

Minutes 18 OCTOBER 2011



C·O·U·N·C·I·L

... a community partnership

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 18 October 2011, commencing at 5.31pm.

PRESENT: Councillors R. Westbury (Mayor); G. Dingle; C. De Lyall; S. Dover; K. Jordan (Deputy Mayor); 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.

363	Councillor John Nell Councillor Shirley O'Brien
	It was resolved that the apologies from Cr Peter Kafer, Cr Glenys Francis, Ken Jordan and Steve Tucker be received and noted.

364	Councillor Geoff Dingle Councillor Sally Dover
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 27 September 2011 be confirmed.

	Cr Shirley O'Brien declared a significant non-pecuniary conflict of interest in Item 12. The nature of the interest is as a result of the position of Secretary Cr O'Brien holds on the Maori Cultural Group.
	Cr Ken Jordan declared a less than significant conflict of interest in Item 14, 1 (c). The nature of the interest is that Cr Jordan is employed by All Saints College. Cr Jordan declared that he is a teacher at the College and will not gain from the outcome.

Cr Ken Jordan entered the meeting at 5.35pm and Cr Steve Tucker entered the meeting at 5.38pm.

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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: T13-2011, PSC2005-2522

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 1 on the Ordinary Council agenda namely **T13-2011; Tender Salamander Waste Depot Weighbridge Duplication.**
- 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 **T13-2011; Tender Salamander Waste Depot Weighbridge Duplication.**
- 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 – 18 OCTOBER 2011

365	Councillor John Nell Councillor Shirley O'Brien
	It was resolved that the recommendation be adopted.

ITEM NO. 2

FILE NO: T16-2011, PSC2005-0786

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 **T16-2011; Tender Fingal Bay Surf Club Electrical Installation.**
- 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 **T16-2011; Tender Fingal Bay Surf Club Electrical Installation.**
- 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 – 18 OCTOBER 2011

366	Councillor John Nell Councillor Shirley O'Brien
	It was resolved that the recommendation be adopted.

367	Councillor John Nell Councillor Frank Ward
	It was resolved that the Item 6 be brought forward and dealt with prior to Item 1 due to the community interest in the gallery.

**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 6

FILE NO: PSC2011-00313

SUSTAINABILITY REVIEW – ENVIRONMENTAL EDUCATION PROGRAM

**REPORT OF: PETER MARLER, ACTING ENVIRONMENTAL AND DEVELOPMENT PLANNING
MANAGER**
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Continue to deliver the Environmental Education Program; and
 - 2) Note the continuous improvement of the service, including the targeting of more funding from other agencies and corporate sponsorships.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	Councillor Steve Tucker Councillor Bruce MacKenzie
	That Council discontinue to deliver the Environmental Education Program.

MATTER ARISING

	Councillor Bob Westbury Councillor Bruce MacKenzie
	That Council consult with the relevant Department regarding the grant for the Environmental Education program and determine whether the conditions of the grant allow the funds to be reallocated to support a similar environmental education program.

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

Cr Bruce MacKenzie left the meeting at 5.34pm.
Cr Ken Jordan entered the meeting at 5.35pm.
Cr Bruce MacKenzie returned to the meeting at 5.36pm.
Cr Steve Tucker entered the meeting at 5.38pm.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

	Councillor John Nell Councillor Frank Ward
	That Council: 1) Continue to deliver the Environmental Education Program; and 2) Note the continuous improvement of the service including the targeting of more funding from other agencies and corporate sponsorships.

AMENDMENT

368	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that Council: 1) Continue to deliver the Environmental Education Program and that the Program be funded from the Environmental Levy; 2) Should there be an issue with implementing the resolution the General Manager report back to Council; 3) That the submissions lodged by the community be received and noted.

The amendment on being put became the motion which was carried.

Cr Frank Ward requested his name be recorded against the motion.

MATTER ARISING

The matter arising lapsed due to the motion not having a mover or a seconder.

BACKGROUND

The review of this service package has been undertaken in line with the principles of Best Value which includes the following key elements:

- 1) All services provided by Council must meet quality and cost standards;
- 2) All services must be responsive to the needs of the community;
- 3) All services must be accessible to those for whom it is intended;
- 4) Council must develop a program of regular consultation with its community in relation to the services it provides;
- 5) Council must report regularly, on its achievements to its community on how its service delivery meets Best Value.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

The review of services included consideration of:

- The organisation's vision and values;
- Compliance
- The Market
- Customer needs

Details of the service package under review

Service Package Name	1. Environmental Education
Purpose of Service Package	<ul style="list-style-type: none"> • Promote Council's role in environmental education and Council's environmental initiatives; • Strengthen networks between Council, government, schools and community environmental groups; • Generate understanding, awareness and knowledge of environmental and sustainability issues; and • Foster positive behaviour changes towards protecting the environment and living more sustainably.
Link to the Community Strategic Plan (strategic measure and delivery program)	3.1.2 in 2011/12 Operational Plan. 'Conduct 5 Community Environmental Education Programs annually.'

Key drivers to consider in relation to **why** the service package is currently delivered (requirement to financially, legally or operationally control the service):

- There is no legal requirement for Council to run this service however there is a community expectation that Council generate understanding, awareness and knowledge of environmental issues at a local level.
- There is no operational need for Council to control the service however it is more cost effective for Council to manage the service.

Key drivers to consider in relation to **how** the service package is currently delivered:

- Number of events held - 65
- Number of attendees - 1850 in 2009/10 plus 25 Schools
- Customer Satisfaction – High to Very High

Current mode of service (eg in-house/contracted out/partnerships, etc)

	Function	In-house/contracted out/partnerships.
Function 1	Environmental Education	In-house with expert presenters brought in and community volunteers utilised. Partnerships with state agencies, i.e Marine Parks, Hunter Councils etc

Current budget and staffing levels for financial year

Expenditure – Total	\$80,300
Revenue - Total	\$70,300
Staffing (EFT) – Total	0.6

FINANCIAL/RESOURCE IMPLICATIONS

- Total number of staff affected by the change - 0
- Change in EFT – 0
- Projected savings – Approx \$5,000 in additional grants may be possible
- Projected costs (transition costs) - \$0.

LEGAL, POLICY AND RISK IMPLICATIONS

There is no legal requirement to run this service however the program is very popular with events being regularly over subscribed by the community. It is expected that there would be a risk to reputation if the program were not to continue as, based on attendance records, there is considerable community demand for the service.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Port Stephens has a diverse range of environmental attributes including significant areas of coastal reserves, the Port Stephens Great Lakes Marine Park, and large areas of high quality bushland that support an array of flora and fauna. This warrants a strong, well resourced environmental education program.

Other Councils in the Lower Hunter area employ up to 5 EFT staff to run similar programs. Council's attendance records indicate that there is high demand for the programs. The changes to be explored include seeking additional external grant and sponsorship funding to offset program costs and to investigate if volunteers can be utilised for some of the events.

Outsourcing the service would increase costs to Council and while charging a nominal amount to attend the events was considered it would cost Council more to administer the fees than would be received. In addition, there are very positive benefits to Council's reputation by directly running the program.

Ceasing to run the service was also considered but is strongly not recommended. The service provides Port Stephens Council with a valuable tool to provide ongoing education to the public, particularly young people, about our unique environment. The program instils a sense of pride in the local environment that will lead to better environmental outcomes which in turn is more cost effective for Port Stephens Council in the long term.

The service is very popular with the community who have an expectation and desire for the program to continue. Based on demand and attendance it is expected that there would be community disappointment, leading to reputation risk, if the program were to be cancelled. If the program was to be cancelled Port Stephens Council would be the only Lower Hunter council not offering this service with lost opportunity for residents to learn about the local area.

CONSULTATION

Summary of key customer feedback:

An evening workshop was held with a group of residents who were randomly chosen from the Residents Panel combined with regular users of the program. The groups were asked to rate the importance of the programs run under the Environmental Education function from 1 (not important) to 4 (critically important).

When the results were averaged the program was given an overall rating of 3.3 reflecting the value of the program to the Port Stephens Community.

Other feedback was to run more sessions as the events were often booked out, to investigate charging for the session to generate income, make the information sheets available on Council's website and to seek more grants and sponsorships.

One resident panel member commented *'the amount invested by Council in this program represents less than 0.1% of the Council budget, so PSC could hardly do less, program results show that program represents very good value for investment'*.

Groups spoken with:

- 1) Regular users of the program;
- 2) Residents Panel.

OPTIONS

- 1) Accept the recommendation;
- 2) Alter the recommendation; or
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Attachment 1 – Recommended Changes.

COUNCILLORS ROOM

- 1) Service strategy documentation for the Environmental Education Program;
- 2) Summary of Environmental Educational Program – based on 09/10 figures.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
RECOMMENDED CHANGES:

Recommendation	Costs	Benefits	Timetable for change	Rationale	Risks associated with the recommendation	Further consultation required	General comments
1. Continue to deliver the Environmental Education Program; and 2. Note the continuous improvement of the service, including the targeting of more funding from other agencies and corporate sponsorships.	Staff time only	Decreased costs to Revenue	Could commence immediately and would be ongoing	Program results in increased environmental awareness and is very popular with the community. Increased grants would reduce burden on revenue.	Sourcing and reporting on additional grants may result in less programs being delivered.	None	Nil

ITEM NO. 1

FILE NO: PSC2011-03633

SCORES ON DOORS RATING SYSTEM FOR FOOD BUSINESSES

**REPORT OF: MATTHEW BROWN MANAGER - DEVELOPMENT ASSESSMENT &
ENVIRONMENTAL HEALTH**
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the participation in the Scores on Doors food business rating trial that is currently available to all NSW Councils.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	Councillor John Nell Councillor Frank Ward
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

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

BACKGROUND

The Minister for Primary Industries and the Presidents of the NSW Local Government and Shires Associations jointly announced a Scores on Doors initiative in April 2010. Scores on Doors is a scheme for disclosing the inspection result achieved by retail food businesses. The Scores on Doors scheme in NSW is intended to assess participating food businesses against food safety legislation with particular emphasis on those food handling practices known to be linked to foodborne illness.

The aim of the scheme is to provide state-wide consistency and is likely to deliver the following benefits:

- Improved consumer access to information about food safety performance.
- Additional 'market pressure' to improve compliance and regulatory consistency.
- Acknowledgement of well-performing businesses without further stigmatising poor performers.

- Improved food hygiene compliance in businesses and, as a result, reduction in risk factors that lead to foodborne illness in NSW and subsequently improve public health.

There is potential for food businesses to feel pressured into participating in the trial. The Council Environmental Health Officers assessment on the food business rating may potentially impact on the economic viability of the business if potential customers perceive a significant difference between ratings.

A star rating scoring scheme has been established, which is designed to be displayed in a prominent location within the premises. During the inspection, businesses are assessed against a food safety checklist and assigned a star rating reflecting their performance. The food business will be issued with a rating of 'excellent' (5 star), 'very good' (4 star) or 'good' (3 star) and this rating will be presented on a certificate for display. Attachment 1 shows the format of the star rated certificates.

Should the food business achieve an unsatisfactory result at the time of the inspection, the food business will be ineligible to receive a certificate. There are no ratings lower than 'good' (ie poor or fail).

Food businesses will also be ineligible to display a certificate when:

- a council officer undertakes enforcement action on a business;
- a business is inspected due to a complaint and that complaint is proven or substantiated; or
- the council becomes aware of a significant decline in food safety standards in a business after the rating has been assigned.

In these circumstances, the business must wait until its next routine scheduled inspection from the council before it is eligible to receive and display a rating.

At this stage the scheme is a 12-month trial that is being made available to all NSW Councils. Currently, 22 NSW Councils are participating in the trial including Newcastle City, Cessnock City and Greater Taree City from the hunter region. Participating retail food businesses will be those that prepare and sell potentially hazardous foods such as restaurants, cafes, takeaway shops and pubs.

The participation by Council in this trial is considered an excellent opportunity to reward high performing food shops and provide additional information for tourists, visitors and locals. The program also provides a passive incentive method for the improvement in food hygiene and handling standards that may reduce the necessity of Council resorting to more regulatory compliance methods e.g. issuing improvement notices or penalty infringement notices.

Once the 12 month trial has been completed, the NSW Food Authority will evaluate the results and feedback and determine if it is to continue as a permanent scheme. A report on the outcomes will be tabled to Council once received.

FINANCIAL/RESOURCE IMPLICATIONS

The operation of Scores on Doors will not have any financial implications to Council. Environmental Health Officers will use the programmed inspection system currently in place to assess the Scores on Doors rating, accordingly no additional inspections are required.

All documentation such as inspection checklists and star rating certificates are provided to Council free of charge from the NSW Food Authority.

LEGAL, POLICY AND RISK IMPLICATIONS

The Scores on Doors trial is open as a voluntary program to all NSW councils and food businesses. Food businesses wishing to voluntarily participate in the trial are required to sign a formal agreement that has been prepared by the NSW Food Authority.

Council may terminate the agreement at any time if the business is in breach of its terms. The agreement automatically terminates if the business is sold.

A formal and documented appeal process is available to a food business that does not agree with the star rating outcome. Food businesses may seek a review of its star rating in which they specify in writing what non compliance they wish to appeal to Council. The review will be conducted as a desktop review by Councils Environmental Health Team. High risk food safety issues and long term issues will not be considered in an appeal. If no change is determined by Councils Environmental Health Team, a full inspection can be requested by the food business for an additional fee.

Food businesses subject to ongoing enforcement action by Council are not eligible to participate in the trial.

Council Environmental Health Officers are duly authorised under delegated authority from the General Manager to undertake inspections of retail food businesses in accordance with the Food Act and subordinate legislation.

There are no direct legal or risk implications to Council by participating in the Scores on Doors trial.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The introduction of a Scores on Doors scheme is an initiative to improve consistency of inspections and outcomes for food businesses. The results are displayed in a format that can be easily understood by consumers considering dining at the food premise. The consumers choice of dining would be based, not only on menu and price, but also on knowing whether the food business was maintaining an acceptable standard of food hygiene.

Scores on Doors is designed to reward food businesses who are performing well. It is an incentive for businesses to improve and maintain a high level of food hygiene to

ensure they achieve a high star rating and encourage consumers to continue to support their business. It is also an incentive for non-participating businesses to consider joining the scheme. Further, it could be argued the scheme and its promotion could have favourable economic impacts for both the locality and food industry.

There is not considered to be any direct environmental implications with implementing this trial.

CONSULTATION

- 1) NSW Food Authority;
- 2) Hunter Food Surveillance Group;
- 3) Environmental Health Australia;
- 4) Environmental Health Team.

OPTIONS

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

ATTACHMENTS

- 1) Scores on Doors Food Safety Result Certificates.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Scores on Doors – Food Service Business Rating System Guidelines, July 2011, NSW Food Authority.

ATTACHMENT 1
SCORES ON DOORS

Scores on Doors Food Safety Result Certificates



ITEM NO. 2

FILE NO: 16-2011-24-1

DEVELOPMENT APPLICATION FOR EXTENSION TO EXISTING SERVICE STATION (SALES ROOM) & CONVERSION OF 4 X WORKSHOP BAYS TO 2 X SELF SERVE CAR WASH BAYS

REPORT OF: MATTHEW BROWN - MANAGER DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2011-24-1 subject to the conditions contained in Attachment 4.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>
	<p>That Council approve Development Application 16-2011-24-1 subject to the conditions contained in Attachment 4.</p>

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

370	<p>Councillor Ken Jordan Councillor Bruce MacKenzie</p>
	<p>It was resolved that Council approve Development Application 16-2011-24-1 subject to the conditions contained in Attachment 3.</p>

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present a development application to Council for determination at the request of Councillor Ward, citing traffic problems as the reason.

The development application seeks consent for alterations and additions to the existing service station sales building and conversion of the disused mechanical workshop at the rear of the site to a self serve car wash.

The site is zoned 3(a) Business General which permits service stations, shops and commercial uses such as a self serve car wash. The proposal is considered to be consistent with the zone objectives.

The service station will continue to operate under the current capacity and no additional fuel bowsers are proposed.

The sales building will increase from 48m² to 81m² to incorporate an increased floor sales area, new office and new accessible toilet facilities.

The existing workshop is to be converted into a self serve car wash facility. The four existing work bays will be converted into two wash bays and ancillary utility, storage and plant room.

The subject land is situated on a corner lot within the existing commercial precinct in Anna Bay with frontage to Gan Gan Road and Campbell Avenue.

The key issues associated with this proposal, essentially relates to:-

- Traffic management – existing and proposed.

An assessment of this issue is provided within the attachments.

FINANCIAL/RESOURCE IMPLICATIONS

Nil.

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's Policy and accordingly any legal risk is significantly decreased.

However, as with any development application, legal and policy implications/risks are possible. Four (4) objections were received and although the Environmental Planning and Assessment Act 1979, does not provide directly for 3rd party appeal rights, an individual is able to ensure all procedural matters have been attended to, as opposed to a merits review.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the development is unlikely to have any adverse social implications in the locality. It is important to note that the existing service station will not increase its current capacity. It is considered that the addition of the car wash facility, in replacement of the mechanical workshop will not impact further on the current level of amenity to the location, given that the use of a workshop would normally produce some noise and vehicle impacts. The car wash facility, when operated in accordance with conditions of consent is not expected or considered to increase those local impacts.

Council is not considered to have a regulatory role in the determining of the economic viability of individual proposals or their impacts on existing premises. Further, it could be argued that the addition of the car wash facility and expansion of the sales area will have positive economic implications.

Flora and Fauna

The site is not known to contain any threatened flora or fauna and as such the development should not pose an adverse effect on any known threatened species, populations or ecological communities.

Flooding

The site is not identified as being flood prone under Council's flood-prone land map. The proposal is considered acceptable with respect to flooding.

Wastewater

The site is serviced by reticulated water and sewer. The development will need to comply with any requirement of Hunter Water Corporation.

CONSULTATION

The application was exhibited in accordance with Council policy for a period of 14 days and four (4) submissions were received. These are discussed in the Attachments.

OPTIONS

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

ATTACHMENTS

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

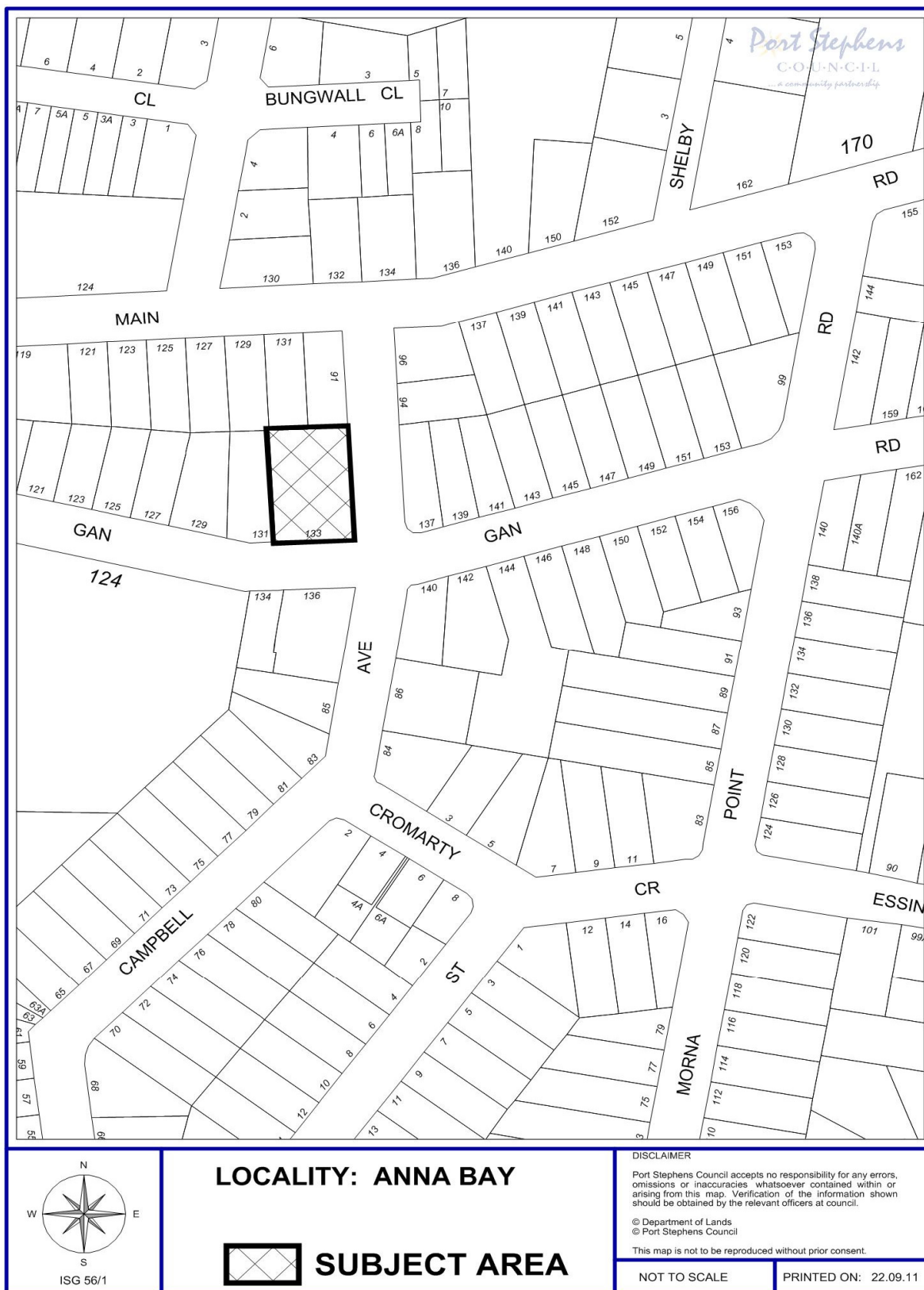
COUNCILLORS ROOM

- 1) Development Plans;
- 2) Statement of Environmental Effects;
- 3) Design Layout Assessment.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 4980255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

**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 PROPOSAL

The development application seeks consent for alterations and additions to the existing service station sales building and conversion of the disused mechanical workshop at the rear of the site into a two (2) bay self serve car wash. The car wash facility will be operated in conjunction with the existing service station.

