 if they wish to appoint the NSWEC to manage the election.

Port Stephens Council along with fourteen (14) other Councils across the State signed a "letter of participation" with Regional Procurement (a division of Hunter Councils) to call for a tender for the management of the local government election.

The tender closed on 8 November 2011 with one (1) tender received. Advertising occurred in the Sydney Morning Herald, Newcastle Herald and on the internet through TenderLink.

Representatives from Port Stephens, Lake Macquarie and Newcastle Councils formed the tender evaluation panel.

The tender will be for the period 1 February 2012 to 31 January 2015 and will include any by-elections during this period.

The total cost for Australian Election Company to manage the election process is \$37,572.58 less than the estimated cost from the NSWEC.

It is anticipated that further savings can be achieved by negotiating the advertising component of the tender. The advertising would be processed through Council's Communication Unit and this would see a further reduction of costs.

The other benefits of outsourcing the management of the election is the timing of the result of the election. It is expected that a result for the election would be known within 7-10 days as opposed to the 2-3 weeks in previous elections.

FINANCIAL/RESOURCE IMPLICATIONS

The tender cost excluding GST is \$315,169.52. These costs will be funded from the Election Reserve. Council allocates \$100,000 per year to this reserve.

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the Local Government Act and Regulations, Council has two methods of conducting the local government election. Option 1 would be to appoint the NSWEC to manage the election and option 2 is to outsource the election.

The General Manager is appointed as the Election Manager under the Act.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

By awarding the tender to Australian Election Company, Council would see a saving of approximately \$37,572.58.

CONSULTATION

- 1) General Manager;
- 2) Hunter Councils;
- 3) NSW Electoral Commission.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Tender Evaluations.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

| OPTION 1 – Fully Outsourced | | Aust Elect Co. |
|--------------------------------------|------------|----------------|
| CRITERIA | % | |
| Lump Sum Tender Price | 60 | 60.00 |
| Quality Assurance | 5 | 2.00 |
| OH&S | 5 | 3.00 |
| Ecologically Sustainable Development | 5 | 4.00 |
| Previous Experience | 15 | 15.00 |
| Referees | 10 | 5.73 |
| Total | 100 | 89.73 |

| OPTION 2 – Partially Outsourced Election Service | | Aust Elect Co. |
|---|------------|----------------|
| CRITERIA | % | |
| Lump Sum Tender Price | 60 | 60.00 |
| Quality Assurance | 5 | 2.00 |
| OH&S | 5 | 3.00 |
| Ecologically Sustainable Development | 5 | 4.00 |
| Previous Experience | 15 | 15.00 |
| Referees | 10 | 5.73 |
| Total | 100 | 89.73 |

| OPTION 3 – Provision of resources to conduct a self managed election service | | Aust Elect Co. |
|---|------------|----------------|
| CRITERIA | % | |
| Lump Sum Tender Price | 60 | 60.00 |
| Quality Assurance | 5 | 2.00 |
| OH&S | 5 | 3.00 |
| Ecologically Sustainable Development | 5 | 4.00 |
| Previous Experience | 15 | 15.00 |
| Referees | 10 | 5.73 |
| Total | 100 | 89.73 |

ITEM NO. 4

FILE NO: PSC2011-02007

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 22 November, 2011.

| No: | Report Title | Page: |
|-----|---|-------|
| 1 | BUSINESS IMPROVEMENT | |
| 2 | GM PERFORMANCE REVIEW – JANUARY 2011- JUNE 2011 | |

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

Cr Peter Kafer left the meeting at 7.56pm prior to voting.
 Cr Peter Kafer returned to the meeting at 7.57pm prior to voting.

| | |
|--|--|
| | Councillor Peter Kafer Councillor Geoff Dingle |
| | That Council move into Committee of the Whole to discuss Item 2. |

Crs Peter Kafer and John Nell called for a division.

Those for the motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Steve Tucker, Geoff Dingle and Frank Ward.

Those against the motion: Crs Ken Jordan, Bruce MacKenzie, Shirley O'Brien, John Nell, Bob Westbury and Sally Dover.

The motion was lost on the casting vote of the Mayor.

| | |
|------------|---|
| 417 | Councillor John Nell Councillor Ken Jordan |
| | That the recommendation be adopted. |

Cr Geoff Dingle left the meeting at 8.02pm.