THE APPLICATION

Owner	MR G G & MRS D BATT & MR Z N & MRS M L MAHORIC
Applicant	MZDG Partners c/o R.J Sinclair Pty Ltd
Detail Submitted	Development Plans Statement of Environmental Effects Design Layout Assessment

THE LAND

Property Description	Lot 1 DP 857399
Address	133 Gan Gan Road Anna Bay
Area	1409m ²
Dimensions	Regular shaped corner lot with frontages to Gan Gan Road and Campbell Avenue
Characteristics	Existing developed service station and disused workshop bays.

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	3(a) Business General
Relevant Clauses	21, 44, 51A
Development Control Plan	B2 – Environmental and Construction Management B3 – Parking, Traffic and Transport B4 – Commercial and Mixed Use Development
State Environmental Planning Policies	SEPP 55 – Remediation of Land

Environmental Planning and Assessment Act, 1979

The development has been assessed under Section 79C of the *Environmental Planning and Assessment Act 1979*.

State Environmental Planning Policies (SEPP)

SEPP 55 – Remediation of Land

SEPP 55 provides a state-wide planning approach to the remediation of contaminated land for the purpose of reducing risks to human health and the environment.

Clause 7 relevantly states;

7 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The subject land is identified on Council Contaminated Land register due to the existing service station activities on site and the potential for the presence of hydrocarbons.

There is no change of use proposed on site other than the addition of an ancillary car wash facility and further investigation of contamination is not considered necessary in the instance.

The proposal is considered consistent with the policy.

Port Stephens Local Environmental Plan 2000

Clause 44 – Appearance of land and buildings

The proposed structures will not be of high reflectivity and are appropriately set back from the road frontage. The maximum height of the development is approximately 6m and as such it is considered that the development will not present any adverse impacts in terms of visual amenity. The proposal is considered appropriate with regard to appearance taking into account land stability and bushfire hazard.

Clause 47 – Services

The site is currently serviced by all essential services. Waste water management and drainage has been considered in the application and the proposal is considered to be consistent with this clause.

All necessary approvals including a Trade Waste Agreement from Hunter Water Corporation will be required for discharge of waste water into the sewer system.

Clause 51A – Acid Sulphate Soils

The subject site is identified as being class 3 Acid Sulfate Soils. The provisions of Clause 51A state:

Works more than 1 metre below the natural ground surface. Works likely to lower the watertable to a depth of more than 1 metre below the natural ground surface.

The proposed development does not involve any significant excavation for the alterations to the existing sales building or the construction of the car wash bays. However, the proposal does involve some soil disturbance for construction and the following measures have been proposed and included as a condition of consent.

Excavation and dewatering works on the site shall be undertaken in accordance with the NSW Government's document titled Managing Acid Sulphate Soils. All testing and monitoring shall be undertaken by an appropriately qualified geotechnical consultant.

Port Stephens Development Control Plan, 2007

The development is subject to the controls of *Development Control Plan (DCP) 2007*, specifically the controls of sections *B2 – Environmental and Construction Management*, *B3 – Traffic Parking and Transport*, *B4 – Commercial and Mixed Use Development* and *B12 – Advertising Signs*.

The development is considered to be generally compliant with the relevant provisions of the Development Control Plan. Car parking however, is a key issue on the site which has been assessed on merit and is considered appropriate for the following reasons.

The number of car parking spaces supplied is consistent with the DCP requirement. One (1) car parking space per 20m² of gross floor area of convenience store and one (1) accessible space is provided on site (total of 5). There are two existing street parking bays which will be retained along Campbell Avenue. It is also noted that there are manoeuvrable queuing areas (at least two spaces) provided for the car wash bays which is considered appropriate for the development, given the 'drive through' nature of the facility.

In summary, sufficient on-site parking has been provided for the increased sales room area. The nature of the car wash facility is that any cars utilising the facility are wholly

contained within the wash bays which are essentially considered as parking spaces. An appropriate manoeuvrable queuing space for each wash bay is provided. Traffic movement plans indicate vehicles can adequately manoeuvre within and through the site.

2. Likely Impact of the Development

The proposed development is consistent with the requirements of the *Port Stephens Local Environmental Plan 2000* and generally consistent with the requirements of *DCP 2007*.

It is noted that although the site contains an existing business within an appropriate land use zone, the site is in proximity to existing residential properties. It is considered that the development will not further detrimentally detract from the existing level of amenity experienced by surrounding residents.

The key issues relating to amenity are noise and traffic management. Public submissions raised amenity issues resulting from vehicle queuing onto nearby residential streets in peak demand times such as school and public holidays.

The addition of the car wash facility, in replacement of the mechanical workshop will not impact further on the current level of amenity to the location, given that the current approved use of a workshop would likely produce some noise and vehicle impacts. The car wash facility is not expected to increase those local impacts, and the assessment process has indicated the potential for the operator to better manage some of those impacts.

The plant equipment servicing the car wash bays will be appropriately insulated to mitigate noise impacts on surrounding properties and all associated equipment will be provided with appropriate acoustic enclosures. An appropriate condition of consent has been recommended to ensure the ongoing management of the site with regard to noise impacts. Traffic impacts on site will be able to be better managed with the requirement of a traffic management plan to be approved by Council prior to operation of the site. It is considered that the objective of such plan is achievable and reasonable given the known traffic issues experienced on site.

3. Suitability of the Site

The development site is a fully serviced commercial site that currently contains a service station and disused workshop bays.

It is considered that the proposed development is consistent with Council's codes and policies governing development of the site while being compatible and sympathetic with existing and envisaged commercial streetscape.

Further, when operated in accordance with the recommended conditions of consent, it is considered the proposed additional use poses no unreasonable or significant conflict with nearby residential properties.

4. Submissions

The development was initially advertised and notified until the 9th February 2011. In response to this process four (4) submissions were received raising various concerns about the proposal.

The key issues raised in the submissions are;

- Conflict with the existing right of way at the rear of the site for adjacent property.

Comment:

Vehicles will exit the self service car wash bays via the 4m wide right of way (ROW) which benefits the adjacent property (131 Gan Gan Road). The number and frequency of cars exiting the site via the right of way will be intermittent and is not expected to be excessive or likely to unreasonably restrict access to the adjoining property. The vehicles intended to use the ROW are legally able to do so and therefore, the proposal presents both legal and practical physical access.

- Existing traffic congestion associated with the service station.

Comment:

There is no increase in the number of fuel bowsers on site and the self serve car wash bays are provided with queuing areas for cars. The applicant submitted a design layout assessment outlining various mechanisms/options to better manage traffic flows on the site. Furthermore, Council's Traffic Engineer has assessed the proposal and raised no objection to the proposal subject to a condition of consent requiring the submission of a traffic management plan to be approved by Council prior to the issue of the occupation certificate. The management plan shall address queuing on neighbouring residential streets at times of peak demand to alleviate impacts on local residents.

5. Public Interest

It is considered to be in the public interest to approve the proposal. The development has demonstrated that it satisfies relevant planning considerations, represents an improvement to the current development on site in terms of design and merit and will result in an improved streetscape while providing a service to the public.

**ATTACHMENT 3
CONDITIONS**

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. Works shall not commence until such time as a construction certificate, where necessary, has been issued for the works approved by this application.
3. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
4. The development application has not been 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.
5. The development shall provide 5 on-site car parking spaces, including 1 disabled parking spaces. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with the Section B3 – Parking, Traffic and Transport, of Port Stephens Development Control Plan 2007. Car parking must be provided prior to the issue of the occupation certificate or use of the development.
6. In response to the traffic congestion experienced on the site during peak demand such as public holidays and school holidays, the applicant shall submit to Council, a management plan detailing how queuing on neighbouring residential streets will be managed to alleviate the impacts on neighbouring residents. This may include the closure of some entry/exists to encourage queuing away from the residential accesses and the use of directional signage. The management plan shall be approved by Council's Traffic Engineer **prior to the issue of any (interim or final) Occupation Certificate.**
7. The car wash facility shall be appropriately managed to minimise any potential offensive noise impacts to adjoining neighbours as defined under the *Protection of the Environment Operations Act 1997*. In addition, all plant and equipment shall be sited or enclosed in a sound absorbing enclosure.
8. Pursuant to section 80a(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94a Development Contributions Plan, a contribution of 1% of the cost of the development, as determined in accordance with clause 25j of the Environmental Planning and Assessment

Regulation 2000, shall be paid to council

The amount to be paid is to be determined in accordance with the provisions of the Port Stephens Section 94a Development Contributions Plan. The contribution is to be paid **prior to issue of the Construction**.

A cost summary report **(form attached)** setting out an estimate of the proposed cost of carrying out development in accordance with schedule 1 of the Port Stephens Section 94a Development Contributions Plan must be approved by Council **prior to issue of the Construction Certificate**.

9. Any construction works within the public road shall be designed and constructed to Council standards and shall comply with the relevant Austroads guidelines (with RTA supplements). Detailed design plans shall be supplied to Council and approved **prior to Roads Act application**.
10. Excavation and dewatering works on the site shall be undertaken in accordance with the NSW Government's document titled Managing Acid Sulphate Soils. All testing and monitoring shall be undertaken by an appropriately qualified geotechnical consultant.
11. Collected stormwater runoff from the proposed structures shall be connected to the existing stormwater drainage system.
12. Provide a drainage system on site to collect pavement runoff from vehicle parking areas into proprietary oil arrestor before discharge from the site (or to any stormwater detention or infiltration systems on-site). Pollutants shall be disposed of in an approved manner. Roof stormwater must be discharged separately. Full details, shall be approved by the certifying authority **prior to issue of the Construction Certificate**.
13. 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.
14. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Subdivision & Development Code, to the satisfaction of Council or the Certifying Authority **prior to issue of the Occupation Certificate (interim or final)**.
15. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
16. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
 - * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L_{10} 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.

17. 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.
18. 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.
19. A Fire Safety Certificate as prescribed by Section 174 *Environmental Planning & Assessment Regulations 2000* which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of Fire Safety Certificate needs to be forwarded to Council. If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
20. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 *Environmental Planning & Assessment Regulations 2000* in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
 - a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.
21. Building demolition shall be carried out in accordance with Australian Standard AS2601-2001 - The Demolition of Structures.
22. 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.
23. The unisex WC is to either be mechanically ventilated or provided with a compliant airlock in accordance with part F4.9 Vol 1 of the Building Code of Australia.

24. The sales area is to be upgraded to conform with the provisions of Part J of the Building Code of Australia.

ADVICES

1. Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
2. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
3. The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. This applies particularly to new buildings or significant building alterations. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act. Further information can be obtained from Council or the Human Rights and Equal Opportunity Commission on 008 021 199.
4. This consent does not alter the existing hours of operation of the service station.
5. All necessary approvals including a Trade Waste Agreement from Hunter Water Corporation will be required for discharge of wastewater into the sewer system.

SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION

Statement of Environmental Effects prepared by R.J Sinclair Pty Ltd Building Design dated 18 October 2010.

Stamped plans numbered 06-077drwgs

- TS-01 (Vehicle Turning Study Plan) dated 15 July 2010;
- A-01 (Site Plan) dated 3 November 2008;
- A-02 Elevations dated 3 November 2008.

Design Layout Assessment carried out by Northern Transport Planning and Engineering Pty Ltd

ITEM NO. 3

FILE NO: PSC2011-03249

ON-SITE SEWAGE MANAGEMENT POLICY

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

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to place the On-site Sewage Management Policy and Guideline documents (as attached) on public exhibition for a period of twenty-eight (28) days.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	Councillor Bruce MacKenzie Councillor John Nell
	<p>That Council place the On-site Sewage Management Policy and guideline documents (as Tabled) on public exhibition for a period of twenty eight (28) days.</p>

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

371	Councillor Steve Tucker Councillor Shirley O'Brien
	<p>It was resolved that the recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to inform Council of proposed changes to the On-site Sewage Management (OSMS) policy which provides a formal framework for the management and regulation of On-site Sewage Systems in Port Stephens LGA. On-site Sewage Systems, if not appropriately managed and regulated, have the potential to detrimentally impact on the areas pristine waterways, tourism and aquaculture industries, degrade lands and increase the health risks to the public.

Local authorities have an important non-discretionary role in the regulation and management of On-site Sewage Systems with a capacity of less than 2500 equivalent persons or 750kL per day capacity. Over this threshold capacity the Office of Environment and Heritage are the authority. The role of Local Councils is the result of legislative changes made by the State Government following an outbreak in 1997 of Hepatitis A linked to the consumption of Wallis Lake oysters, contaminated

waterways and failing, poorly operating and inappropriate On-site Sewage Systems. The importance of Councils involvement and continued vigilance is further highlighted by the identification of human DNA in oysters farmed in the upper section (sub-zone 5B) of Tilligerry Creek in 2005 with the source most likely human sewage. The identification of the contaminated oysters resulted in significant operating and economic implications for oyster farmers operating in that sub-zone of Tilligerry Creek.

Realising the potential for On-site Sewage Systems to impact on the environment and public health Port Stephens Council proactively initiated a catchment Assessment Program in 1997 and in 1999 adopted the initial On-site Sewage Management Strategy. This strategy was reviewed and re-adopted in 2004 with this latest review updating the strategy into the new policy format as well as introducing a scientific basis to the application assessment process.

This draft policy has been updated to reflect advances and improvements in the knowledge and science of On-site Sewage Management systems, processes and environmental assessment methods. The following amendments are briefly explained.

Installation Applications: The development application stage is when Council has an opportunity to play a lead role in critically assessing developments to ensure not only legislative compliance but in the provision of sound long term outcomes with respect to sustainability, land use planning, the environment and public health. An alternative method of assessing installation applications is proposed titled the Development Assessment Framework or DAF. The DAF is the outcome of a broad scale, risk based environmental study of the LGA resulting in the production of a hazard class map that assign a sewage management risk to each land parcel. Four hazard classes are possible, low, moderate, high and very high. Based on the assigned hazard class the DAF defines the level of investigation required, provides best practise resources for consultants, provides minimum design standards for systems and disposal areas and when applicable provides minimum disposal area sizes. It will provide a comprehensive resource for applicants, system installers, consultants and Council staff.

Treatment System Inspections: Inspections of On-site Sewage Management Systems are routinely undertaken according to an assigned risk and inspection frequency classification (ie every 1, 2, 3 or 5years). Domestic mechanical type treatment systems are required to be routinely serviced by a third party company with a service report submitted to Council. It is proposed to only inspect these types of systems on an exception basis according to prescribed criteria as defined in the policy.

Identification of Failing Systems: To ensure an appropriate and timely level of response by Council staff a formal methodology has been prepared for prioritising complaints for identified failing systems. The methodology prescribes situations, responses, tools and examples for guidance of Council staff.

The adoption of this draft policy will provide property owners, system installers, environmental consultants and Council officers a clear and unambiguous management document resulting in cost effective, consistent and timely operational

programs whilst ensuring long term sustainability, environmental and public health outcomes.

FINANCIAL/RESOURCE IMPLICATIONS

There are no additional financial implications for Council associated with implementation of this draft policy. The OSMS policy and programs are neutrally funded through collection of fees for the approval to operate and installation applications.

No fees and charges are proposed for the purchase of the documents. The policy and associated documents will be available off Councils web site.

LEGAL, POLICY AND RISK IMPLICATIONS

This draft policy complies with Councils Policy Guideline and with the requirements for policies to be reviewed at least once in each Council term.

Once adopted, the OSMS policy would form a consideration and guiding document pursuant to the sections 68(C5) and 68(F10) of the *Local Government Act 1993* and *Local Government (General) Regulations, 2005* for the operation and installation of On-site Sewage Systems.

The role of Local Council in managing and regulating On-site Sewage Management Systems is non-discretionary. It is a reasonable assumption that adopting the policy may decrease Councils legal and risk implications and increase protection of the environment, tourism and aquaculture industries and public health.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

On-site Sewage Management Systems can detrimentally impact on the environment and public health with flow on effects to the tourism and aquaculture industries. This policy will ensure that Council defines and implements a measured and appropriate level of management and regulation of On-site Management Systems to meet sound sustainability, environmental and public health outcomes.

CONSULTATION

- 1) The community engagement panel have been consulted;
- 2) The scientific basis for the Development Assessment Framework (DAF) was undertaken by a leading environmental consultancy qualified and experienced in the assessment of land in un-sewered areas;
- 3) A draft of the DAF was presented to the Hunter, Central Coast and Mid-North Coast Councils On-site Sewage Management committee. From this presentation and after discussions with PSC both Great Lakes Council and Greater Taree Council have advised they will be adopting a similar framework;
- 4) Should the draft policy be adopted it is proposed that the policy will be presented to local Environmental Consultants and system installers at a formal workshop;

- 5) The policy and guideline documents will be available to the community through Councils webpage.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

- 1) Port Stephens Council On-site Sewage Management Technical Manual.

TABLED DOCUMENTS

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

ITEM NO. 4

FILE NO: PSC2005-2861

WILLIAMTOWN SALT ASH FLOOD STUDY REVIEW

**REPORT OF: PETER MARLER – ACTING ENVIRONMENTAL AND DEVELOPMENT
PLANNING MANAGER
GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the draft Williamtown Salt Ash Flood Study Review (BMT WBM 2011) on public exhibition for a period of a minimum 28 days and accept public submissions on the document.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

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

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

372	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that Council: 1) Place the draft Williamtown Salt Ash Flood Study Review (BMT WBM 2011) on public exhibition for a period of a minimum 28 days and accept public submissions on the document. 2) Following the public exhibition period a report be provided to Council on any submissions received.

BACKGROUND

The purpose of this report is to seek Council's approval to place the draft Williamtown Salt Ash Flood Study Review 'the draft Strategy' (BMT WBM 2011) on public exhibition and seek comment from the community on the document.

As part of the floodplain management process for the Williamtown Salt Ash catchment being managed by Council, BMT WBM have been engaged to undertake a review of its 2005 flood study of the Williamtown Salt Ash catchment draining to Fullerton Cove. This report represents the first task within the Floodplain Risk Management Study and Plan stage of the Floodplain Management Process. The

review was sought to determine the impacts of sea level rise and climate change on flooding in this catchment. Sea level rise and climate change criteria have been based on current NSW government guidelines and policies.

BMT WBM have now completed the flood study review and prepared a draft report. This draft report has been reviewed by Council officers and officers from the Office of Environment and Heritage and deemed suitable for public exhibition. The purpose of the public exhibition is to provide the community with an opportunity to review and make formal submissions on the document for Councils consideration.

The report has determined that sea level rise will increase flood levels in this catchment by between 0.7 and 1.2 metres as additional flood water enters the catchment from both the Hunter River and Port Stephens.

It is recommended that the document be exhibited for a minimum 28 days.

FINANCIAL/RESOURCE IMPLICATIONS

The Flood Study review has been partly funded by the State Governments Floodplain Management Grants Program with Council's contribution being one third.

The total cost was: \$23,490.00 plus GST, with Council's contribution being: \$7,830.00 plus GST. This review was funded within the 2010/2011 program and Council has already received the grant funding for the project. Public exhibition costs are already covered within the project budget. Failure to comply with the Governments Guidelines and Policies on Public Exhibition of this document could result in the Government withdrawing its funding from the project.

LEGAL, POLICY AND RISK IMPLICATIONS

Council has a duty of care to undertake the Flood Study in accordance with current NSW Government Guidelines and Policies.

The State Governments Floodplain Development Manual recommends public participation and community consultation within the floodplain management process and the public exhibition of this document is considered recommended practice.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The flood study review being part of the floodplain management process seeks to help Council and the state government manage and minimise impacts of future flooding events. In this respect it is expected that a more informed knowledge of the flood risk will result in a reduction in flood losses in future flood events and minimise the social and economic impacts of these events.

CONSULTATION

Consultation with the Office of Environment and Heritage has occurred.

OPTIONS

- 1) Not exhibit the draft study. This option could prevent Community feedback to be considered before Council determines whether or not to adopt the plan, and is not consistent with the floodplain management process; or
- 2) Not proceed with the draft Strategy. This option would prevent sea level rise and climate change impacts been considered on flooding within the catchment in accordance with current NSW Government Guidelines and Policies, potentially putting Council at risk of not satisfying its Duty of Care.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

- 1) Draft Williamstown Salt Ash Flood Study Review (BMT WBM 2011).

TABLED DOCUMENTS

- 1) Draft Williamstown Salt Ash Flood Study Review (BMT WBM 2011).

ITEM NO. 5

FILE NO: PSC2006-1627

AMENDMENTS TO CHAPTER B6 SINGLE AND DUAL OCCUPANCY DWELLINGS – PORT STEPHENS DEVELOPMENT CONTROL PLAN 2007

REPORT OF: PETER MARLER – ACTING ENVIRONMENTAL AND DEVELOPMENT PLANNING MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the draft amendments to Port Stephens Development Control Plan 2007 Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures on public exhibition for a minimum of 28 days.

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	<p>Councillor Ken Jordan Councillor Bob Westbury</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

373	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Place the draft amendments to Port Stephens Development Control Plan 2007 <i>Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures</i> on public exhibition for a minimum of 28 days. 2) Following the public exhibition period a report be provided to Council on any submissions received.

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this Report is to recommend that Council exhibit the draft amended Chapter B6 Single Dwellings and Dual Occupancy Dwellings Port Stephens Development Control Plan 2007 (*the draft chapter*).

The Port Stephens Development Control Plan 2007 (DCP 2007) is made up of a number of chapters that provide guidelines for development that retains and enhances the natural and cultural heritage values of the Port Stephens local government area (LGA).

Chapter B6 Single Dwellings and Dual Occupancy Dwellings (**Attachment 1**) forms part of the Plan and details Council's requirements for single dwellings, dual occupancy dwellings and ancillary structures, which require consent under *Port Stephens Local Environmental Plan 2000* (LEP 2000).

The draft *Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures* (**Attachment 2**) has been prepared to be compatible with LEP 2000, and replaces the existing provisions of Chapter B6.

A majority of Council's applications are lodged for relatively minor residential development, and many of these applicants are first time or once off developers (i.e. families who are property owners of individual lots) who have little to no experience working within the development and building industry.

It is important that the plan controlling this form of development is clear, concise and easy to use. The draft Chapter B6 has been developed to better address this. The draft chapter aims to provide a practical approach to development within the Port Stephens LGA, while maintaining high quality development outcomes and residential amenity for the locality through key principles of good housing design.

The draft DCP provisions have been prepared in response to:

- 1) On-going industry and community feedback received in relation to the complexity of the existing plan (Chapter B6 DCP 2007), in that some of the existing controls are considered to be overly complex and difficult to achieve
- 2) Seeking to improve the implementation of the existing development controls relating to minor residential and ancillary developments to assist the delivery of timely and effective approvals
- 3) Providing where practical a merits based alternative to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP), and
- 4) Providing a practical merits based alternative to LEP complying development controls, due to the changing transition periods stipulated under Clause 1.9 of the Codes SEPP.

Objectives of Draft Chapter B6

The objectives of the draft Chapter B6 are to:

- 1) ensure residential development has adequate levels of privacy, solar access, open space, visual amenity and services
- 2) ensure development responds to both its natural and built context, and be of a scale that relates well to local context and streetscape
- 3) ensure that development has regard to the character of the area in which it is proposed and does not have an unacceptable affect on adjoining land
- 4) ensure that the development design takes into account potential environmental constraints
- 5) ensure development provides convenient, directly accessible and safe parking to meet the needs of residents and minimise the impact on neighbours and the road network,
- 6) conserve and protect the natural, built and cultural heritage significance of Port Stephens, and
- 7) ensure that development does not adversely alter the quantity or distribution of stormwater flows leaving the site.

Contents of Draft Chapter B6

Draft Chapter B6 contains eight sections. These sections have been summarised below;

- 1) **Section 1: Where this part applies** – outlines the type of development and locations in which the draft Chapter applies. The Section also identifies additional DCP 2007 Chapters which may need to be considered by applicants when lodging a DA, such as Chapter B15 Aircraft Noise.
- 2) **Section 2: How to use this part** – provides an explanation of the Chapter's 'objectives' and 'development requirements', to assist applicants in understanding how the requirements work. This Section also details the use of performance based approach to assessment, based on satisfying principles of good building design.
- 3) **Section 3: Objectives** – identifies the objectives of the Chapter's as discussed elsewhere in this Report. Applicants can apply for variations to the numerical controls if they can demonstrate the objectives of the Chapter can still be met.
- 4) **Section 4: Development requirements dwellings** – stipulates the development requirements which relate to proposals for single detached dwellings, and alterations and additions to single detached dwellings.
- 5) **Section 5: Additional development requirements dual occupancy dwellings** – identifies that the development requirements for single dwellings apply to dual occupancy developments. The Section also outlines additional controls which need to be met by applicants applying for dual occupancy development.

- 6) **Section 6: Development requirements ancillary structures** – identifies that the development requirements for ancillary structures including; swimming pools, outbuildings, decks, retaining walls and fences.
- 7) **Section 7: Submission requirements** – identifies the information required to be submitted with applications for minor residential development. This Section assists applicants in the preparation of developments to satisfy the controls.
- 8) **Section 8: Definitions** – Identifies the defined terms used throughout the Chapter to assist applicants in their understanding of the terms used.

Amendments to Chapter B6 and current practice

The draft Chapter has been developed to provide guidelines which facilitate development and allow for the achievement of appropriate site potential. However, they also give assurance and certainty to surrounding property owners that future development adjoining their land is within acceptable impacts with regard to privacy, noise, solar access and visual amenity. The Chapter seeks to balance good urban design outcomes with appropriate levels of development assessment.

To achieve this, new controls have been developed and presented in a new format for the Chapter to improve its useability and functionality (refer **Attachments 2 and 3** for further detail).

The amended Chapter reduces the number of development 'principles' from 71 to seven general 'objectives'. The existing 113 development controls have been consolidated into three easy to read tables (i.e. single dwellings, dual occupancy and ancillary development), with only 32 broad controls.

A detailed summary of changes to the existing Chapter is provided at **Attachment 3**.

FINANCIAL/RESOURCE IMPLICATIONS

Adoption of the proposed amendments aims to facilitate the continued efficient processing of development applications. The draft amendments essentially 'cut the red tape' in order to encourage development in Port Stephens, while maintaining a high level of residential amenity within the locality.

The simplicity of the amended Chapter, as well as the ability for staff to consider variations on merit, offers a practical alternative to complex complying development provisions under the Codes SEPP. It is likely the draft Chapter will ensure that applicants will continue to apply for approval by utilising Council's more streamlined controls rather than the complex State government controls within the Codes SEPP.

There are no significant financial and/or resource implications if Council resolves to place the draft amendments to DCP 2007 on exhibition for public comment. These costs will be met using the existing budget and staff resources.

LEGAL, POLICY AND RISK IMPLICATIONS

Strategic and Policy Context Single Dwellings

In Port Stephens LGA applications for minor residential development, including single dwellings, dual occupancy development and ancillary structures, are currently governed under the following statutory context:

- 1) **Environmental Planning and Assessment Act 1979 (EP&A Act)** – provides detailed provisions relating to matters of significance to be considered by Council when exercising its environmental assessment and planning functions under Part 4 Development Assessment of the EP&A Act.
- 2) **State Environmental Planning Policies (SEPPs)** –
 - a. *Generally* – State environmental planning policies (SEPPs) deal with issues significant to the state and people of New South Wales. They are made by the Minister for Planning and cover a broad range of matters including; variations to development standards, development upon environmentally sensitive lands, and major development. Depending on site location and type of proposed development, several SEPPs may apply to a development application for residential development.
 - b. *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP)* - The NSW State Government gazetted State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP), on 12 December 2008. The Codes SEPP was introduced with the intent to remove "red tape" for low risk and low impact development. The Codes SEPP sought to achieve this by introducing the 'General Housing Code' which enabled applicants to apply for single dwelling houses as 'complying development' if they could satisfy the standards outlined within the Code. The Codes SEPP has resulted in the cessation of Council's complying development provisions, subject to transitional periods.

Traditionally in PSC there has been a low take up of complying development under this policy due to exclusions areas and complex standards.

The Codes SEPP does not apply to applicants seeking approval for residential development under a development application.
- 3) **Port Stephens Local Environmental Plan 2000 (LEP 2000)** -
 - a. *Clauses and Development Standards* – Applicants are required to satisfy specific clauses of the LEP 2000, including development standards for maximum height and floor space ratio. The clauses and development standards within the LEP area a legislated requirement.
 - b. *Complying Development Provisions* – Single dwellings under the complying development provisions of LEP 2000 (Schedule 4). These provisions provide the development of single storey residential dwellings as complying development if they meet the set development standards as outlined within Schedule 4 of LEP 2000.

However as of 1 September 2011 Council's complying development controls were repealed by provisions of the Codes SEPP. The Codes SEPP overrides Council's complying development controls and applicants who wish to apply for complying development must now do so in accordance with the standards identified within the Codes SEPP.

It is noted that the State Government is currently considering amendments to the Code SEPP which may extend Council's Complying Development Provisions. These amendments are unlikely to be made in the short-term.

- 4) **Port Stephens Development Control Plan 2007 (DCP 2007)** - expands upon the aims, objectives and other provisions of the LEP 2000, and provides detailed criteria for the merit assessment of development applications. The requirements of DCP 2007 Chapter B6 apply to single dwellings, dual occupancy development and ancillary structures. The majority of DA's are considered against this DCP.

Preparation of a Development Control Plan (Draft Chapter B6)

- 1) The draft amendment to DCP 2007 has been prepared in accordance with Section 74C of the *Environmental Planning and Assessment Act 1979* and Clause 16 of the *Environmental Planning and Assessment Regulations 2000*.
- 2) The statutory requirement for exhibiting the proposed amendments to DCP 2007 is for a minimum of 28 days. Following exhibition and report back to Council recommending the adoption of the amendments to *Chapter B6 Single Dwellings, Dual Occupancy Dwellings, and Ancillary Structures*, the existing *Chapter B6 Single and Dual Occupancy Dwellings* would be repealed.
- 3) Care has been taken in ensuring consistency with provisions of LEP 2000 and any other Environmental Planning Instrument (where applicable).
- 4) A transitional period will need to be established in the event that the draft amendments to Chapter B6 are adopted. It is considered that a six month transitional period, in which both the proposed amendments and existing provisions of B6 would be operational. This will allow the opportunity for applicants and development industry who have already engaged consultants to design proposals under the existing DCP to finalise their design and lodge an application with Council for assessment. During this period applicants will need to nominate under which plan they wish to have their application assessed.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The draft amendments to Chapter B6 DCP 2007 address and integrate sustainability issues for the planning, design, assessment and consideration of development applications for single dwellings, ancillary structures and dual-occupancy dwellings within the Port Stephens LGA.

The draft amendments continue to make provisions for controlling development by managing such requirements as the extent of cut and fill, landscaping, stormwater and runoff, and solar access, to ensure that development is appropriately designed and constructed to achieve maximum yield whilst maintaining the amenity of neighbouring properties and streetscape, and the integrity of the environment.

CONSULTATION

Council's Strategic Planning Team has developed these proposed amendments to the existing DCP 2007 in consultation with relevant Council Officers from the Development Assessment and Environmental Health Section, in particular the Building Assessment Team. The amendments have been based upon industry feedback, comments from Councillors and the community, since the adoption of DCP 2007.

Further community comment will be sought by placing the proposed draft amendment (*Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures*) on public exhibition for a minimum of 28 days. This will be advertised and will be available for viewing through various outlets including Council's website, Administration Building and branch libraries.

Council will also seek comment from industry representatives in the course of the exhibition process via an industry forum.

OPTIONS

- 1) Adopt the recommendation of this Report, to allow public exhibition of draft *Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures*. This is the recommended option;
- 2) Seek further amendments and improvements to be made prior to public exhibition of draft *Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures*. This would delay the opportunity to receive further input from the community. This option is not recommended;
- 3) Reject the recommendation, and take no further action. This would maintain the existing and more complex Chapter B6 controls. This option is not recommended.

ATTACHMENTS

- 1) Existing Chapter B6 Single Dwellings and Dual Occupancy Dwellings;
- 2) Draft Chapter B6 Single Dwellings, Dual Occupancy Dwellings, and Ancillary Structures;
- 3) Comparison table existing Chapter B6 Single and Dual Occupancy Dwellings and draft Chapter B6 Single Dwellings, Dual Occupancy, and Ancillary Structures.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

DRAFT CHAPTER B6 SINGLE AND DUAL OCCUPANCY DWELLINGS

PROVIDED UNDER SEPARATE COVER

ATTACHMENT 2

**DRAFT CHAPTER B6 SINGLE DWELLINGS, DUAL OCCUPANCY
DWELLINGS AND ANCILLARY STRUCTURES**

PROVIDED UNDER SEPARATE COVER

**ATTACHMENT 3
SUMMARY OF CHANGES**

Draft Chapter B13	Existing Chapter B6	Changes	Justification
1. Where this part applies	B6.1 Where this part applies	Additional detail provided outlining the DCP chapters which may need to be considered by applicants when lodging a DA.	To assist applicants in understanding where the part applies in relating to Council's planning policy framework.
2. How to use this DCP	N/A - New Section	Provides explanation of the plan 'objectives' and 'development requirements', as well as the performance based approach to assessment.	Advice provided to applicants to assist in the assessment process.
3. Objectives	N/A – New Section. Consolidation of the principles existing under each section within the existing plan.	The 71 principles from the existing plans sections have been consolidated into 7 broad objectives which are aligned to LEP zone objectives.	Allow for a performance based approach to development assessment. The broad objectives will assist applicants in understanding to intent behind Council's development requirements.
4. Development requirements dwellings	All chapters – B6.3 Streetscape & Front Setback B6.4 Heritage B6.5 Bulk & Scale B6.6 Cut & Fill B6.7 Building Height B6.8 Side & Rear Setback B6.9 Building Design Elements B6.10 Energy Efficiency B6.11 Private Open Space B6.12 Privacy & Amenity B6.13 Backyard Fences & Walls B6.14 Vehicular Access & Parking B6.15 Stormwater &	Development controls have been consolidated into a table format for easy use. Changes to controls include; <ul style="list-style-type: none"> - reduction on front setback from 6m to 4.5m (or average of adjoining for infill). - rural front setback reduced from 18m to 10m. - privacy controls simplified in line with Codes SEPP - requirements for 	Controls for single dwellings have been formatted into a easy to use table. Provides a user friendly document for applicants. Development controls have been developed to ensure consistency with Codes SEPP where practical; including privacy and minimum front setback controls.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

Draft Chapter B13	Existing Chapter B6	Changes	Justification
	Greywater B6.16 Landscape	unbroken ridgelines removed - landscaping and heritage requirements reduced and simplified. - maximum fill reduced to 300mm	
5. Additional development requirements dual occupancy dwellings.	All chapters, as listed above, and including B6.17 Site Facilities & Services	The additional controls which relate to dual occupancy developments have been included within a separate table. No significant change to existing numerical requirements, however controls have been simplified and unnecessary controls removed. Additional controls which relate to dual occupancy only cover; <ul style="list-style-type: none"> - height - minimum site area - building form - private open space - car parking for lots without street frontage - stormwater requirements, and - site facilities and services. 	These controls have been separated from the single dwelling requirements in order to provide greater clarity to users of the plan.
6. Development requirements ancillary structures	B6.3 Streetscape & Front Setback, B6.13 Backyard Fences and Walls, and B6.18 Sheds	The controls for ancillary development including fences consolidated into one section. Changes to controls include: <ul style="list-style-type: none"> - Increase to 	Allows for a user friendly document for applicants, and ensures greater consistency with Codes SEPP where practical.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

Draft Chapter B13	Existing Chapter B6	Changes	Justification
		maximum floor area for rural sheds (200m ² from 108m ²) - 1m setback to boundary for swimming pools introduced.	
7. Submission requirements	N/A - New Section	Identifies the information required to be submitted with applications for minor residential development.	Minor residential development; including dual occupancy dwellings, forms a majority of applications to Council. It is appropriate to have a stand alone chapter addressing this development type. This section assists applicants in the preparation of developments which comply with Council's controls.
8. Definitions	N/A - New Section	Defined terms used throughout the plan have been listed within Section 8.	To assist applicants in their understanding of the terms used within the plan.

Item 6 was dealt with prior to Item 1.

ITEM NO. 7

FILE NO: PSC2011-00313

SUSTAINABILITY REVIEW – ENERGY, WATER AND COMMUNITY EDUCATION

REPORT OF: PETER MARLER, ACTING ENVIRONMENTAL AND DEVELOPMENT PLANNING MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Continue to deliver the Energy, Water and Community Education Programs; and
- 2) Note that a detailed cost benefit analysis will be undertaken to determine whether an increase in resources will further reduce utility consumption, including the exploration of funding options and partnerships with other organisations.

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	Councillor Ken Jordan Councillor Sally Dover
	That Council: 1) Continue to deliver the Energy, Water and Community Education Programs for a period of 12 months and report back to Council on savings achieved at the end of the 12 month period; 2) Note that a detailed cost benefit analysis will be undertaken to determine whether an increase in resources will further reduce utility consumption, including the exploration of funding options and partnerships with other organisations.

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

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

BACKGROUND

The review of this service package has been undertaken in line with the principles of Best Value which includes the following key elements:

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

- 1) All services provided by Council must meet quality and cost standards;
- 2) All services must be responsive to the needs of the community;
- 3) All services must be accessible to those for whom it is intended;
- 4) Council must develop a program of regular consultation with its community in relation to the services it provides;
- 5) Council must report regularly, on its achievements to its community on how its service delivery meets Best Value.

The review of services included consideration of:

- The organisation's vision and values;
- Compliance
- The Market
- Customer needs

Details of the service package under review

Service Package Name	Energy, Water and Community Education Programs
Purpose of Service Package	<ul style="list-style-type: none"> • Develop/implement sustainability initiatives within Council • Develop/implement sustainability initiatives with the Community • Coordinate the work of the Sustainable Energy Panel (the Power Rangers)
Link to the Community Strategic Plan (strategic measure and delivery program)	3.2.1 in 2011/12 Operational Plan. "Reduce energy and Water consumption at Councils 12 largest energy using facilities and 10 largest water using facilities".

Key drivers to consider in relation to **why** the service package is currently delivered (requirement to financially, legally or operationally control the service):

There are several pieces of legislation that relate to this service.

- *NGERS - National Greenhouse Energy Reporting System* – Port Stephens Council has an obligation to accurately understand our Greenhouse Gas emissions profile in order to comply with this legislation.
- *Energy Savings Action Plan Bill 2005* under the *Energy Administration Act 1987* – Council is required to undertake an audit and reporting to the State Government on our energy use every 4 years.
- *Waste and Sustainability Improvement Program described in Part 5A of the Protection of the Environment and Operations (Waste) Regulation 2005*– Council is required to report to the State Government every year on energy and water consumption and projects undertaken in the last 12 months.
- Council is required to financially control the portion of the service that relates to energy & water management. PSC has reduced electricity consumption by 20% at the 12 largest facilities and avoided \$355,000 in electricity costs from 2008/09-2010/11. Delivering this service internally has enabled Port Stephens Council to begin to develop the systems, and build the knowledge and capacity of staff, necessary to achieve greater financial savings into the future.
- Council is not required to operationally control other sustainability programs for the community, however there is a community expectation that we do so.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

Key drivers to consider in relation to **how** the service package is currently delivered:

- Number of programs run – 3 (Energy, Water, Community Education)
- Savings achieved by the programs implementation - 20% reduction in electricity consumption at top 12 sites and \$355,000 - \$865,000 avoided electricity costs (07/08 to 10/11)
- Carbon dioxide emissions avoided

Current mode of service (eg in-house/contracted out/partnerships, etc)

	Function	In-house/contracted out/partnerships.
Function 1	Sustainability Programs	In-house with some data management providers used ie Planet Footprint

Current budget and staffing levels for financial year

Expenditure – Total	\$53,700
Revenue - Total	\$48,700
Staffing (EFT) – Total	0.6

FINANCIAL/RESOURCE IMPLICATIONS

- Total number of staff affected by the change – 0;
- Change in Equivalent Full Time Position (EFT) – Possible increase of 0.5 of officer time to manage data, undertake community education events, develop business cases for resource efficiency projects, apply for grants and other projects designed to facilitate resource and financial savings for Council;
- Projected savings – To be determined by cost benefit analysis;
- Projected costs (transition costs) – There is a nil cost to Council to adopt the recommendation as the cost benefit analysis will be undertaken by existing staff. Any increase in staff will have to be proven to be cost neutral by way of resource and financial savings for Council.

LEGAL, POLICY AND RISK IMPLICATIONS

There are several pieces of legislation that result in Council having to report on its energy and water consumption, and make improvements in these areas. These are the NGRS - National Greenhouse Energy Reporting System, the Energy Savings Action Plan Bill 2005 under the Energy Administration Act 1987 and the Waste and Sustainability Improvement Program described in Part 5A of the Protection of the Environment and Operations (Waste) Regulation 2005.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Other Lower Hunter Councils employ up to 8 EFT staff to run these programs. These councils run many more community programs while Port Stephens Council focuses on internal efficiency gains. However relative to Port Stephens Council's size less is invested in this program than in other councils.

Outsourcing the program was considered however was determined to not be cost effective and would lead to a loss of corporate knowledge. Ceasing the service would result in a loss of further financial and environmental efficiency gains. Port Stephens Council would also be the only Lower Hunter Council without Energy, Water and Community Education Programs.

It was also determined that increasing/reallocating resources by 2-3 days/week to expand the utility management services into additional areas, such as water and gas consumption and fleet management, will result in cost savings for Council. This would also assist in meeting the community demand for community sustainability programs.

CONSULTATION

- 1) Summary of key customer feedback:
- 2) Consultation was undertaken with Council asset managers and with the Sustainable Energy Panel, also known as the Power Rangers.

The groups were satisfied with the quality of the support provided by the program however would like to expand the program from just focusing on energy efficiency to making savings in other areas such as water, gas and fleet.

Customers valued the technical service and acknowledged that the administration requirements of the service were impacting on the amount of time able to be devoted to finding savings and improving systems.

It was also acknowledged that the service was initially designed to also run education programs for the community and that while there was a demand there was no capacity to fulfil this need.

Groups spoken with:

- 1) Council Asset Managers;
- 2) Sustainable Energy Panel.

OPTIONS

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

ATTACHMENTS

- 1) Attachment 1 – Recommended Changes.

COUNCILLORS ROOM

- 1) Service strategy documentation for the Energy, Water and Community Education Programs;
- 2) Energy, Water and Community Education Programs – Service Level Agreement.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
RECOMMENDED CHANGES:

Recommendation	Costs	Benefits	Timetable for change	Rationale	Risks associated with the recommendation	Further consultation required	General comments
<p>1. Continue to deliver the Energy, Water and Community Education Programs; and</p> <p>2. Note that a detailed cost benefit analysis will be undertaken to determine whether an increase in resources will further reduce utility consumption, including the exploration of funding options and partnerships with other organisations such as TAFE.</p>	<p>To be determined by cost benefit analysis.</p> <p>Cost to undertake analysis would be staff time only.</p>	<p>To be determined by cost benefit analysis</p>	<p>Could commence immediately</p>	<p>Program has been shown to deliver costs savings for Council in energy management however there is no capacity to expand the program into additional areas.</p>	<p>No risk associated with undertaking the analysis.</p>	<p>On going consultation with Council asset managers as to their needs and priorities.</p>	<p>Nil</p>

ITEM NO. 8

FILE NO: PSC2005-5724

RAYMOND TERRACE FLOOD STUDY

**REPORT OF: PETER MARLER – ACTING ENVIRONMENTAL AND DEVELOPMENT
PLANNING MANAGER**
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Raymond Terrace Flood Study (BMT WBM 2010) as exhibited without amendment.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

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

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

375	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to recommend Council's adoption of the Raymond Terrace Flood Study (BMT WBM 2010) following its public exhibition from Thursday April 15, 2011 to Thursday May 12, 2011. During this exhibition period no submissions were received from the community.