GENERAL MANAGERS INFORMATION PAPERS



INFORMATION ITEM NO. 1

BUSINESS IMPROVEMENT

REPORT OF: PETER GESLING
GROUP: GENERAL MANAGER

FILE: PSC 2011-04300

BACKGROUND

The purpose of this report is for Council to receive and note the Business Improvement Process.

Council has a long history of continuous improvement of its activities and issues. Data over the past seven years 2004-2010 shows a trend of \$700,000 per annum improvement to Council's financial position.

To record this a database was created in February 2011 where staff are encouraged to record all improvement delivered.

Attached for information is the October listing. Further information is available from the nominated Section Manager of the relevant section shown on the database.

FINANCIAL/RESOURCE IMPLICATIONS

Ongoing improvement is imperative in current business activities.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's use of the Business Excellence Framework provides the mechanism to achieve reduced cost, added value and comprehensive risk management.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Future sustainability and capability of the organisation to deliver outstanding public value depends on eliminating rework, duplication, non-value activity and a reduction in variability.

CONSULTATION

Information is shared with all staff to promote awareness and understanding of the importance of small improvement.

ATTACHMENTS

- 1) Business Improvement Database – October 2011.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

| Group | Section | Service or Function | Improvement cause | Improvements result | Created |
|--|---|---|--|---|------------|
| Commercial Services | Commercial Property | Pest management | A process improvement, A people/relationship improvement | A saving in time, A financial saving, An improved, expanded or more efficient service | 28/10/2011 |
| <p>Cleaners not emptying waste from building in afternoon.</p> <p>Split shifts implemented, skip bin added to carpark to allow cost effective disposal and disposal of items at any time.</p> | | | | | |
| Commercial Services | Commercial Property | Administration Building Statement of Responsibility | A process improvement, A people/relationship improvement | A saving in time, An improved, expanded or more efficient service | 28/10/2011 |
| <p>Staff unclear of responsibility.</p> <p>Updated documentation to reflect new situation, upload onto Myport.</p> | | | | | |
| Commercial Services | Commercial Property | Administration Building budgeting | A process improvement | A financial saving | 28/10/2011 |
| <p>Unable to track charges, untidy job numbers, inconsistency.</p> <p>Redesigned job numbers within ledger to a generic the building component, eliminating the need to create new job numbers each job.</p> | | | | | |
| Commercial Services | Commercial Property | Administration Building - internal trades charges and limited maintenance records | A process improvement | A financial saving | 28/10/2011 |
| <p>Overspend on maintenance jobs; incorrect charges being assigned to budget.</p> <p>Project Costing System implemented to track costs and tasks, enables frequent monitoring of charges assigned to individual works.</p> | | | | | |
| Sustainable Planning | Environmental and Development Planning | Strategic Planning, Social Planning, Natural Resources. | A process improvement | An improved, expanded or more efficient service | 27/10/2011 |
| <p>A planning matrix has been further developed to help prioritise and track projects within our Section. It helps to keep projects on time and increase efficiencies.</p> | | | | | |
| Sustainable Planning | Environmental and Development Planning | Compliance | A people/relationship improvement | An improved, expanded or more efficient service | 27/10/2011 |
| <p>I organised a compliance workshop with Hunter Councils involving the NSW Ombudsman and 6 other Hunter councils to discuss discretionary powers and ethical decision making.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement, A people/relationship improvement | An improved, expanded or more efficient service | 26/10/2011 |
| <p>Enhancement to the current Working from Home Management Directive and Guide to include working from home on an ad-hoc basis.</p> | | | | | |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| Group | Section | Service or Function | Improvement cause | Improvements result | Created |
|---|---|-------------------------------------|-----------------------|---|------------|
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | A saving in time, An improved, expanded or more efficient service | 27/10/2011 |
| <p>We negotiated an improved functionality of ezSuite (Council's electronic recruitment system) which will now allow managers to select which pre employment screening checks need to be carried out on individual roles. This was at no cost to Council and will result in increased productivity.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | An improved, expanded or more efficient service | 27/10/2011 |