As part of the floodplain management process for the Williams River being managed by Council, BMT WBM was engaged to undertake a flood study of the local Raymond Terrace catchments draining to the Williams River. This study focuses on the flooding impacts associated with local catchment flooding up to the point when the Williams River flood levee is overtopped.

This flood study was commissioned by Council and DECC&W outside the auspices of the Williams River Floodplain Risk Management Committee as it deals with unique flooding issues relevant to the Raymond Terrace area only. All the Floodplain Committee members were advised of the existence of the draft flood study and given an opportunity to lodge a submission.

As no formal public submissions were received during the exhibition period the draft flood study and no formal submissions have been received from the Williams River Floodplain Risk Management Committee members it is recommended that Council adopt the findings of the Raymond Terrace Flood Study (BMT WBM 2010), as exhibited without amendment.

FINANCIAL/RESOURCE IMPLICATIONS

The Flood Study has been partly funded by the State Governments Floodplain Management Grants Program with Council's contribution being one third.

Hence the total grant was \$64 670 + GST, with Council's contribution being \$21557 + GST. This study was funded within the 2009/2010 program and Council has already received the grant funding for the project. Funding for the final consultant progress payment will be provided from existing budget allocations.

LEGAL, POLICY AND RISK IMPLICATIONS

The State Government's Floodplain Development Manual requires Council to consider the adoption of flood studies following public exhibition and consideration of public submissions.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The flood study being part of the floodplain management process seeks to help Council and the state government manage and minimise impacts of future flooding events. In this respect it is expected that a more informed knowledge of the flood risk will result in a reduction in flood losses in future flood events and minimise the social and economic impacts of these events.

CONSULTATION

Consultation with the Office of Environment and Heritage, previously the Department of Environment, Climate Change & Water has occurred.

OPTIONS

Council not adopt the exhibited study. This option would prevent the study findings of the flooding inputs associated with the local Raymond Terrace catchments to be used as part of the floodplain management process for the Williams River. This may delay further stages of the Williams River flood management process.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

- 1) Exhibited Raymond Terrace Flood Study (BMT WBM 2010).

TABLED DOCUMENTS

- 1) Exhibited Raymond Terrace Flood Study (BMT WBM 2010).

ITEM NO. 9

FILE NO: PSC2011-00312

SUSTAINABILITY REVIEW – SOCIAL PLANNING

REPORT OF: DAVID BROYD, GROUP MANAGER SUSTAINABLE PLANNING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Social Planning Package as outlined in **Attachment 1** of this report;
 - 2) Undertake a review of grant programs sourced from general revenue;
 - 3) Subject to (2) prepare a report to Council on the outcomes of the review with recommendations on the future direction of Council's Aboriginal Projects Fund and Cultural Projects Fund.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	<p>Councillor Ken Jordan Councillor Shirley O'Brien</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

376	<p>Councillor Steve Tucker Councillor Caroline De Lyall</p>
	<p>It was resolved that the recommendation be adopted.</p>

BACKGROUND

The review of this service package has been undertaken in line with the principles of Best Value which includes the following key elements:

- 1) All services provided by Council must meet quality and cost standards;
- 2) All services must be responsive to the needs of the community;
- 3) All services must be accessible to those for whom it is intended;
- 4) Council must develop a program of regular consultation with its community in relation to the services it provides;
- 5) Council must report regularly, on its achievements to its community on how its service delivery meets Best Value.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

The review of services included consideration of:

- The organisation's vision and values;
- Compliance;
- The Market;
- Customer needs.

Details of the service package under review

Service Package Name	Social Planning
Purpose of Service Package	Work with Sections of Council and the community to develop and plan for the existing and future well-being of our residents.
Link to the Community Strategic Plan (strategic measure and delivery program)	<p>OUR CITIZENS:</p> <p>STRATEGIC DIRECTION: Community Safety A community where people feel safe.</p> <p>DELIVERY PROGRAM: 1.1 Use Council's regulatory powers and initiatives to enhance public health and community safety. 1.2 Provide a safe environment for people to enjoy their lifestyle.</p> <p>STRATEGIC DIRECTION: Seniors and People with Disabilities Improved access and equitable provision of services and facilities for seniors and people with disabilities.</p> <p>DELIVERY PROGRAM: 1.3 Provide to people with disabilities and the ageing population, support mechanisms and services in an accessible environment.</p> <p>STRATEGIC DIRECTION: Children and Young People Children and young people have access to safe places to play, learn and grow.</p> <p>DELIVERY PROGRAM: 1.4 Plan and provide appropriate facilities and services for children and young people.</p> <p>STRATEGIC DIRECTION: Community Planning & Partnerships Collaborate with the community of Port Stephens to plan for its facilities and appropriate services.</p> <p>DELIVERY PROGRAM: 1.5 Work with the community and across Council to plan, provide for and promote the future well being of the area's residents.</p>

OUR LIFESTYLE:

STRATEGIC DIRECTION: Recreation, Leisure, Arts and Culture

Port Stephens has a diverse range of high quality sustainable passive and active lifestyle opportunities for all people in the community.

DELIVERY PROGRAM:

2.1 Provide passive and active lifestyle opportunities.

2.2 Share ideas and resources with other Councils, bodies, authorities at regional, state and national level, to deliver best practice lifestyle opportunities.

2.4 Ensure there are appropriate infrastructure and spaces for participation in lifestyle activities.

2.5 Preserve and promote multiculturalism and Port Stephens heritage.

Key drivers to consider in relation to **why** the service package is currently delivered (requirement to financially, legally or operationally control the service):

- Council receives State Govt subsidies totalling \$64,456 from Family & Community Services NSW to undertake community development activities and youth services in Port Stephens. Where required additional funding for specific initiatives/projects undertaken as part of Social Planning Service Package is sourced from external funding sources.
- In-house service delivery provides local knowledge and ability to develop strong, working partnerships with key stakeholders.
- There is an opportunity for Council to generate an income stream through utilising its in-house accredited access appraiser to undertake consultancy work outside Port Stephens LGA.
- With the ageing population increasing rapidly a greater emphasis will need to be placed on planning for the ageing population.
- The scope of infrastructure planning, support and advocacy requires specialist skills (eg Disability Access Appraisals, Social Impact Assessment, Safer by Design).
- Legal obligation for Council to control Alcohol-Free Zones (establishment / suspensions) are guided by Section 645 of the Department of Local Government's Ministerial Guidelines on Alcohol-Free Zones and Alcohol Prohibited Areas for Council parks are governed by Council's own Parks and Recreation Areas Policy.
- Council does have legislative requirements to provide social planning input into strategic and land use planning.

Under Section 8 of the Local Government Act 1993 No.30, Council must play a role in accordance with the Council's charter: -

- 1) A Council has the following charter:
 - a. to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
 - b. to promote and to provide and plan for the needs of children;
 - c. to exercise its functions in a manner that is consistent and actively promotes the principles of multiculturalism;
 - d. to have regard for the long term and cumulative effects of its decisions.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

- e. to engage in long-term strategic planning on behalf of the local community.;
 - f. to exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights;
 - g. to facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and co-ordination of local government.
- NSW Planning and Environment Assessment Act 1979 requires Council to assess a range of social considerations when assessing and determining development applications (eg crime prevention, social impacts, disabled access, infrastructure requirements).
 - A Cultural Accord is in place between NSW Government & LGSA/LGA for a period of three years which will conclude in December 2013. The aim of the Accord is to further develop the working partnership between NSW State and Local Government.

Key drivers to consider in relation to **how** the service package is currently delivered:

- Council delivers the service through direct labour

Current mode of service (eg in-house/contracted out/partnerships, etc)

	Function	In-house/contracted out/partnerships.
Function 1	Ageing & Disability	In-house
Function 2	Community Development	In-house
Function 3	Youth Services	In-house
Function 4	Crime Prevention	In-house
Function 5	Cultural Development	In-house
Function 6	Community Planning	In-house

Current budget and staffing levels for financial year

Expenditure – Total	\$867,437
Revenue - Total	\$784,715
Income – Total	\$82,722
Staffing (EFT) – Total	6.7

FINANCIAL/RESOURCE IMPLICATIONS

Total number of staff affected by the change:

Nil as affected positions are currently vacant.

Change in EFT:

Reduction of 1.5 positions.

Projected savings:

\$131,858.00.

Projected costs (transition costs):

Subject to salary grading of positions being reviewed by Council's Job Evaluation Team to assess salary levels against Council's salary framework.

The review has identified potential to generate further savings and/or improvements through a review of the following grant programs sourced from general revenue which are part of Council's Social Planning Package:

- Cultural Projects Fund (\$60,000 per annum, one-off and recurrent grants);
- Aboriginal Projects Fund (\$35,000 per annum, one-off grants only).

LEGAL, POLICY AND RISK IMPLICATIONS

The proposed minor reductions/changes in service levels could pose a medium reputational risk to Council. The risks can be largely negated however through the members of the Social Planning Team continuing to maintain and build on the relationships with affected stakeholders. Staff will work with affected stakeholders to transition and adapt to the changes in services levels.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Social Planning Team will be unable to maintain current service levels as a result of the proposed reduction of 1.5 positions. There is however confidence that Council can still deliver on the relevant outcomes specified in the Port Stephens Community Strategic Plan 2021 and the associated demands and expectations of the community and other Sections of Council as a result of a work program which is focused on essential functions and activities through:

- Newly developed Service Level Agreements with internal sections of Council.
- Work program focused only on demands and/or expectations of internal and external customers.
- Reduced service capacity will be offset through a proposed reduction and/or cessation of the following activities in accordance with feedback from internal and external customers received during the Sustainability Review and associated benchmarking of similar service packages delivered by other NSW Councils.

Proposed Service Level Reductions

Some of the proposed service level reductions are:-

- Child friendly communities program (ie child friendly principles currently being integrated where relevant into Council's planning and policy framework which will see Council's involvement completed).
- Participation in Seniors Week (ie Council will not provide celebrations directly but will pursue funding opportunities and partnerships for external service providers to deliver these celebrations thereby reducing financial and in-kind costs to Council).
- Participation in International Day for People with Disabilities Celebrations (ie will not provide celebrations directly but will partner with external service providers to hold an accessible art exhibition as opposed to a community picnic thereby reducing financial and in-kind costs to Council).
- Participation in Port Stephens Domestic Violence Committee (ie Council will discontinue running and administering Committee and resort to a member on the mailing list with attendance at meetings and/or advocate only where required).
- Scale back, streamline and simplify cultural program and associated framework (ie downsize resourcing of mezzanine gallery such as reduction of after hours openings / launches and review / streamlining of current cultural framework and associated networks).
- Participation in white ribbon day (ie Discontinue annual breakfast and provide low key awareness raising activity for staff).
- Participation in Clubs NSW Community Development Support Expenditure Scheme grants program (ie Discontinue direct co-ordination and administration of this program, Council will now simply provide comment on grant applications).

Proposed Services Levels to be discontinued:

- Conducting safety audits of non-Council facilities/premises;
- Participation in organising annual domestic violence forum;
- Cultural newsletter;
- Beat community safety program.

There are no environmental implications.

Other Proposed Service Level Opportunities:

Explore feasibility and support for amalgamating Cultural Projects Fund (current \$60,000 pa) and Aboriginal Projects Fund (current \$35,000 pa) into a consolidated Council wide non-recurrent one-off annual community grants program with simplified application procedures and processes. Also explore option of integrating with Council's current Financial Assistance Grants program

CONSULTATION

Summary of key customer feedback:

A series of 3 focus groups were held with interested and neutral community members. Participants comprised:

- Members of Council's Residents Panel;
- Residents (not on Council's Residents Panel);
- Business representatives;
- Representatives from non government organisations (local and regional);
- Representatives from government agencies (eg NSW Police, Hunter New England Health);
- Business community;
- Service Clubs.

Item	Performance (1= very unimportant, 5= very important)	Importance (1= very unimportant, 5= very important)
Ageing & Disability	3.5	4.2
Community Development	3.5	3.8
Youth Services	3.5	4.3
Crime Prevention	4.0	4.1
Cultural Development	3.5	3.7
Community Planning	-	2.8

OPTIONS

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

ATTACHMENTS

- 1) Recommended changes.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Service Strategy – Social Planning Service Package;
- 2) Service Level Agreements;
- 3) Benchmarking of NSW Councils;
- 4) Community Consultation Outcomes;
- 5) Review of Key Functions.

**ATTACHMENT 1
RECOMMENDED CHANGES:**

Recommendation	Costs/Savings	Benefits	Timetable for change	Rationale	Risks associated with the recommendation	Further consultation required	General comments
Reduce staffing levels by 1.5 positions	\$131,858 (savings)	Generate Financial savings for Council	Early 2012	Propose to reclassify some positions as generalists in lieu of specialist planners. This will provide staff with opportunity to diversify in their roles which in turn will provide greater flexibility in resourcing and allocating work. For example cultural and crime prevention functions will be integrated into these generalist roles.	Medium	No	New position descriptions will need to be developed and classification of positions reviewed by Council's Job Evaluation Team.
Review of grant programs sourced from general revenue	\$20,000 to \$45,000	Provide greater equity in allocation of available funds. Potential for	May 2012	Explore feasibility of consolidating Aboriginal Projects Funds and Cultural	Medium	Yes	Consultation with key stakeholders required (eg Strategic Arts & Culture Committee, and

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

		further financial savings to be realised. Improved governance		Projects Funds and potentially Financial Assistance Grants into a community grants program with non-recurrent grants.			Aboriginal Strategic Committee).
<p>Service Level Reductions as follows and outlined herein: -</p> <ul style="list-style-type: none"> • Child friendly communities program • Seniors Week • International Day for People with Disabilities Celebrations • Port Stephens Domestic Violence Committee • Cultural program • White Ribbon Day • Clubs NSW Community Development Support 	Savings in staff time	Will free up staff resources to focus on delivering organisational social priorities.	Dec 2011	Service levels determined in accordance with expectations of internal and external customers engaged during the Sustainability Review and benchmarking process.	Medium	Yes	Discussions will need to be held with key stakeholders to inform them of proposed changes and to allow for transitioning period for implementation.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

Expenditure Scheme							
Discontinuation of specified service levels as follows and outlined herein: - <ul style="list-style-type: none"> • Safety audits of non-Council facilities/premises • Participation in organising annual domestic violence forum • Cultural newsletter • Beat community safety program 	Savings in staff time	Will free up staff resources to focus on delivering organisational social priorities.	Mar 2012	As above	Medium	Yes	As above

ITEM NO. 10

FILE NO: PSC2009-03011

ROAD CLOSURE – PART CORAL STREET FINGAL BAY

REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER

GROUP: COMMERCIAL PROPERTY

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to grant authority to affix Council Seal and Signatures to Section 88B Instrument attached to the plan which will complete the creation of a Road Closure with Right of Access and required Easements for drainage and electricity at Fingal Bay;
 - 2) Finalises and registers the Plan for Road Closure & 88B Instrument as required under the Roads Act 1993.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	Councillor Bruce MacKenzie Councillor Bob Westbury
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

377	Councillor Ken Jordan Councillor Geoff Dingle
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to recommend Council consents to the endorsement of the 88B Instrument which will be lodged and registered at the office of Land & Property Information (LPI) for the Road Closure over part of Coral Street, Fingal Bay.

Council, at two previous meetings dated 10th Nov 2009 (minute no 367) & 13th April 2010 (minute no102) **ATTACHMENTS 1 & 2**, has approved the completion of the Road Closure process and the sale of the closed road to the adjoining land owner.

Since the prior recommendations where adopted, Ausgrid and Hunter Water Corporation have advised of their need for easements to be created for current infrastructure within this closure area. These will not affect the outcome of the closure or the requirements of Council's existing drainage needs.

The 88B Instrument, **ATTACHMENT 3** is essential for registration of the Road Closure Plan. It will create the above mentioned easements over existing infrastructure and will ensure a Right of Access over the existing pathway which is within the closed area. This will ensure that the current pathway remains open for the continued use by the public.

FINANCIAL/RESOURCE IMPLICATIONS

There will be no added costs to Council as all costs associated with a Road Closure application are borne by the applicant. The Roads Act requires any sale income to be spent on roads in the vicinity.

LEGAL, POLICY AND RISK IMPLICATIONS

The Roads Act controls the actions and processes and there are no implications by this application.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The public use of the existing cycleway and the Authorities requirements regarding existing drainage and electricity infrastructure will all be maintained therefore there will be no Social, Economic or Environmental implications regarding this matter.

CONSULTATION

- 1) Ausgrid;
- 2) Hunter Water Corporation;
- 3) Crown Land Division (East Maitland);
- 4) Council Drainage Engineer;
- 5) Council Traffic Section;
- 6) Property Office;
- 7) Commercial Property Manager.

OPTIONS

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

ATTACHMENTS

- 1) Minute of Council – 10/11/2009;
- 2) Minute of Council – 13/4/2010;
- 3) Copy of 88B Instrument;
- 4) GIS locality map.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

MINUTES OF ORDINARY COUNCIL – 10 NOVEMBER 2009

ITEM NO. 5

FILE NO: PSC2009-03011

ROAD CLOSURE CORAL STREET, FINGAL BAY

REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER
 GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to the processing of the closure of part of Coral Street separating Lots 6 DP1014371 and 106 DP 1126667 Final Bay.
- 2) Makes application under Section 34 Roads Act 1993 to the Land & Property Management Authority (LPMA) for the closure to be processed.
- 3) Requires the creation of an easement in gross in favour of Council over the existing concrete cycleway to allow the continued public use.
- 4) Requires the creation of an easement for drainage over all existing drainage structures for Councils benefit.
- 5) Create a Restriction on use that will not permit heavy vehicle access over the area with the only heavy vehicle access to Lot 6 DP1014371 being from Farm Road.
- 6) Will receive a further report following responses from the statutory advertising and notification process for a determination on its support or otherwise for the application.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

367	Councillor Sally Dover Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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ATTACHMENT 1

COUNCIL COMMITTEE – 11 NOVEMBER 2009

ITEM NO. 5

FILE NO: PSC2009-03011

ROAD CLOSURE CORAL STREET, FINGAL BAY

REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER
GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to the processing of the closure of part of Coral Street separating Lots 6 DP1014371 and 106 DP 1126667 Final Bay.
- 2) Makes application under Section 34 Roads Act 1993 to the Land & Property Management Authority (LPMA) for the closure to be processed.
- 3) Requires the creation of an easement in gross in favour of Council over the existing concrete cycleway to allow the continued public use.
- 4) Requires the creation of an easement for drainage over all existing drainage structures for Councils benefit.
- 5) Create a Restriction on use that will not permit heavy vehicle access over the area with the only heavy vehicle access to Lot 6 DP1014371 being from Farm Road.
- 6) Will receive a further report following responses from the statutory advertising and notification process for a determination on its support or otherwise for the application.

BACKGROUND

The purpose of this report is to recommend the closure of part of Coral Street and consolidation with the applicants land when sold to them, the adjoining owners, for addition to their current land holding.

*Council has received an application to close and consolidate the section of road shown in **ATTACHMENT 1** (public road) adjoining the boundary of Lots 6 DP1014371 and 106 DP1126667. The total area of road to be closed is approximately 2488 metres square as shown in **ATTACHMENT 2**. If closed, the parcel will be sold to the applicant being the adjoining owner, Port Stephens Veterans & Citizens Aged Care Ltd.*

The land is proposed to be incorporated into the land holdings of the applicant and used by only light vehicles with all heavy vehicles to access the owner's lands from Farm Road. This can be done by the creation of a Restriction on Title.

The proposed closure will be advertised and adjoining owners notified in accordance with LPMA directions under the Roads Act 1993. Service Authorities will

ATTACHMENT 1

COUNCIL COMMITTEE – 11 NOVEMBER 2009

be advised of the proposal and requested to advise Council of any objections they may have. A further report will then be presented to Council.

FINANCIAL/RESOURCE IMPLICATIONS

The applicant is required to pay all associated costs and administration fees involved in the processes. The Roads Act requires any sale income to be spent on roads in the vicinity.

LEGAL, POLICY AND RISK IMPLICATIONS

The Roads Act controls the actions and processes and there are no implications at this stage of the applications.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The road is not used by general public vehicles at this time so there will not be a loss of Social, Economic or Environmental matters. The public use of the existing cycleway will be maintained.

CONSULTATION

Owner's Consultant, Land & Property Management Authority, Council's Property Officer and Principal Property Advisor, Civil Assets Engineer.

OPTIONS

Accept the application for processing or reject it. Amend requirements or conditions for proposal.

ATTACHMENTS

Plan of subject area
Location sketch

COUNCILLORS ROOM

Nil

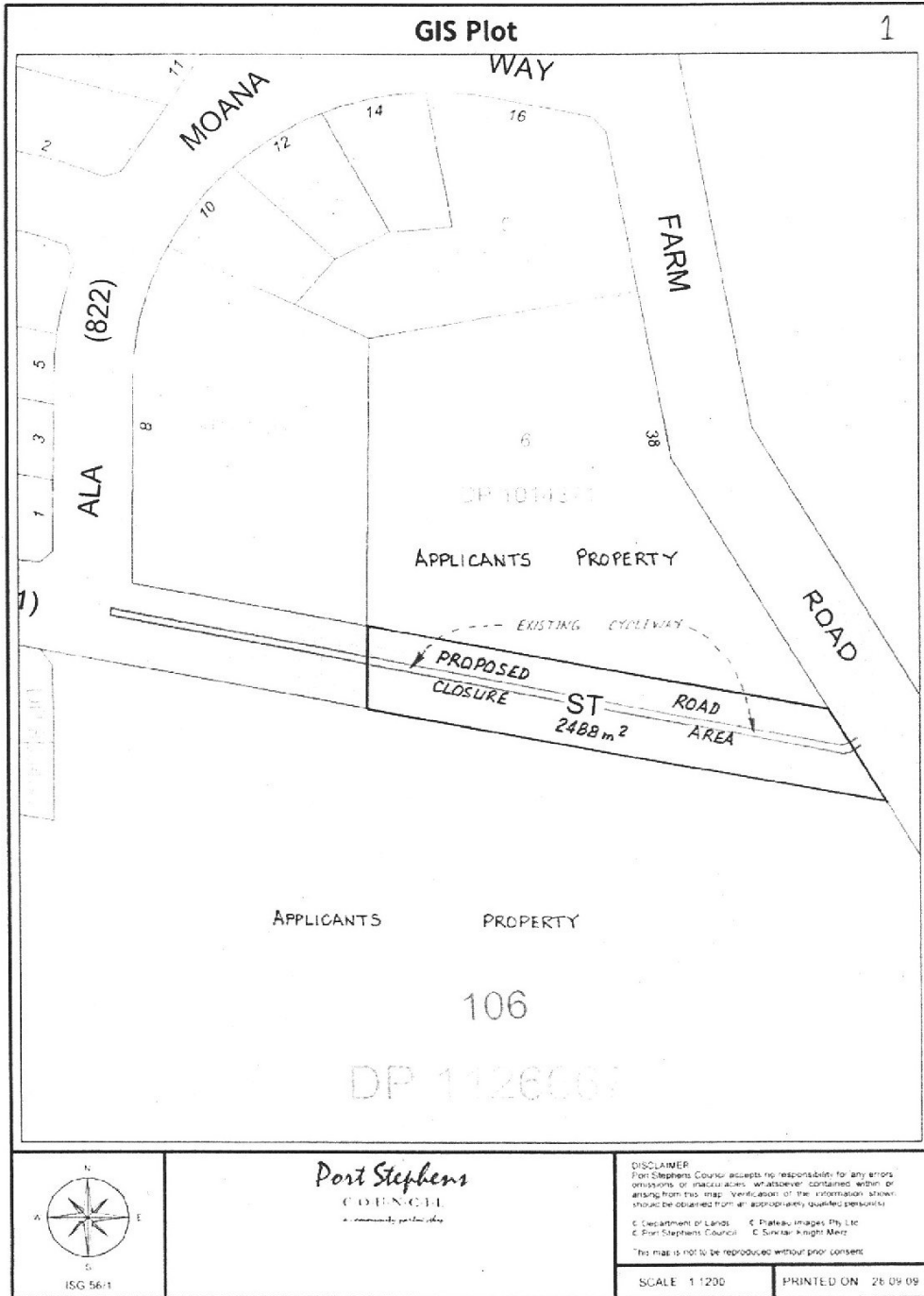
TABLED DOCUMENTS

Nil

ATTACHMENT 1

COUNCIL COMMITTEE – 11 NOVEMBER 2009

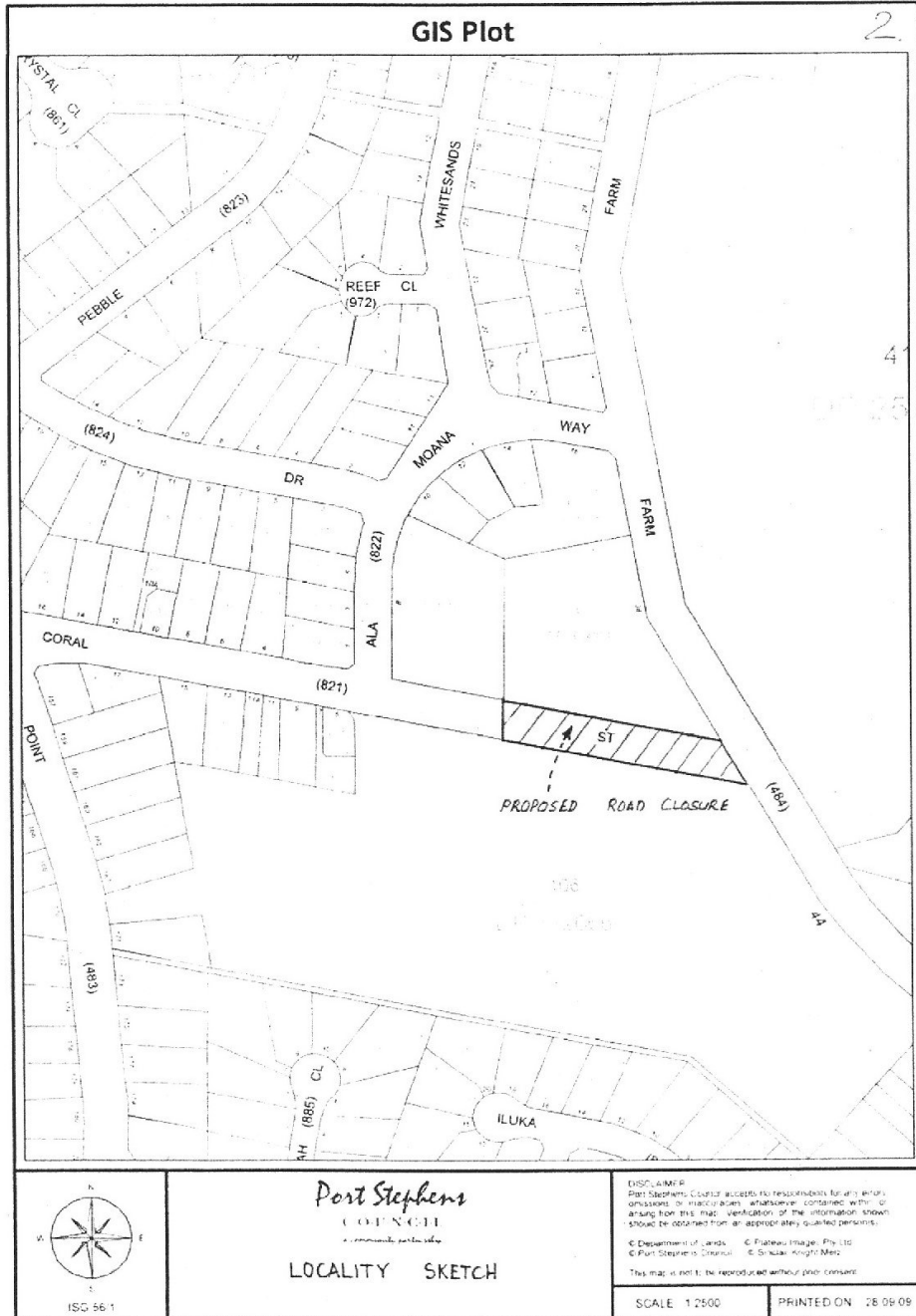
ATTACHMENT 1



ATTACHMENT 1

COUNCIL COMMITTEE – 11 NOVEMBER 2009

ATTACHMENT 2



ATTACHMENT 2

MINUTES ORDINARY COUNCIL – 13 APRIL 2010

ITEM NO. 5

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 13 April 2010.

No:	Report Title	Page:
1	PROPOSED ROAD CLOSURE – PART CORAL STREET, FINGAL BAY	
2	PETITION SEEKING ROAD WATERING TO AND SEALING OF WIGHTON STREET SEAHAM	
3	2010 LOCAL GOVERNMENT ASSOCIATION CONFERENCE	
4	ACCESS TO INFORMATION – SECTION 12 LOCAL GOVERNMENT ACT 1993	
5	2010 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT – CALL FOR MOTIONS	

**COUNCIL COMMITTEE MEETING – 13 APRIL 2010
 RECOMMENDATION:**

	Councillor Bob Westbury Councillor Sally Dover	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 13 APRIL 2010

102	Councillor Bob Westbury Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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ATTACHMENT 2

INFORMATION ITEM NO.

PROPOSED ROAD CLOSURE – PART CORAL STREET, FINGAL BAY

REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER
GROUP: COMMERCIAL SERVICES

FILE: PSC2009-03011

BACKGROUND

The purpose of this report is to advise Council of the statutory actions taken in this matter and update Councillors on submissions received and some withdrawn. All submissions received came from a perceived idea that public would be excluded from the existing footpath/cycleway.

Council originally advertised the application to close and purchase the section of road as is required under the Roads Act 1993. Council has a statutory requirement to advertise all proposed road closures using the wording prepared by the Land & Property Management Authority (LPMA) under the road closure guidelines. This advertisement was approved by LPMA and published by Council on their behalf.

As approved by Council in a report dated 10th November 2009, Council agreed to the creation of an easement in gross in favour of Council over the existing concrete cycleway to allow the continued public use and create a Restriction of use that will not permit heavy vehicle access over the area with the only heavy vehicle access to each lot separated by the proposed closure.

Many submissions were received from the public due to there being no mention of the public access in the initial advertisement. It is most important that the public access is preserved as it is currently used by many local residents and holiday makers to the area.

Part of Council's obligation is to overcome any submissions received from this advertisement. There were several petitions submitted objecting to the "closure of the pathway". Since receiving these submissions another advertisement was published in the Examiner, dated 11th March 2010. This advertisement included the following "Please be advised that a legal instrument will ensure the pathway will remain open to the public for access". Since staff has advised the people making submissions and placed information in the local newspaper a number of withdrawals of submissions have been received. Further information has been published in the Examiner. Many residents are no longer concerned about the perceived loss of access with further communication with residents to continue.

ATTACHMENTS

NIL

ATTACHMENT 3

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B CONVEYANCING ACT 1919, AS AMENDED

Plan: (Sheet 1 of 2 sheets)
 Plan of Part Coral Street for First Title Creation and Road Closing under the Roads Act 1993
 Covered by Subdivision Certificate No:

Full name and address of the owner of the land: Port Stephens Council
 116 Adelaide Street
 RAYMOND TERRACE NSW 2324

Mortgagee of the land:
 Full name and address of the Mortgagee of the land:

PART 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s):	Benefited lot(s), roads(s), Bodies or Prescribed Authorities:
1	Right of access over existing pathway	1	Port Stephens Council
2	Easement for electricity and other purposes 20.115 wide	1	Ausgrid ABN 67 505 337 385
3	Easement for drainage of water over existing line of pits and pipes	1	Port Stephens Council
4	Easement for drainage of sewage 4 wide	1	Hunter Water Corporation

Part 2 (Terms)

1. Terms of Easement for electricity and other purposes numbered 2 in the plan

An easement is created on the terms and conditions set out in memorandum registered number AC289041. In this easement, "easement for electricity and other purposes" is taken to have the same meaning as "easement for electricity works" in the memorandum.

ATTACHMENT 3

Plan: (Sheet 2 of 2 sheets)
Plan of Part Coral Street for First Title Creation and Road
Closing under the Roads Act 1993
Covered by Subdivision Certificate No:

The Common Seal of Port Stephens)
Council was hereunto affixed pursuant)
to Council Resolution)
dated)
General Manager – Peter Gesling

Mayor – Bob Westbury

EXECUTED for and on behalf of)
AUSGRID by)
its duly constituted Attorney pursuant to)
Power of Attorney registered Book 4528)
No. 401 in the presence of:)
Attorney

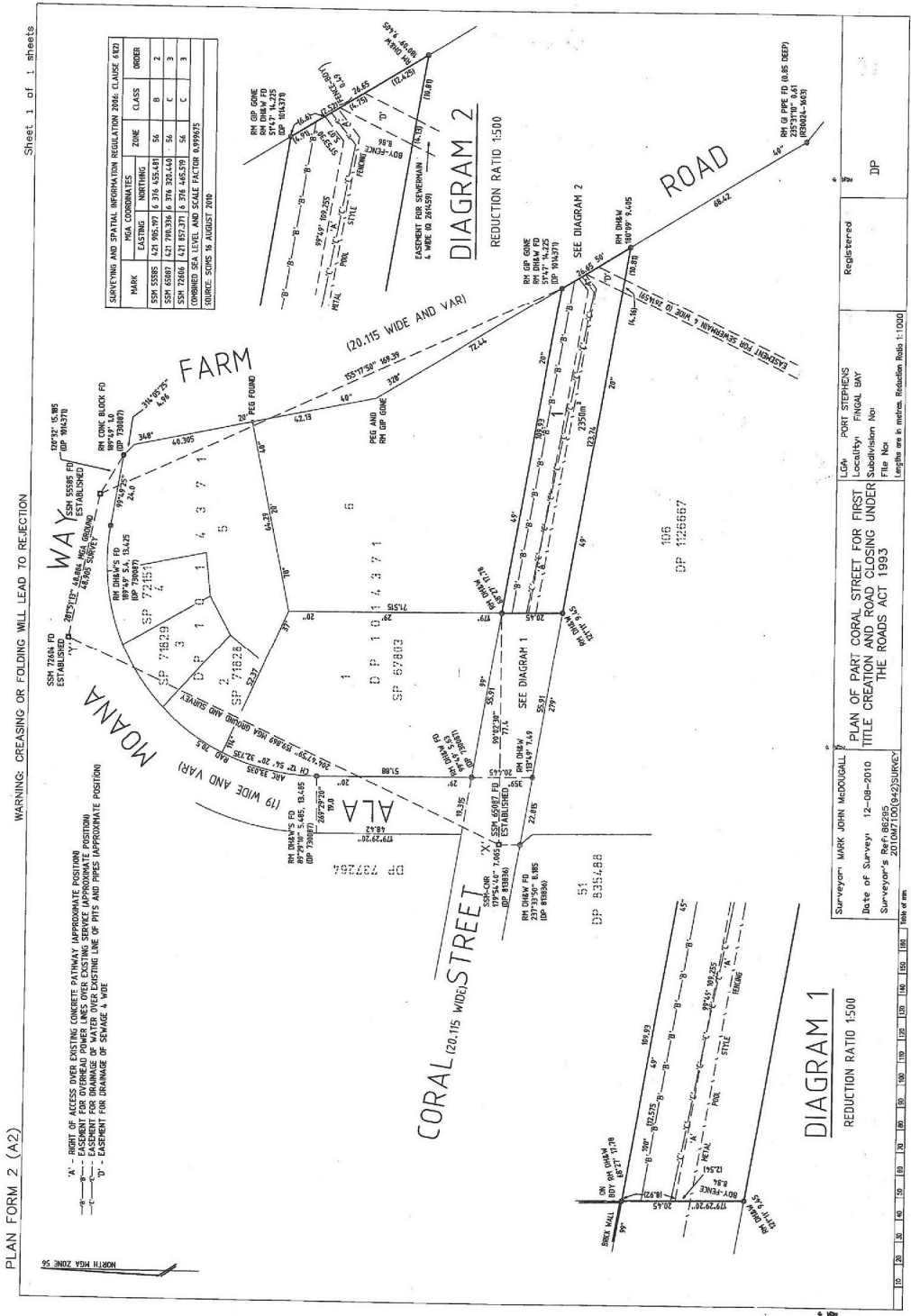
Witness

Name of Witness (please print)

570 George Street,
Sydney, NSW, 2000

Address of witness

ATTACHMENT 3



ITEM NO. 11

FILE NO: PSC2011-00313

SUSTAINABILITY REVIEW – INFORMATION MANAGEMENT**REPORT OF: WAYNE WALLIS, GROUP MANAGER CORPORATE SERVICES****GROUP: CORPORATE SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the information contained in the Service Strategy – Information Management Services and endorse the findings of the review;
- 2) That the information Management service continue with its current service delivery arrangements and that identified strategies be implemented to improve the service delivery effectiveness and configuration of the Records Management and Information and Communication Technologies (ICT) environment;
- 3) That Council further review the Information Management service requirements once the impacts of the enterprise-wide service delivery review are known and assessed;
- 4) That Council market test the service delivery arrangements for all ICT services during 2013/2014 (or prior to the need to replace the server infrastructure) in consideration of cloud based application hosting as identified in the corporate systems strategy.

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	Councillor Ken Jordan Councillor Shirley O'Brien
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

378	Councillor Steve Tucker Councillor Shirley O'Brien
	It was resolved that the recommendation be adopted.

MATTER ARISING

379	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that the Sustainable Planning Group Manager submit a report to Council on implementing electronic lodgement of development applications.

BACKGROUND

The purpose of this report is to present to Council the outcomes of the sustainability review for Information Management services (Stage 3) and seek endorsement of the recommendations contained in the Information Management Service Strategy.

The comprehensive review of this service is in line with the principles of Best Value and are in accordance with the delivery of the Community Strategic Plan 2021: Strategic Direction 5 – Governance and Civic Leadership.

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.

Information Management Services

The Information Management Sustainability Review undertook an examination of all activities undertaken by the Information Management section and these individual activities were consolidated into four primary service packages.

Service package	Knowledge Management, Information & Communications Technology (KM/ICT) Governance, Strategy & Advisory Services	Corporate Applications Support Services	Information & Communications Technology (ICT) Infrastructure and Operations Support Services	Records Management and Information Services
Key activities	KM/ICT governance & strategy	Corporate applications & support services	Network & user computing infrastructure	Records Management compliance & support services
	KM/ICT investment programme management	Business analysis & project management services	Helpdesk & operations support services	Safe mail handling & courier services
	KM/ICT advisory	Application	ICT disaster	Secure document

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011				
	service	disaster recovery service	recovery service	disposal service
				Information discovery support services

The Information Management section is part of the Corporate Services Group of Council and was formed in 2009. In summary, the service entails:

- Staffing – 16.6 (EFT)
 - Indoor staff are located in the administration building
 - Compete with industry for skills
- Funding
 - Recurrent annual budget of \$2.7m
 - Restricted IT strategy \$0.380m
- Expenditure 2011/2012
 - \$3,073,848
- Delivery
 - Services are provided across 25 Council sites
 - Various contracts and agreements in place with external providers and vendors

Current status of Information Management services

In 2009 an enterprise-wide health check of Information Management Services was undertaken. Significant shortcomings were identified in terms of capacity, delivery and infrastructure needs to support Council's business. Arising from this review a range of strategies and initiatives are being pursued to enhance service delivery to improve levels by 2012/2013.

Service		2009	2011	2012
KM/ICT strategy, governance and advisory services		①	②	④
ICT services (availability and reliability)		①	②	③
Corporate systems		①	③	④
Records management and information services		①	②	③
① Major problems	② Some problems	③ Minimum	④ Reasonable	⑤ Best practice

Service review findings

The findings of the Sustainability Review have identified the following metrics:

Benchmark data:

- ICT budget as % Council revenue
 - Average Australian Councils 2008/2009 3.4%
 - PSC Council 2.42% (\$420k below average)
- ICT budget trends
 - Australian Council increase of 4% pa
 - PSC in 2010/2011 achieved a decrease of 6%
- ICT staffing ratio
 - Australian Councils 2.6%
 - PSC 2.3% (2 EFT below average) and carrying a critical vacancy (Business Analyst)
- Client hardware support
 - Quote from Civica for a 'one size fits all' standard deployment computer desktop fleet \$252k pa
 - Current internal 'fit for purpose' desktop/laptop fleet provided cost \$218k pa
- Helpdesk support
 - Average Australian Councils 1 helpdesk officer per 235 requests per month
 - PSC 1 helpdesk officer per 450 requests per month

Service delivery:

- The Information Management section is responsible for delivering a large number of services and these have been validated with internal customers
 - Service levels are lower than desired in some cases
- Using the available benchmark data
 - Information Management are delivering for less cost than the market
 - PSC continues to under-invest in IM services by about \$0.4m pa
- Critical challenge
 - Only resourced for business as usual activities
 - PSC has underinvested in ICT for many years
 - Large ICT and records remediation workload is a priority
 - Will be at least two more years until we have completed this with current resource allocation
 - Increasing demand to assist, improve and transform the business
 - How best to support these initiatives

Service priorities:

1. Continue with current delivery arrangements and remediate systems and services:
 - Improve ICT aspects of disaster recovery (damage to administration building scenario)
 - Remediate ICT infrastructure across Council sites.
 - Remediate records management to achieve compliance.
 - Establish routine measurement of performance against service agreements.
2. Design to have more business transacted on-line and automated over time:
 - Interactions with citizens through PSC website.
 - Encourage electronic submissions, eg. development applications
 - Encourage customer requests on-line eg. missed bins, report potholes, change of address
 - Reduce need for paper and scanning.
 - Staff intranet enhancements
3. Review the merits of telecommunications as a service vs. in-house delivery prior to replacing the telecommunications equipment scheduled for 2012.
4. Market test 'application hosting' and 'management of the ICT network and desktop support' at the completion of the infrastructure remediation project, and prior to the need for server replacement (2013/2014).
5. Assess the pro's and con's of moving responsibility for strategic management of GIS and the associated spatial data management into the Information Management section.
6. Review the service strategy and performance at the completion of the enterprise-wide sustainability review, as the demand may change.
7. Review the lessons from Newcastle and Lake Macquarie Councils in improving the way projects that involve ICT are prioritised, resourced and managed.
8. Review the pro's and con's of changing the responsibility and processes for mail and courier handling, telecommunications billing and maintaining the name and address register.

FINANCIAL/RESOURCE IMPLICATIONS

- 1) The total number of effective fulltime employees (EFT) within the Information Management section is 16.6. The service strategy does not propose to change the number of EFT;
- 2) There are no significant costs/savings identified in the service strategy, however a progressive review and redesign of positions will optimise staff productivity and effectiveness and allow for increased service levels.