| <p>Mercer 2011 Effectiveness Monitor completed which will enable us to more accurately benchmark our services to continuously improve how we provide those services to staff.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | An improved, expanded or more efficient service | 27/10/2011 |
| <p>EGSA HR Metrics Benchmarking Survey completed which will enable us to more accurately benchmark our services to continuously improve how we provide those services to staff.</p> | | | | | |
| Sustainable Planning | Development Assess & Environmental Health | Rangers | A process improvement | An improved, expanded or more efficient service | 24/10/2011 |
| <p>Assistance in investigations for illegal activity. Investigating officers can access ownership details of telecommunications devices eg ownership of phones. This assists in investigating illegal dumping incidents where phone records are found. The ability to do this will increase the likelihood of identifying offenders and assist cost recovery.</p> | | | | | |
| General Manager's Office | Office of the General Manager | Councillor reimbursements | A process improvement | A saving in time, An improved, expanded or more efficient service | 10/10/2011 |
| <p>The Councillors reimbursement process has been refined to allocating job numbers to particular categories. This is provide a saving in time as the data now only has to be entered twice instead of 3 times. Previously a spreadsheet was required to be kept for annual reporting requirements. This is now not required. Also to balance this would take approx. 1 day which also will not be required. There is considerable time saving with this improvement.</p> | | | | | |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| Group | Section | Service or Function | Improvement cause | Improvements result | Created |
|--|--|---|--|---|------------|
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement, A people/relationship improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>A review was undertaken for future management of our Employer Brand which is being driven by the competition for skilled staff occurring on a regional, national and global level.</p> <p>By effectively managing and marketing our Employer Brand and clearly understanding what is our Employee Value Proposition (EVP) its crucial to the market perception of Port Stephens Council as a best employer.</p> <p>We have a suite of templates that we use for advertising and published documents to enhance the perception of how current employees, prospective recruits and the general community view Council as a place to work.</p> <p>We are currently supporting this with real career stories from people working here at PSC to build a profile that we can use to showcase careers at Council.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>Development of an electronic system capturing those employees with temporary or contract positions across council to ensure that reviews are conducted within reporting guidelines and automatic reminders sent to relevant staff.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>Development of an electronic system capturing all positions within Council to identify the relevant pre-employment checks that are required to ensure consistency and minimise risk.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>Implementation of a new electronic process which automatically informs all areas of the organisation (staff advisory group) that need to be across any changes relating to staff.</p> | | | | | |
| Sustainable Planning | Environmental and Development Planning | Collaborative Review of Draft DCP for Dwellings | A people/relationship improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>Collaborative review of the Draft DCP with all internal stakeholders prior to adoption by Council and public exhibition has produced a practical and improved policy document with strong staff engagement and augers well for the public consultation process and the pending implementation.</p> | | | | | |
| Corporate Services | Office of the Group Manager - Corporate Services | Legal Services, Organisation Development, Governance, Survey and Land Information | A process improvement | An improved, expanded or more efficient service | 31/10/2011 |
| <p>Consolidation of legal subscription budgets across Council into one budget to cover the cost of a multi-user online subscription to Thomson Reuters Legal Online. This service covers multiple areas of law, provides very useful precedent forms and is user friendly to non-lawyers. There is much better 'buying power' by pooling respective modest budget allocations into one allocation - that is, the individual budgets were only covering single user licences for very specific areas of law. Thomson Reuters Legal Online offers a tailored solution with a comprehensive suite to cover most areas of law affecting Council. Apart from the leveraging of financial resources, this consolidated approach to online legal subscription services means staff are all referring to the same platform and now have a better tool for assisting with legislative compliance and day-to-day operations in their respective areas.</p> | | | | | |