LEGAL, POLICY AND RISK IMPLICATIONS

Failure to adequately invest in ICT infrastructure and services has an adverse impact on business results. Council should continue to enhance its ICT infrastructure on a cost/benefit and productivity basis.

Port Stephens Council has a legislated requirement as a public office to deliver appropriate records management to ensure compliance with the State Records Act 1998. Failure to do so carries a number of risks in terms of penalties that may be applied as well as adverse effects on the conduct of Council's business, Council's ability to meet its information discovery obligations to the community and respond effectively to litigation. Council should continue to improve its records management processes to achieve compliance.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

If Council considers alternative options to the recommendations within the Information Management service strategy, this may affect any increase in service levels identified in the sustainability review.

CONSULTATION

Extensive consultation has been undertaken with stakeholders to determine if Council should continue to deliver services provided by Information Management in the future, and if so, at what level and at what cost.

OPTIONS

- 1) Council adopt the recommendations contained in the Sustainability Review – Information Management Service Strategy;
- 2) Council amend the recommendations contained in the Sustainability Review – Information Management Service Strategy;
- 3) Council reject the recommendations contained in the Sustainability Review – Information Management Service Strategy.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Information Management Service Strategy;
- 2) Sustainability Review – Information Management Service Strategy – Annexure.

ITEM NO. 12

FILE NO: PSC2005-0767

WILLIAMTOWN PARK**REPORT OF: JASON LINNANE - GROUP MANAGER****GROUP: FACILITIES AND SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Ceases all non-essential maintenance activities at Williamtown Park. (Attachment 1);
- 2) Commences negotiations with the AKO Kotahtanga Maori Cultural Group Inc in respect to their future use and maintenance requirements of the site;
- 3) Consults with the Crown Land Division to seek their advice on future use of the site and any intentions that they may have.

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

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

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

Cr Shirley O'Brien left the meeting at 6.34pm prior to voting on Item 12.

380	Councillor Ken Jordan Councillor Geoff Dingle
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is have Council resolve to cease all non-essential maintenance activities at Williamtown Oval, commence negotiations with the AKO Kotahtanga Maori Cultural Group Inc in respect to their future use and maintenance of the site and request advice from Crown Land Division on and their intentions for the site and any possible future uses that they see being as appropriate.

At the meeting of 8 March 2011 Council resolved (Minute number 071) to "allow for a report to be prepared on the future management of the land at Williamtown that contains the local tennis courts".

The site is Crown Land and Council is the trustee (Crown Reserve Number 34184 Property Details: Pt 37 DP 753192). It is located at 2039 Nelson Bay Road Williamtown (formerly 131 Nelson Bay Road Williamtown). The official name is Williamtown Park but it is also known as Williamtown Oval. It is zoned 1(a) Rural Agriculture and was gazetted on 14 October 1977. It has an area of 35247.96 square metres.

The site has been used for a range of activities over the years including many sports. Currently the site is operated under licence to AKO Kotahtanga Maori Cultural Group Inc. This group pays \$330 per year and has a licence till 30 March 2014. This licence covers the whole of the land as well as three buildings on the site. There are no other current users of the site and this has been the case for many years.

Council currently has \$8000 allocated for maintenance activities on this site. Works have been carried out by both staff and contractors in the past. Any future parks maintenance activities would be performed by contractors as Council is re-organising how maintenance activities are performed in this area to improve efficiencies, assist staff in undertaking their normal duties and for skill development.

The buildings that are currently used by AKO Kotahtanga Maori Cultural Group Inc (under licence) are in a poor state and would require significant allocation of funds in the near future if they were to be kept open. These amounts are not allocated in current budgets and nor are they proposed for future budgets.

The tennis courts that are located on the site are not serviceable and would require a significant allocation of funds to alter this. These amounts are not allocated in current budgets and nor are they proposed for future budgets.

FINANCIAL/RESOURCE IMPLICATIONS

Implementation of the recommendation will result in savings of approx \$8000 per annum due to reduction in parks maintenance activities. These funds can be used to either increase service levels in other areas of Council or be re-allocated back into general revenue to reduce Councils underlying deficit.

Any future works to rehabilitate the buildings on the site or the tennis courts would require significant allocation of funds. This would need to be considered in future budgets. Given that there is no foreseeable need for tennis courts or community buildings in this area the most likely approach would be for Council to negotiate with the licensee of the site to have them complete required works due to the sites exclusive use.

The permitted use in the current Licence says "...including care, management and control of premises..." This suggests that the group should be maintaining both the grounds and the buildings. However, their ability to undertake major asset renewal works would need to be clarified with them.

LEGAL, POLICY AND RISK IMPLICATIONS

Whilst the current Crown Land reservation devolves day to day operational responsibility of the site to Council, Council can transfer this responsibility to another party such as that in place for the AKO Kotahtanga Maori Cultural Group. However, Council will retain ultimate operational responsibility and must oversee the operation of the site by any licensee.

If the Crown Land Division were to change the reservation of the site then Council's role could be altered.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The use of the site by the AKO Kotahtanga Maori Cultural Group Inc can continue as per their existing agreement.

There are no economic or environmental implications.

CONSULTATION

Consultation with affected parties will occur subsequent to the resolution of Council.

OPTIONS

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

ATTACHMENTS

- 1) Aerial photo of Williamtown Park.

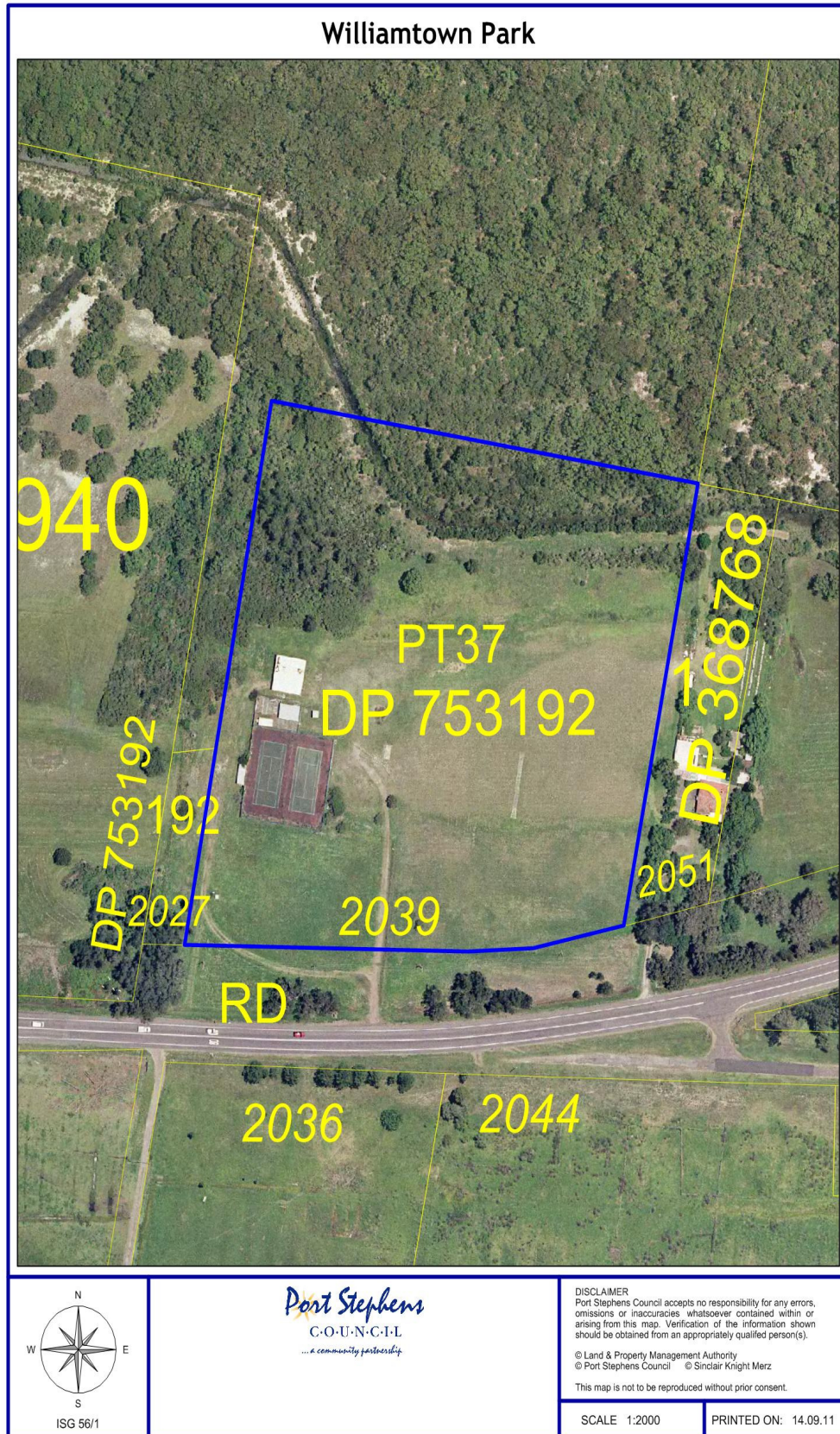
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



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

ITEM NO. 13

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 6 SEPTEMBER 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 9th August 2011.
-

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	Councillor Ken Jordan Councillor Bob Westbury
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

381	Councillor Frank Ward Councillor Ken Jordan
	It was resolved that the recommendation be adopted.

MATTER ARISING

382	Councillor Geoff Dingle Councillor Ken Jordan
	It was resolved that Council request the Traffic Engineer to provide a presentation to Councillors on the 2010-11 Black spot program and the proposals for 2011-12 year.

BACKGROUND

The purpose of this report is 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 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.

No additional consultation was undertaken for the items listed.

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 for a particular item other than that recommended by the Traffic Committee. In which case Council must first notify both 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 Minutes of Meeting held on 6th September 2011.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 6TH SEPTEMBER 2011
AT 9:30AM**

Present:

Cr Peter Kafer, Cr Geoff Dingle, Snr Const John Simmons - NSW Police, Mr Bill Butler, Mr Nick Trejevski – RTA, Mr John Meldrum – Hunter Valley Buses, Mr Joe Gleeson (Chairperson), Mr Graham Orr, Ms Lisa Lovegrove – Port Stephens Council

Apologies:

Cr Bob Westbury – Mayor, Ms Michelle Mexon representing Craig Baumann MP, Mr Dave Davies – Busways, Ms Michelle Page – Port Stephens Council

A. ADOPTION OF MINUTES OF MEETING HELD 9TH AUGUST, 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 6TH SEPTEMBER, 2011**

- A. ADOPTION OF THE MINUTES OF 9TH AUGUST, 2011
- B. BUSINESS ARISING FROM PREVIOUS MEETING
- C. LISTED MATTERS
- C.1 33_09/11 MORNA POINT ROAD ANNA BAY – REQUEST FOR INSTALLATION OF A PEDESTRIAN FACILITY AT THE GAN GAN ROAD INTERSECTION
- C.2 34_09/11 PATERSON ROAD WOODVILLE - REQUEST FOR INSTALLATION OF BARRIER LINES ON PATERSON ROAD AT THE SCHOOL OF ARTS HALL
- C.3 35_09/11 SANDY POINT ROAD CORLETTE - REQUEST FOR IMPROVED SIGNAGE AT THE ENTRANCE TO THE CAR PARK OF MIDDLE BAGNALL BEACH RESERVE
- D. INFORMAL MATTERS
- E. GENERAL BUSINESS
- E.1 615_09/11 ROADS PORT STEPHENS – ADOPTION OF ASSESSMENT CRITERIA FOR SPEED HUMPS
- E.2 616_09/11 STURGEON STREET RAYMOND TERRACE - UNLOADING ZONES AT MARKETPLACE SHOPPING CENTRE
- E.3 617_09/11 WAROPARA ROAD MEDOWIE - REQUEST FOR EDGE-LINE MARKING
- E.4 618_09/11 ROADS CORLETTE - REQUEST FOR WARNING SIGNAGE FOR DOWNHILL SKATEBOARDERS
- E.5 619_09/11 ROADS PORT STEPHENS – SUBMISSION OF BLACKSPOT FUNDING APPLICATIONS FOR FINANCIAL YEAR 2012/2013

C. Listed Matters

C.1 Item: 33_09/11

MORNA POINT ROAD ANNA BAY – REQUEST FOR INSTALLATION OF A PEDESTRIAN FACILITY AT THE GAN GAN ROAD INTERSECTION

Requested by: Cr O'Brien
File: 139929/2011
Background:

Cr O'Brien requested that Council investigate a complaint from one of the mothers whose children attend Anna Bay School. The parent has requested a crossing on Morna Point Road at Gan Gan Road, Anna Bay stating that children experience great difficulty in crossing Morna Point Road when walking to and from school.

Comment:

Pedestrian and vehicle counts were conducted at the intersection on the 4th August 2011. The numbers of pedestrians and vehicles observed comfortably meet the 'reduced warrant', as defined in the RTA supplement to AS1742.10, for a pedestrian crossing that is predominantly used by school children before and after school. The survey results are attached as Annexure A.

This intersection has been considered in the past and has not previously met the required warrant. There will need to be careful consideration with regard to design of a crossing facility in order to cater for turning vehicles and to minimise impacts on neighbouring residents.

Legislation, Standards, Guidelines and Delegation:

ARR Part 7 Div.5 – Rule 81 – Giving way at a pedestrian crossing
Australian Standard AS1742.10
RTA Regulatory Signs Manual – R5-15
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

Approve installation of a pedestrian crossing in Morna Point Road at the intersection of Gan Gan Road, as shown on the attached sketch, Annexure A.

Discussion:

Traffic Committee members noted the need for consideration of the site restrictions and requested that a complete design be prepared. The need for full costing of the proposal was discussed in order to allow for prioritisation and listing of the project.

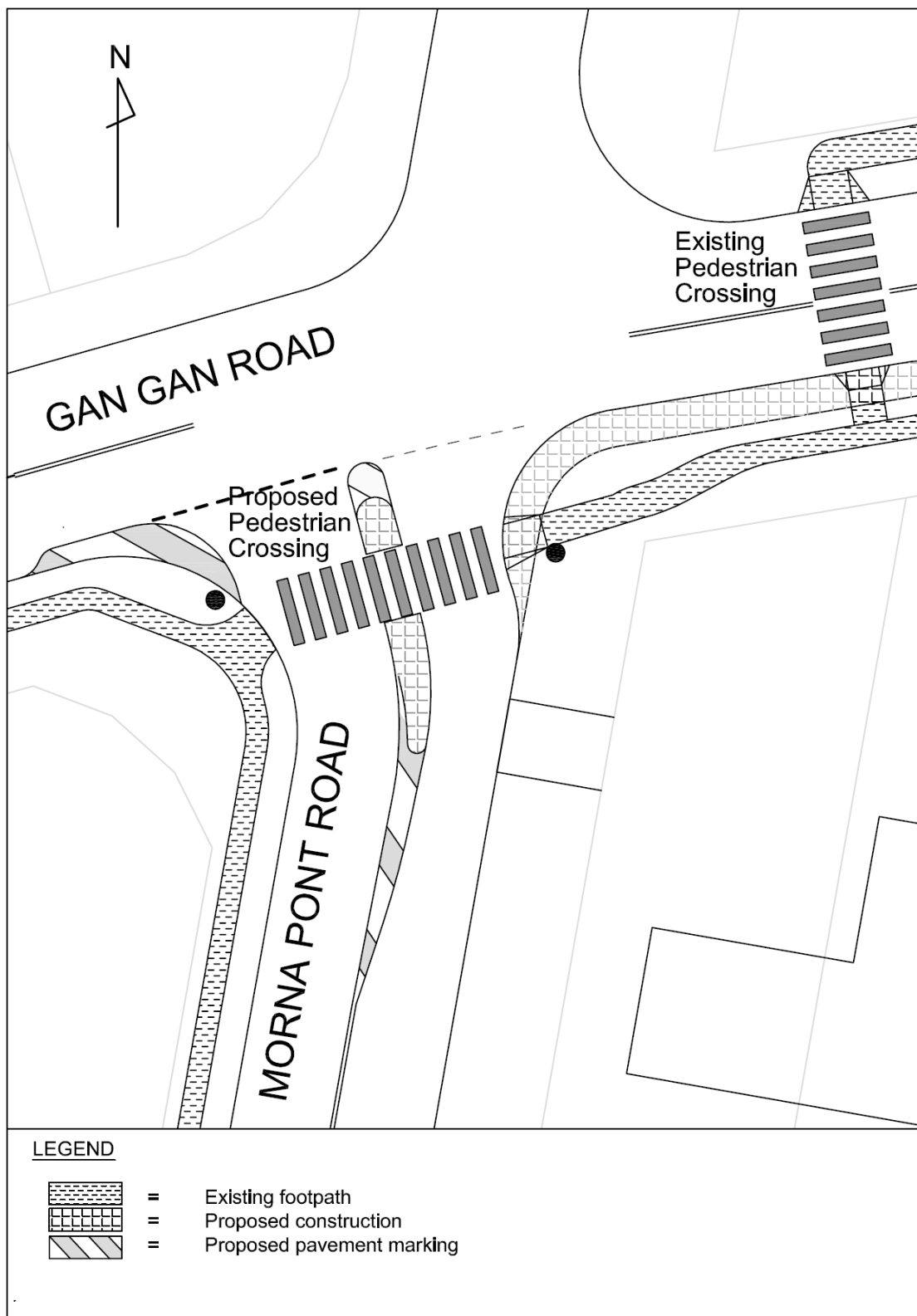
Committee members also requested that the final design include the crossing being raised as well as the adjacent pedestrian crossing in Gan Gan Road, to further increase pedestrian safety.

Committee's recommendation:

That the Traffic Committee supports the proposal for installation of a raised pedestrian crossing in Morna Point Road Anna Bay and for raising the existing pedestrian crossing in Gan Gan Road. The project includes capital works which require a complete design and cost estimate.

Support for the recommendation:

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



C.2 Item: 34_09/11

PATERSON ROAD WOODVILLE - REQUEST FOR INSTALLATION OF BARRIER LINES ON PATERSON ROAD AT THE SCHOOL OF ARTS HALL

Requested by: A resident
File: PSC2005-4019/336
Background:

A resident has raised safety concerns when turning into their driveway adjacent to the school of arts building in Woodville.
Paterson Road is relatively narrow with bends and a crest as it passes through Woodville. The resident has complained that barrier lines are required to better direct drivers as they pass through the village.

Comment:

The speed limit is 60km/h generally and 40km/h during school zone operating times. The Traffic Inspection Committee noted that barrier lines would improve safety by deterring drivers turning into Iona School below the crest where sight distance is restricted.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule132 – Keeping to the left of a dividing line
Australian Standard AS1742.2 – Clause 4.3.3
RTA Delineation Guidelines – Section 4, Longitudinal markings
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

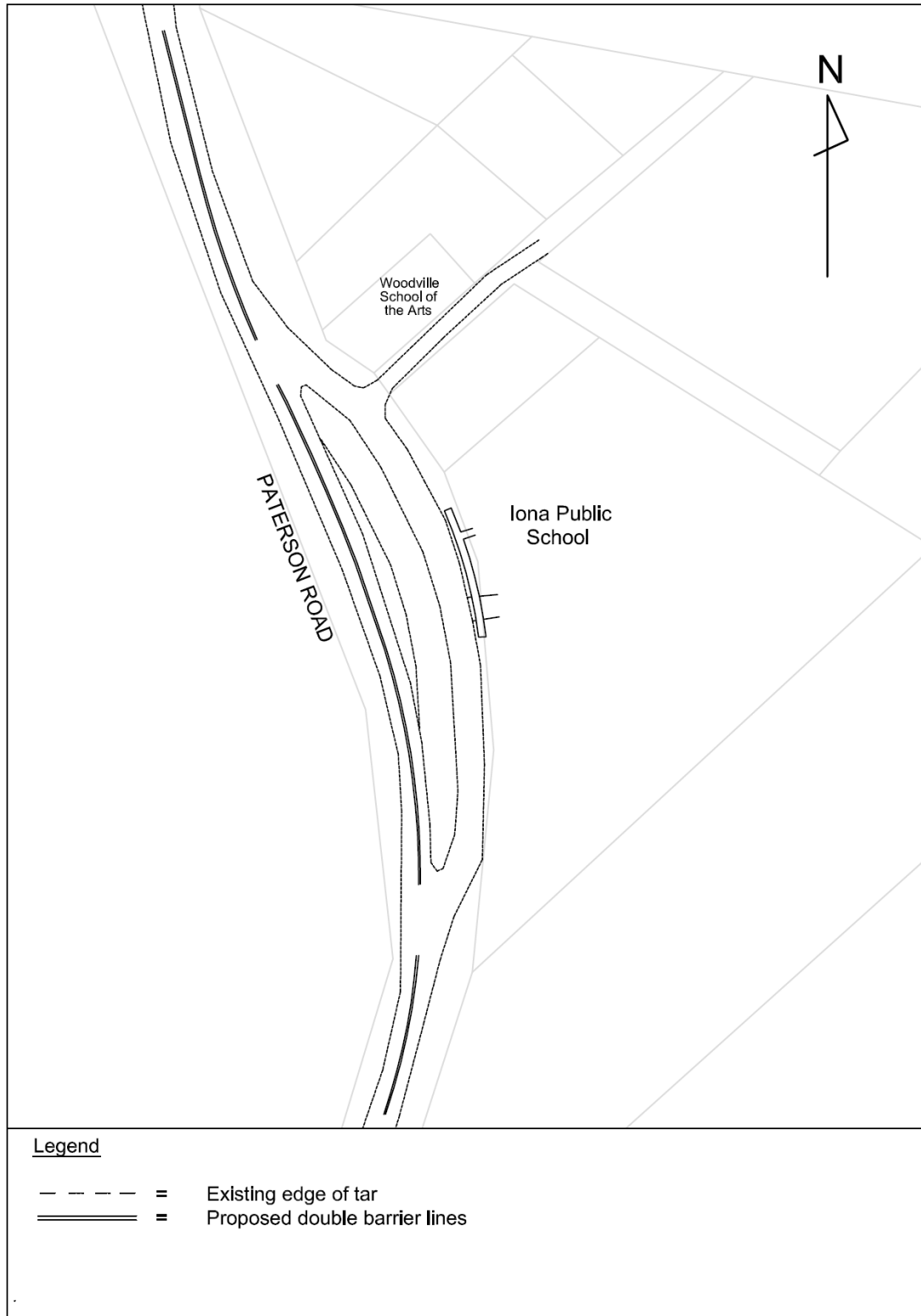
Approve installation of barrier line marking on Paterson Road Woodville, as shown on the attached sketch, Annexure A.

Discussion:

Iona School parents have also requested installation of barrier lines to improve safety for vehicles turning into the school.

Support for the recommendation:

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



C.3 Item: 35_09/11

SANDY POINT ROAD CORLETTE - REQUEST FOR IMPROVED SIGNAGE AT THE ENTRANCE TO THE CAR PARK OF MIDDLE BAGNALL BEACH RESERVE

Requested by: A resident
File: PSC2005-2663/101
Background:

A local resident has requested improvements to the access to the middle Bagnall Beach Reserve car park. The narrow access track joins Sandy Point Road adjacent to the Bagnall Beach Road roundabout. Traffic attempting to turn right into the access from Sandy Point Road and attempting to turn right out of the access track create a hazard in busy times. It is not an issue for traffic to turn left from the access track and use the roundabout to head west when exiting or to approach from the west to turn left into the access track when entering.

Comment:

The Traffic Inspection Committee noted that preventing drivers from turning right into the access track will require a physical barrier such as a concrete median. The splitter island at the roundabout could be extended however this will require assessment and listing on Council's Forward Works Plan. In the meantime regulatory signs may improve the situation but will also become an enforcement issue.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule 88 – Left turn signs, Rule 91 – No right turn signs
Australian Standard AS 1742.2 (Devices) Clause 2.8.7
RTA Regulatory Signs Manual – R2-14, R2-6
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

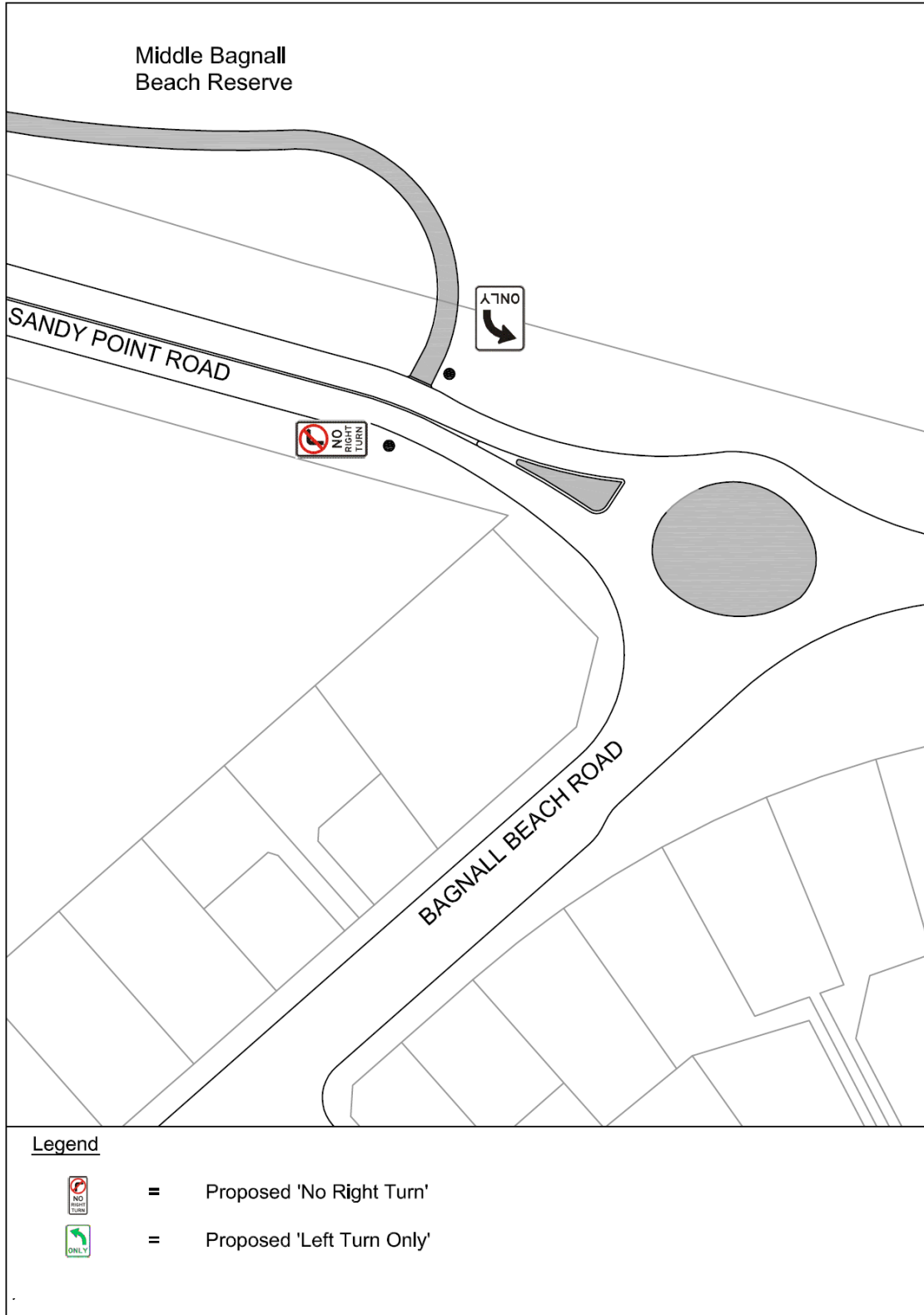
Recommendation to the Committee:

Approve installation of 'Left Only' (R2-14) and 'No right Turn' (R2-6) at the intersection of Sandy Point Road and the access track to middle Bagnall Beach Reserve car park, 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: 615_09/11

ROADS PORT STEPHENS – ADOPTION OF ASSESSMENT CRITERIA FOR SPEED HUMPS

Requested by: Cr Dingle

File:

Background:

One of the Traffic Committee recommendations for Item 26_07/11 in July 2011 was for council to develop a set of assessment criteria to allow listing and prioritisation of LATM (Local Area Traffic Management) projects on Council's Forward Works Plan.

Council has received a number of requests recently from residents wanting speed humps installed in their local streets. The residents have a perception that traffic is travelling too fast in residential areas and request action from Council to reduce vehicle speeds and improve their safety and amenity. The adoption of standard assessment criteria for LATM would allow for an objective assessment of all complaints and for priority ranking of any proposed LATM projects.

Legislation, Standards, Guidelines and Delegation:

Austrroads – GTM Part 8 – Local area Traffic Management
Australian Standard -1742.13 Part 13: Local area traffic management

Discussion:

Traffic Committee members discussed the recent increase in speed hump requests and that there is a perception within the community that speed humps are a first resort solution to all speed problems. The fact is that speed humps are one of the most commonly installed traffic control devices but are also the most complained about device and the most commonly removed.

The community needs to be educated that there are other options and that they, the community, need to be part of the solution, by being prepared to record details of offending drivers and pass them on.

Committees Advice:

That Port Stephens Council adopts the priority system for ranking local area traffic management proposals as shown on the attached document (Annexure A).

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 6 September 2011

ITEM NO.615_09/11
Street: Roads

ANNEXURE A
Page 1 of 1

Priority System for ranking LATM proposals

Traffic Parameter	Observed value	Points for a street or road		
		Local street	Local distributor	District distributor
Traffic Speed as 85 th % speed	50-54	3	0	0
	55-59	9	1	0
	60-64	15	6	1
	65-69	24	12	4
	70-74	33	18	7
	75-79	45	27	15
	Over 80	60	40	25
Traffic Volume (V/day)	1000-1499	4	0	0
	1500-1999	7	0	0
	2000-2499	10	2	0
	2500-2999	15	3	0
	3000-3999	20	4	0
	4000-4999	30	7	0
Rat-run Traffic As peak hour percent of 24 hour volume	10-11%	0	0	0
	11-12%	2	1	0
	Over 12%	4+2 per%	2+1%	0
Crash data	Points per crash			
	Per fatal crash	5	5	5
	Per Casualty crash	2	2	2
Per non-injury crash	0.5	0.5	0.5	
Heavy vehicles	Points per % Above 3%	2	1	0
Topography (add scores together)	Restricted sight	4	5	6
	Grade over 3%	3	2	1
	Long Straight	5	2	0
	Tight bend	3	2	3
Activity generators (add scores for all uses in the street)	Passive reserve	1	1	1
	Active playground	7	5	1
	Industrial	2	0	0
	Residential	2	2	1
	Primary School	10	8	8
	Secondary School	8	6	6
	Tertiary College	6	4	4
	Small retail	8	6	6
Large retail	10	8	8	

Action response table

Decision	Total Point score	Action response
Denoted as technical problem site	More than 50	Considered to be a site that has problems. Suitable solutions to be considered for funding and implementation
Denoted as minor technical problem	41 to 50 points	Consider low cost, non-capital works solutions (e.g. signing and linemarking) if appropriate. Review again after 2 years
	31 to 40	Consider inclusion in Council's 'Lower Hunter speed program' Follow-up review afterward
Denoted as a site with low safety and amenity concerns	Up to 30 points	No further action required

E.2 Item: 616_09/11

STURGEON STREET RAYMOND TERRACE - UNLOADING ZONES AT MARKETPLACE SHOPPING CENTRE

Requested by: A business operator

File:

Background:

Port Stephens Council has received complaints from a business operator regarding delivery trucks blocking driveway access in the Council car park between the Council Administration Building and Marketplace. Some delivery trucks have been double parking in the car park rather than using the designated loading and unloading areas.

Legislation, Standards, Guidelines and Delegation:

Discussion:

Cr Dingle advised that he had spoken to Marketplace management who confirmed that no loading or unloading is authorised except in the areas shown on the attached plans and stated that a notice has been distributed to all business operators within the centre advising them of their obligations in this respect. Marketplace management also advised that any complaints should be referred directly to them for investigation and action.

E.3 Item: 617_09/11

WAROPARA ROAD MEDOWIE - REQUEST FOR EDGE-LINE MARKING

Requested by: A resident

File:

Background:

A local resident has complained that the edge lines that were installed in Waropara Road some years ago have now faded. The resident has safety concerns stating that the edge lines were installed for the protection of cyclists and pedestrians. The resident states that the lines have not been repainted in over 6 years except for a section outside Medowie Christian School.

The resident states that in summer people tend to walk on the grass verge however during winter and wet times people walk on the road and the edge lines do assist in improving safety.

The RTA Delineation Guidelines state that edge lines shall not be used unless a dividing line exists and the pavement is at least 6.8m wide. Waropara Road is just wide enough but does not have a dividing line except in the section outside the Medowie Christian School.

Legislation, Standards, Guidelines and Delegation:

Australian Standard AS 1742.2 - Traffic Control Devices for general use
RTA Delineation Guideline – Section 4.7.5

Discussion:

Committees Advice:

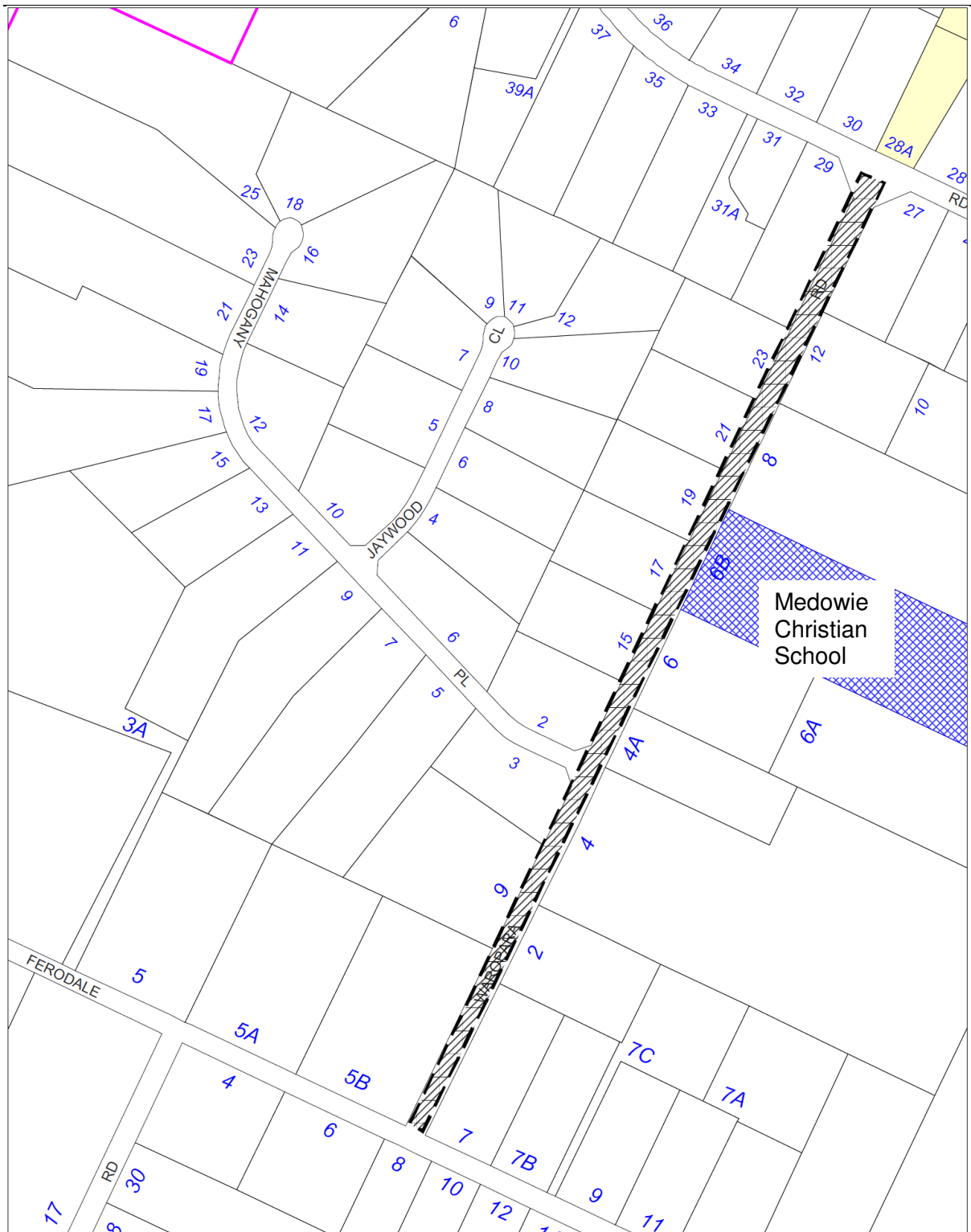
That no action be taken in regard to re-marking of faded edge lines in Waropara Road Medowie except as required in the section of road where centre lines exist.

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 6 September 2011

ITEM NO.617_09/11
Street: Waropara Road

ANNEXURE A
Page 1 of 1



E.4 Item: 618_09/11

ROADS CORLETTE - REQUEST FOR WARNING SIGNAGE FOR DOWNHILL SKATEBOARDERS

Requested by: A resident

File:

Background:

Port Stephens Council has received a letter (Annexure A) from a resident requesting that Council install signs to warn drivers of the presence of skateboarders on the road. The resident is a competitive skateboarder who uses the hilly roads in the Corlette area to practice skateboarding skills and feels that warning signage would improve safety by making drivers aware of the presence of skateboarders on the road.

Under NSW Road Rules, skateboards and certain other wheeled recreational devices can be ridden on the road during daylight hours, with certain restrictions. They cannot be used on roads with a dividing line or a median strip or on roads with a speed limit greater than 50km/h, or on a one-way road with more than one marked lane.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule 240 – Wheeled recreational devices and toys not to be used on certain roads

Discussion:

Traffic Committee members noted that while it may be allowable under law for skateboarders to use some of the roads in the Corlette area, that there are safety concerns for the participants. Any action of Council to install warning signs could be seen as encouraging participants.

Cr Kafer noted that an approach from a national or state body representing skateboarders would give more credence to the request.

Committees Advice:

That Council officers discuss the request with the applicants in more detail and also conduct an assessment of the roads nominated for suitability.

PETITION TO MAKE DOWNHILL SKATEBOARDING IN CORLETTE SAFER

I am writing this letter to seek your support and help in introducing a safer environment for downhill skateboarding into the Corlette area of Port Stephens. I have been downhill skateboarding for the past 4 years and intend on racing overseas in Europe next year.

Downhill skateboarding is a growing sport and becoming more and more popular every year (<http://www.skateboardracing.org.au/>). It is a sport that is well known around the world, holding main events for downhill skateboard racing which is organised by IGSA globally, including Australia (<http://www.skateboardracing.org.au/profiles/blogs/2011-igsa-world-cup-schedule>). IGSA includes all gravity sports as well as street luge. Downhill skateboarders rely on hills, so it is very hard to find locations in the community that provide quality hills minimising danger to pedestrians, traffic and us skateboarders. A friendly group of downhill skateboarders I have brought together in the Port Stephens area is now at a number of 18 skateboarders including myself and younger members (Port Stephens Longboarders – Facebook), which comes to my concern of their safety practicing the sport. We have been practicing in the Corlette area for the past 2-3 years, which makes it a perfect quiet destination growing in popularity for the younger skaters, providing that all necessary safety equipment is worn including helmets, gloves (fitted with slide pucks for road contact), kneepads and elbow pads. I am aware of the road rules as I am a full licensed driver, including my awareness of the consequences of skateboarding at speed limits above 50km/h and on double lined road. Members of Port Stephens Longboarders respect the road rules and we understand that making downhill skateboarding a legal sport on public roads is outrageous. However, a council approved sign that could be mounted on street signs would notify drivers and caution drivers that we are skating in the area would make drivers aware of our presence. This kind of awareness has been performed before for cyclists. All over Australia signs for cyclists have been mounted on street signs to make drivers aware of their presence, making it safer to ride on the road. Between cyclists and downhill skateboarders there is little difference, we wear more safety equipment and we have two methods of braking which include foot braking and controlled sliding. Neither sport is perfectly safe thus making cycling and skateboarding exposed to the same risks on public roads.

Streets in Corlette used for this sport :

- Sergeant Baker Drive
- Saratoga Avenue
- Wallawa Road
- Bonito Street
- Bottlenose Street
- Minke Street
- Seagrass Circuit

Here is a video link to provide an example of the sport featuring Australia's Jackson Shapiera who placed 2nd in this race at Kozakov, Czech Republic (<http://vimeo.com/24271095>).

E.5 Item: 619_09/11

ROADS PORT STEPHENS – SUBMISSION OF BLACKSPOT FUNDING APPLICATIONS FOR FINANCIAL YEAR 2012/2013

Requested by: Port Stephens Council

File: PSC2005-4024

Background:

Road crashes are a major cost to the Australian community. Black Spot projects target those road locations where crashes are occurring. Each year, local governments across the state and nationally are invited to submit proposals for projects that address particular traffic accident locations. Programs of this sort are very effective, by targeting specific accident types and locations and saving the community many times the cost of the relatively minor road improvements that are implemented.

Port Stephens Council has submitted proposals for the financial year 2012-2013. These proposals cover a range of road types and accident locations. The locations nominated are:

- Bagnall Beach Rd, Salamander Bay
The intersections of Bagnall Beach Rd, Keel St and Sergeant Baker Dr
- Gan Gan Rd, One Mile/Nelson Bay
A 3.5km length of Gan Gan Road, Nelson Bay -North of Frost Rd, One Mile
- Port Stephens Dr, Taylors Beach
200-400m North of Trades Circuit
- Clarencetown Rd, Woodville
A 4.5km length - 'T' intersection works - Brandy Hill Rd to Butterwick Rd
- Clarencetown Rd, Glen Oak
A 700m section north of Oakendale Rd
- Seaham Rd, Nelsons Plains
A 1.2km section of road south of Brandy Hill Rd/ Sophia Jane Rd
- Lemon Tree Passage Rd , Salt Ash
A 6.5km length from Nelson Bay Rd to Oyster Cove Rd
- Lemon Tree Passage Rd , Tanilba Bay
Roundabout - Ave of the Allies intersection
- Lemon Tree Passage Rd , Mallabula
Fairlands Rd Intersection

ITEM NO. 14

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 – Mayoral Funds – Port Stephens Family Support Service - Donation towards the costs of setting up the Domestic Violence Partnership Program in its new home at Raymond Terrace Police Station - \$1,000.00;
 - b) Rapid Response – Mayoral Funds – Sponsorship of the 2011 Port Stephens RAAF Williamtown Support Group's "Citizen of the Year" - \$500.00;
 - c) Requisition for Funds – West Ward Funds – All Saints College Maitland – Donation towards the cost of purchasing a Defibrillator - \$500.00;
 - d) Requisition for Funds – East Ward Councillors – Salamander Men's Shed - Reimbursement in respect of monies expended to purchase replacement Ryobi Mitre Drop Saw - \$299.00;
 - e) Rapid Response – Cr Francis – Wisdom Song – Donation towards the cost of public liability insurance as a result of using the Senior Citizens Hall - \$100.00.

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	<p>Councillor Bruce MacKenzie Councillor John Nell</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

Cr ken Jordan declared a conflict of interest in Item 1 c.

383	<p>Councillor John Nell Councillor Geoff Dingle</p>
	<p>It was resolved that the recommendation be adopted.</p>

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

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.