MINUTES FOR ORDINARY MEETING – 22 NOVEMBER 2011

| Group | Section | Service or Function | Improvement cause | Improvements result | Created |
|---|--------------------------|-------------------------------------|--|---|------------|
| Corporate Services | Organisation Development | Recruitment, Selection & Retention | A process improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>The recruitment process is now fully electronic based through the software program 'EziSuite'. This provides significant efficiencies for hiring managers and the HR Unit as the information is completed once only and forms the basis of all information required for completion of the recruitment process. All recruitment files are now stored electronically through TRIM.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | A saving in time, A financial saving, An improved, expanded or more efficient service | 26/10/2011 |
| <p>Previously we used an external provider to undertake exit surveys for terminated staff. We now utilise the software 'Survey Monkey' to capture the exiting employees comments and feedback. Saving of approx \$7,000 pa</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement, A people/relationship improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>A tender process was carried out to find pre-employment medical providers who are better tailored to our needs ie. a more rigorous assessment process. By appointing two preferred suppliers, this has given us greater flexibility and a saving in time and resources allocated to arranging medicals.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement, A people/relationship improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>A skype interview was carried out on a candidate who did not live locally. The use of this technology enabled the interview panel to screen the applicant who potentially may have missed out on an opportunity due to their location.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | An improved, expanded or more efficient service | 26/10/2011 |
| <p>Introduction of a Pre-Employment Screen Process which will now be fully compliant with AS4811-2006 Employment Screening as per recommendations of the ICAC Investigation into Attempted Corrupt Payment and Submission of False Resumes to Public Authorities – August 2010. The Pre-Employment Screening will all be conducted by an external provider with the exception of Reference Checking which may still be conducted by the Hiring Manager. Working with Children Checks will still be completed under the existing system.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement, A people/relationship improvement | An improved, expanded or more efficient service | 26/10/2011 |
| <p>Following a Code of Conduct matter, a tools list was developed in consultation with individual trades to gain better clarity on what tools employees should be purchasing with their allowance and which tools Council will be responsible for providing. Due to the diverse range of trades in Council, the entitlement to the tool allowance will vary.</p> | | | | | |
| Corporate Services | Organisation Development | Recruitment, Selection & Employment | A process improvement | A saving in time, An improved, expanded or more efficient service | 26/10/2011 |
| <p>Each of the HR Unit process have been documented and guides, information sheets and flowcharts developed to assist staff in better understanding their roles, responsibilities and conditions of employment. These are all available on MyPort for staff to access.</p> | | | | | |

INFORMATION ITEM NO. 2

GM PERFORMANCE REVIEW – JANUARY 2011- JUNE 2011

REPORT OF: PETER GESLING
GROUP: GENERAL MANAGER

FILE: PSC2005-1318

BACKGROUND

The purpose of this report is for Council to receive and accept the outcome of the Performance Process.

Council's performance process for the General Manager aligns with Department of Local Government Guidelines and was amended to include a written questionnaire for Councillors' individual input. The process used included:

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|--|---------|
| Circulation of questionnaire | |
| Meeting of Councillors and Facilitator, Rob Noble | 25 Aug |
| Meeting of Performance Feedback Panel with Facilitator and the General Manager | 8 Sept |
| Production of two documents | 25 Sept |
| Final Report | |
| Matters for attention prepared by Facilitator to the General Manager | |
| General Manager's Response to Performance Committee | 27 Sept |
| Preparation of the Report to Council. | |

Additional documents available to the Review Committee included material addressed by all Council. Further information of documentary evidence to support the General Manager's personal assessments was provided to the Performance Panel.

I have forwarded copies of Item 4&5 for Councillors' information. Copies will be attached to the General Manager's Personnel File.

FINANCIAL/RESOURCE IMPLICATIONS

Included in operating budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's Charter requires it:

- To have regard to the long term and cumulative effects of its decisions; and
- To be a responsible employer.

Participation in this formal process allows Council to demonstrate these elements of the Charter and models behaviour for the organisation that performance management is important to ensure Council objectives are achieved. Council's workforce policies are met in this process.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Participation in the Performance Feedback Process enhances the overall sustainability of the organisation by modelling behaviours expected of other supervisors within the organisation and building more effective working relationships.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

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|----|--|-----------|
| 1) | GM Performance Review Final Report (Noble Works) | - 25 Sept |
| 2) | GM Matters for Attention During Next Review Period (Noble Works) | - 25 Sept |
| 3) | GM's Comment to Panel (Mayor, Cr Dingle, Cr Jordon, Cr Nell) | - 27 Oct. |

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

FORMATION OF 355(C) COMMITTEE – TOMAREE CEMETERIES COMMITTEE

COUNCILLOR: WESTBURY

THAT COUNCIL:

- 1) Form a 355(c) Committee to enable interested community persons to assist Council in the care and maintenance of cemeteries on the Tomaree Peninsula;
 - 2) That the Committee be called the Tomaree Cemeteries Committee and include Anna Bay Lawn Cemetery, Nelson Bay Cemetery, Carumbah Memorial Gardens and Birubi Point Cemetery.
-

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

Cr Geoff Dingle returned to the meeting at 8.04pm prior to voting.

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| 418 | Councillor Bruce MacKenzie Councillor Ken Jordan |
| | It was resolved that Council: <ol style="list-style-type: none">1) Form a 355(c) Committee to enable interested community persons to assist Council in the care and maintenance of cemeteries on the Tomaree Peninsula;2) That the Committee be called the Tomaree Cemeteries Committee and include Anna Bay Lawn Cemetery, Nelson Bay Cemetery, Carumbah Memorial Gardens and Birubi Point Cemetery. |

BACKGROUND REPORT OF: STEVE BERNASCONI, COMMUNITY AND RECREATION SERVICES MANAGER

BACKGROUND

That a 355(c) Committee be formed to enable interested community persons to assist Council in the care and maintenance of cemeteries on the Tomaree Peninsula.

That the committee be called the Tomaree Cemeteries Committee and include Anna Bay Lawn Cemetery, Nelson Bay Cemetery, Carumbah Memorial Gardens and Birubi Point Cemetery.

There is an existing 355(c) Committee for west ward cemeteries called West Ward Cemeteries Committee which includes Raymond Terrace Cemetery, Pioneer Hill Cemetery, Seaham Cemetery, Hinton Cemetery and Karuah Cemetery.

The West Ward Cemeteries Committee has offered to assist volunteers with the establishment of a new committee on the Tomaree Peninsula.

The establishment of a Tomaree Cemeteries Committee would mean that all Council cemeteries would have a committee to assist Council in their care and maintenance.

There is an existing group of volunteers willing to commence work at Anna Bay Lawn Cemetery. One of the objectives of the Committee would be to encourage the community to become involved in other Tomaree Peninsula cemeteries.

The \$1,000 subsidy payable to the Committee annually can be sourced from the existing Facilities & Services budget.

There is an existing process under the Volunteer Strategy to establish the new committee. Staff resources would be from existing staff involved in managing volunteers/committees.

This process includes a further Report to Council when the Committee is formed to have the Committee's constitution adopted by Council and nominations for Councillor representation on the Committee accepted.

CONFIDENTIAL ITEMS



In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

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| 419 | Councillor Ken Jordan Councillor Shirley O'Brien |
| | It was resolved that Council move into Confidential Session. |

ITEM NO. 1

FILE NO: PSC 2006-1188

TARIFFS AND CHARGES 2012 – 2013 FOR PORT STEPHENS BEACHSIDE HOLIDAYS PARKS AND SAMURAI BEACH RESORT

REPORT OF: PHIL BUCHAN – COMMERCIAL ENTERPRISES MANAGER
GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the business approach to manage the accommodation tariff charges utilising an upper and lower limit of 10% applied to the approved 2011/12 financial year tariff ranges tabled in **ATTACHMENT 1**.
 - 2) Adopt the table of Ancillary Charges as per **ATTACHMENT 2**.
-

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

| | |
|------------|---|
| 420 | Councillor Bruce MacKenzie Councillor Ken Jordan |
| | It was resolved that Council: 1) Endorse the business approach to manage the accommodation tariff charges utilising an upper and lower limit of 10% applied to the approved 2011/12 financial year tariff ranges tabled in ATTACHMENT 1. 2) Adopt the table of Ancillary Charges as per ATTACHMENT 2. |

CONFIDENTIAL

ITEM NO. 2

FILE NO: T15-2011 PSC2005-266

T15-2011 ENVIRONMENTAL MONITORING OF DECOMMISSIONED LANDFILL SITES IN PORT STEPHENS COUNCIL

REPORT OF: STEVEN BERNASCONI – COMMUNITY & RECREATION MANAGER
GROUP: FACILITY & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Accept the Tender offered by GHD Pty Ltd. for \$166,307 (ex GST) for the environmental monitoring of the four decommissioned landfill sites within Port Stephens Council from December 2011 to September 2013. The contract will also have a one year option by mutual agreement.

ORDINARY COUNCIL MEETING 22 NOVEMBER 2011

421 Councillor Ken Jordan
Councillor John Nell

It was resolved that Council accept the Tender offered by GHD Pty Ltd. for \$166,307 (ex GST) for the environmental monitoring of the four decommissioned landfill sites within Port Stephens Council from December 2011 to September 2013. The contract will also have a one year option by mutual agreement.

There being no further business the meeting closed at 8.16pm.

I certify that pages 1 to 198 of the Open Ordinary Minutes of Council 22 November 2011 and the pages 199 to 212 of the Confidential Ordinary Minutes of Council 22 November 2011 were confirmed by Council at its meeting held on 13 December 2011.

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Cr Bob Westbury
MAYOR