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

All Saints College Maitland	Donation towards the cost of purchasing a Defibrillator	\$500.00
Wisdom Song	Donation towards the cost of public liability insurance as a result of using the Senior Citizens Hall	\$100.00

EAST WARD – Councillors Westbury, Dover, Nell, Ward

Salamander Haven Men's Shed	Reimbursement in respect of monies expended to purchase replacement Ryobi Mitre Drop Saw	\$299.00
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MAYORAL FUNDS

Port Stephens Family Support Service	Donation towards the costs of setting up the Domestic Violence Partnership Program in its new home at Raymond Terrace Police Station	\$1,000.00
Port Stephens RAAF Williamtown Support Group	Sponsorship of the 2011 Port Stephens RAAF Williamtown Support Group's "Citizen of the Year"	\$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. 15

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 11 October 2011.

No:	Report Title	Page:
1	DESTINATION 2036	

COUNCIL COMMITTEE MEETING – 11 OCTOBER 2011

	Councillor Bob Westbury Councillor Shirley O'Brien
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

384	Councillor Ken Jordan Councillor Sally Dover
	It was resolved that the recommendation be adopted.

COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

DESTINATION 2036 WORKSHOP – DUBBO 17 & 18 AUGUST 2011

REPORT OF: JASON LINNANE - GROUP MANAGER

GROUP: FACILITIES AND SERVICES GROUP

FILE: PSC2005-2930V2

BACKGROUND

The purpose of this report is to provide background to Council on the "Destination 2036" Conference that was attended by Mayor Bob Westbury and Jason Linnane.

The conference was held on 17 and 18 August 2011 and the venue was the Dubbo Regional Theatre and Convention Centre. The conference was arranged and paid for by the Division of Local Government.

Attached for your information is a copy of the program for the Conference, an update from the Division of Local Government and a combination of the notes taken by the two (2) Port Stephens Council attendees.

Advice has been received that a further document from the Division of Local Government on the outcomes of the workshop will be made available to all Councils at the end of September.

ATTACHMENTS

- 1) Conference Program;
- 2) DLG communiqué;
- 3) Conference notes;
- 4) Destination 2036 Outcomes Report – September 2011.

ATTACHMENT 1



Introduction

Nothing like this workshop of civic leaders has ever been held in NSW. It is a truly unique opportunity for local government leaders in NSW to talk together about the future and plan for the kind of councils that our communities require and deserve.

To do this we need to be able to imagine our communities in 5 years, 10 years, 20 years and even 25 years, and consider how we can best serve them.

We will reach beyond our individual opinions and develop a collective view about what needs to change. We will learn from the past to help us focus on the future – creating a legacy that works.

What will great local government look like in the future? What changes are needed to achieve that future? What are the top priorities? This is what Destination 2036 is about.

This is a real opportunity to start building stronger relationships that will help build a local government future together. If not us, then who?

The Workshop

Workshop Dates

Wednesday 17 August 2011

9:00am - 5.00pm

Thursday 18 August 2011

8:45am - 2:00pm (with networking lunch to follow)

Location

Dubbo Regional Theatre and Convention Centre
155 Darling Street, Dubbo

In this Workshop, we need to work as equals – creatively, openly and thoughtfully.

Our purpose is:

- To create a bold vision – a preferred future for local government
- To identify the roadmap that will put us on a path to this vision
- To develop a shared view on the right models for local government
- To develop and get excited about a short term Action Plan: not a wish list but something clever and achievable that focuses on priorities for the next 4 years
- To create an opportunity for new relationships of trust within and between local and state government to help deliver strong local government for the communities of NSW.



ATTACHMENT 1

Pre-workshop welcome – Tuesday 16 August 2011

Time	Program
6.30pm	<p>Welcome event: Hosted by the Mayor, Dubbo City Council, and the Chief Executive, Division of Local Government</p> <p>Venue: Taronga Western Plains Zoo Obley Road, Dubbo</p> <p>Dress: Smart casual</p>

Day 1 – Wednesday 17 August 2011

Time	Program
7.45am	Registration desk opens
9.00am	Welcome to Country
9.05am	<p>Destination 2036: Creating a legacy, starting the journey</p> <p>Welcome & introductions, including opening words from Cr Keith Rhoades, President of the NSW Local Government Association, Cr Ray Donald, President of the NSW Shires Association and Mr Mark Ferguson, President of the NSW LGMA.</p> <p>The formal opening of the workshop by the Minister for Local Government, the Hon Don Page MP.</p>
9.25am	<p>Destination 2036: Our purpose</p> <p>Mr Ross Woodward, Chief Executive, Division of Local Government, will outline the context and purpose of Destination 2036.</p>
9.30am	<p>Starting the journey: What we've heard so far</p> <p>This session will look at some results from the on-line survey.</p> <p>This will be followed by table-based discussion.</p>
9.50am	<p>Focus on the Future: Talking with a Futurist</p> <p>Internationally renowned Futurist, Professor Sohail Inayatullah, will challenge participants during this interactive session to think beyond today and beyond tomorrow.</p>
10.55am	<p>Focus on the Future: What challenges are emerging?</p> <p>Following discussions with the Futurist, participants will re-consider the future challenges for local government and through the use of an electronic feedback system identify priorities.</p>
11.10am	MORNING TEA
11.40am	<p>A Vision for Local Government: What we've heard so far</p> <p>This session will consider the elements of the "Vision for Local Government" proposed in the Discussion Paper and feedback from the on-line survey.</p>
11.50am	<p>A Vision for Local Government: Facilitated group discussion and feedback</p> <p>Participants will discuss the Vision elements, asking themselves: Have we got the elements right? Are there any elements missing?</p>

ATTACHMENT 1



Time	Program
12.20pm	<p>A Vision for Local Government: Perspective from the Minister for Western NSW The Minister for Western NSW, the Hon Kevin Humphries MP, will talk about his experiences and observations with service delivery in remote Western NSW and some ideas for change.</p>
12.40pm	<p>A Vision for Local Government: Electronic feedback on additional elements Support among participants for any proposed additional elements to the Vision will be tested through the use of the electronic feedback system.</p>
1.00pm	LUNCH
2.00pm	<p>Towards the Vision - Focus on the Roadmap: Facilitated breakout discussion Participants will break into groups to consider:</p> <ul style="list-style-type: none"> → How are we going to achieve our preferred future for local government? → What are the key challenges and opportunities along the way? → What direction do we need to head in to meet those challenges, maximise the opportunities and get to the preferred future? <p>Out of this discussion, groups will start to construct the "roadmap" (i.e. strategic directions) for the next four years, then up to 10 years and potentially beyond.</p>
3.30pm	AFTERNOON TEA
3.50pm	<p>Towards the Vision - Focus on the Roadmap: Verbal feedback Participants will come together to hear a report back from each group, identifying similarities and differences.</p>
4.15pm	<p>Focus on the Vision and Roadmap: Reflections and wrap up This session will briefly recap what we have achieved at the workshop so far and what we still need to do.</p>
4.30pm	<p>Ideas to Stimulate Discussion: Local Government Reform in England Ms Corin Moffatt, former Assistant Chief Executive of the Local Government Association in England will give participants some insights into local government reform currently happening there.</p>
5.00pm	Day 1 Workshop Close

Dinner Event

Time	Program
6.45pm	<p>Pre-Dinner drinks Venue: Dubbo Regional Theatre and Convention Centre Dress: Smart casual</p>
7.30pm	<p>Dinner Speaker: Professor Sohail Inayatullah will facilitate a light but thought provoking session.</p>

ATTACHMENT 1

Day 2 – Thursday 18 August 2011

Time	Program		
8.45am	<p>Creating a legacy: Continuing the journey This introductory session will discuss reflections from Day 1 and challenges ahead.</p>		
8.55am	<p>Ideas to Stimulate Discussion: What's happening around Australia? Professor Brian Dollery, Director of the Centre for Local Government at the University of New England will discuss research on future directions for NSW local government. Ms Melissa Gibbs, Assistant Director of the Australian Centre of Excellence for Local Government will provide insights about local government reform across Australia.</p>		
9.20am	<p>Focus on Models: Introduction The workshop facilitator will briefly summarise the example models presented in the Discussion Paper and the elements that go to make them (i.e. governance, structure, finance, functions and capacity).</p>		
9.35am	<p>Focus on the Models: Facilitated breakout discussion This session is about identifying and developing potential models for local government into the future – models that participants would like to see explored further after the workshop that will overcome the sort of challenges identified in Day 1. Participants will break into groups to talk about and build a model, or models, of local government that would work in the future for their area and other areas of NSW.</p>		
10.45am	<p>Focus on the Models: Verbal feedback Participants will hear a report back identifying areas to be explored further.</p>		
11.00am	MORNING TEA		
11.30am	<table border="0"> <tr> <td style="vertical-align: top;"> <p><i>Concurrent Session 1</i></p> <p>Building the 4 year Action Plan: Facilitated breakout discussion Participants in breakout groups will discuss and identify the most important actions to put us on our preferred path. Groups will develop their Action Plan with reference to the elements of governance, structure, finance, functions and capacity.</p> </td> <td style="vertical-align: top;"> <p><i>Concurrent Session 2</i></p> <p>Building the 4 year Action Plan: Refining consensus actions It is anticipated there will be some proposed directions already identified that have broad support. Volunteers will form a smaller group, or groups, to work up more detail on those actions.</p> </td> </tr> </table>	<p><i>Concurrent Session 1</i></p> <p>Building the 4 year Action Plan: Facilitated breakout discussion Participants in breakout groups will discuss and identify the most important actions to put us on our preferred path. Groups will develop their Action Plan with reference to the elements of governance, structure, finance, functions and capacity.</p>	<p><i>Concurrent Session 2</i></p> <p>Building the 4 year Action Plan: Refining consensus actions It is anticipated there will be some proposed directions already identified that have broad support. Volunteers will form a smaller group, or groups, to work up more detail on those actions.</p>
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1.00pm	<p>Building the 4 year Action Plan: Report back Participants will come together to hear a report back from each group.</p>		
1.20pm	<p>Creating a legacy: What did we achieve? This brief session will provide participants with the opportunity to consider the most important things achieved at the workshop.</p>		
1.25pm	<p>Focus on the Action Plan: Electronic feedback Participants will determine Action Plan priorities through the electronic feedback system.</p>		
1.40pm	<p>Creating a legacy: Continuing the journey The Destination 2036 process does not stop at the end of this workshop. This session will talk about the next steps in the process.</p>		
1.45pm	<p>Closing remarks by the Presidents Cr Keith Rhoades, Cr Ray Donald, and Mr Mark Ferguson.</p>		
1.55pm	<p>Formal Workshop Close by Minister The Minister for Local Government, the Hon Don Page MP, will thank participants and formally close the workshop.</p>		
2.00pm	NETWORKING LUNCH		

ATTACHMENT 2



Communiqué – 18 August 2011 – Dubbo

Destination 2036 Workshop - Mapping the future for better local government

The leaders from NSW local government came together for an historic meeting in Dubbo on 17 and 18 August 2011 to begin the process of creating a strong and viable local government sector.

Over 350 representatives from every council in the State worked cooperatively and constructively over the two days to lay down a shared vision for the sector and develop a set of clear actions to achieve that vision.

Representatives at the Destination 2036 Workshop recognised the need to reshape the structure, governance and financing arrangements, functions and capacity of the sector to better enable councils to serve their communities in a challenging and rapidly changing environment.

The two-day workshop represented the first stage in a significant process of reform for the sector and a new era in State/Local Government relations. It sets the stage for the biggest reforms to local government in its history.

The Minister for Local Government, the Hon Don Page MP, the President of the Local Government Association, Councillor Keith Rhoades, the President of the Shires Association, Councillor Ray Donald, and the President of Local Government Managers Australia (NSW Branch) Mr Mark Ferguson, joined together at the end of the workshop to praise participants and to share their commitment to jointly pursuing this reform process.

Challenges for the future

Representatives at the workshop acknowledged that there will be a number of challenges in the short, medium and longer term that will impact on the capacity of councils to meet the needs of their communities. The key challenges identified and discussed at the workshop include:

- Demographic change
- Increasing community expectations
- Technological change
- Economic, financial and industry change
- Environmental change
- Social change

ATTACHMENT 2

The Vision for NSW Local Government

During the course of the two day event a working draft of a future vision statement was developed for further consultation.

Vision 2036

Strong Communities through Partnerships

- *By 2036, all NSW communities will be healthy and prosperous – led and served by strong, effective and democratically elected local government*
- *Through leadership, local knowledge and partnerships with community, government and other sectors, we will plan our futures and deliver quality services and infrastructure*
- *We will be recognised, respected and responsible for:*
 - *Upholding the highest ethical standards*
 - *Sound financial management*
 - *Sensitive environmental stewardship*
 - *Meaningful community engagement, advocacy and leadership*
 - *Our adaptability, innovation and learning*
 - *Developing the full potential of our people*
 - *Responding to our diverse cultures and environments*
 - *Creating places that people value*

Achieving the vision – a roadmap for Local Government

There was broad consensus among representatives that change and reform is needed within the sector to meet changing community needs; this will be achieved through the pursuit of the following strategic initiatives (the “roadmap”).

- The development of a new vision for local government based on a working draft
- Continue to improve the relationship between state and local government, including a review of the intergovernmental agreement
- Commitment to review the legislative framework to ensure that local government can meet the needs and challenges facing communities in the future
- Commitment to clarify the key functions, roles and responsibilities of councils
- Recognition that a variety of operating models for local government are needed that can be applied in the differing circumstances of remote, regional, rural and Sydney basin councils, because one size does not fit all.
- The need to develop new funding models to ensure the financial viability of councils
- Strong endorsement to strengthen regional collaboration and resource sharing
- Commitment to improve the process by which voluntary boundary alterations can be accommodated
- Pilot programs with volunteer councils to test new models

ATTACHMENT 2

Next steps

Steering Committee to oversee implementation of the Action Plan

Who

An Implementation Steering Committee (ISC), consisting of the Chief Executive of the Division of Local Government (Chair) the Presidents of the Local Government and Shires Associations and the President of the LGMA has been established to build on the work of the Destination 2036 workshop.

How

The ISC will meet on 2 September to consider the workshop outcomes. The ISC will refine the list of actions into a draft action plan that will be distributed around the end of September for consultation.

Feedback will be considered and incorporated into the final action plan by the end of the year so that implementation by the two tiers of government can commence in 2012.

ATTACHMENT 3

Hon Don Page, MP Minister for Local Government

- Does not want to oversee decline in the community.
- Never have sufficient resources to do everything we want to.
- Increasing expectation of our community.
- Complexity in what and how we do things.
- Allowing status quo will allow some Councils to become unsustainable.
- Infrastructure renewal fund being established following assets survey.
- The answer is not just extra resources from other areas.
- Does not want just a shopping list for the State Government.
- Amalgamation is not the only answer.
- What is Local Government core business and does it vary from LGA to LGA?
- Councils need to be strategic and not just operational.
- Federal Government review of FAG.
- Federal Government wants reform as part of this.
- Concern of Federal Government and Infra Australia around Councils being operational and not strategic which impacts on long term sustainability.

Ross Woodward, Chief Executive, Division of Local Government

- We need to know what needs to be done so we can do what needs to be done eg JFK's speech on putting a man on the moon.

Professor Sohail Inayatullah, Internationally Renowned Futurist

- Is any company adaptable? That is, can we change efficiently enough to keep up with changes that happen to us and which we cannot see coming.
- We need to not only look for the logical changes on the horizon but also those that are out there beyond immediate logic.
- Need a workforce that can respond to future.
- *"Fix the roof when the sun is shining"*
- Effect of people mythologies on their behaviour now and in the future.
- Get them to understand how their mythologies affect their future state.
- He used Darwin's theory about adaptable people.

Kevin Humphries, MP Minister for Western NSW

- Discussed Western NSW community
- Looking at regionalising NSW and he is the 1st Western NSW Minister
- Corporate Governance, service delivery, demographic change/diversity all have major impacts on Council's in the area.
- Question for us is *"Are Councils still the front door into communities?"* He thinks not.
- Very interesting approach on how the State Government is looking to improve service delivery and governance in Central Darling especially areas outside of villages but also communities in villages.
- Need to narrow down the front door to the community ie reduce number of service providers that are in local communities.

Corin Moffatt, Former Assistant Chief Executive of the Local Government Association in England

- Change due to change in Government and massive funding cuts in England.
- England local government now starting to deliver more for less via shared services and improvement/innovation.
- Its now moved to not so much about better but to limiting deterioration
- Much broader reform than here in Aust and NSW.
- Their array of services much broader than ours and include what the States and Commonwealth provides here.
- Council tax was in place until recently where as now there is no capping.
- The conversation between local government and federal government in England has now stopped as there is a realisation that there is no extra cash to be provided.

Delivering Best for Less

- Shared services → joint management arrangements, back office, front office, outsourcing, joint ventures, procurement and assets, expertise.
- Reorganisation → this is their term for amalgamation.
- Shared services went from 45% to 98% since funding cuts from central government.
- Improvement and innovation → targets and inspection, self regulation and assessment, scrutiny, peer review, data and knowledge sharing.
- All of these, especially scrutiny and measurement, drove massive improvement.

Brian Dollery, Director of the Centre of Local Government at the University of New England

- Conversation on how Councils can fund infrastructure.
- Discussed that this is a world-wide issue.
- Funding long term works via bonds and Council's own revenue raising activities.
- Borrowing is a critical component of addressing the issue and bonds are a good way.
- Look at Brighton, Tasmania on how they have sold their services to other agencies.
- Discussed collaboration, shared services and alliances.
- Alternate models:
 - two-tier system/shared admin:
 - improving efficiencies, structure and process change;
 - internal service reviews;
 - leadership and governance review being undertaken recognises that it is not a one size fits all approach;
 - interesting models re-executive and non-executive mayors with cabinet approach.

Melissa Gibbs, Assistant Director of the Australian Centre of Excellence for Local Government

- Conversation was around the role and purpose of ACOELG.
- Provided short discussion on LG reforms that are occurring across the country.
- Shared services is not a soft option but real hard work.
- We need to look at amalgamation, shared services, collaboration and boundary changes.
- Savings should be put back into service delivery around asset management.
- Change is unavoidable and consolidation is not about cutting rates.

**ATTACHMENT 4
DESTINATION 2036 OUTCOMES REPORT – SEPTEMBER 2011**

PROVIDED UNDER SEPARATE COVER

GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1

FILE NO: A2004-0284

PAYMENT OF EXPENSES & PROVISION OF FACILITIES TO COUNCILLORS POLICY REVIEW

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Payment of Expenses & Provision of Facilities to Councillor Policy dated 23 November 2010 (Min No. 373)
 - 2) Adopt the Payment of Expenses and Provision of Facilities to Councillors Policy as advertised (**ATTACHMENT 1**).
-

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

Cr Shirley O'Brien returned to the meeting at 6.45pm.

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

BACKGROUND

The purpose of this report is to provide Council with any response received from the community following public exhibition of the Payment of Expenses and Provision of Facilities to Councillors Policy.

Council at its meeting on 23 August 2011 resolved to place the Payment of Expenses and Provision of Facilities to Councillors Policy on public exhibition for a period of 28 days. Public exhibition was from 8 September to 7 October 2011. No submissions were received.

Council is now asked to consider the adoption of the Policy as advertised.

FINANCIAL/RESOURCE IMPLICATIONS

Council's 2011-12 budget allocation generally provides for the inclusions covered in the Policy.

LEGAL, POLICY AND RISK IMPLICATIONS

Under Section 252 Council must adopt a policy concerning the payment of expenses incurred by Councillors in relation to discharging the functions of civic office. It is a requirement of the Local Government Act that Council adopt the policy after June 30 each year and lodge the adopted policy with the Department prior to November 30 each year.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy allows Councillors to effectively carry out their responsibilities as members of the Council and as community representatives without suffering financial hardship.

CONSULTATION

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

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the draft policy.

ATTACHMENTS

- 1) Payment of Expenses and Provision of Facilities to Councillors Policy.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Payment of Expenses and Provision of
Facilities to Councillors Policy
(Section 252, Local Government Act 1993)

Adopted 28 June 1994
Minute No 342
Amended 13 December 1994
Minute No. 691
Amended 14/11/95
Minute No. 562
Amended 10/9/96
Minute No. 528
Amended 23/12/97
Minute No. 1471
Amended 09/03/04
Minute No. 107
Amended 31/01/06
Minute No.398
Amended 27/11/06
Minute No. 758
Amended 25/03/08
Minute No. 069
Amended 16/12/08
Minute No. 398
Amended 24/11/09
Minute No.399
Amended 23/11/10
Minute No. 373

Part 1 – Introduction

1.1 Title, commencement and definitions of the Policy

1.1.1 The Policy shall be known as the "Councillors Payment of Expenses and Provision of Facilities".

1.1.2 The Policy is effective from 23 November 2010.

1.1.3 Definitions

In this Policy, unless otherwise stated:

- a) **Councillor** means a Councillor elected to Port Stephens Council, including the Mayor.
- b) **Official Business of Council** means:
- Meeting of Council;
 - Meetings of Committees of the Whole
 - Site inspection where resolved by Council;
 - Meetings of committees where Council has endorsed the Councillor's membership;
 - Civic receptions hosted or sponsored by Council;
 - Meetings or functions to which the Councillors attendance has been approved by the General Manager and/or the Mayor.
 - Functions or meetings where the invitation to attend arises only as a result of the Councillor's position as a Councillor.
- c) **Council Term** means period of elected Council (generally 4 years under the Local Government Act 1993).
- d) **Port Stephens Local Government Area** means the local government area of Port Stephens Council.
- e) **The Act** means the *Local Government Act 1993*.
- f) **The Regulations** means the *Local Government (General) Regulation 2005*.

1.2 Purpose of the Policy

1.2.1 The purpose of the policy is to ensure that Councillors receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties. It ensures that these are provided in an accountable and transparent manner.

1.3 Objectives and scope of the Policy.

1.3.1 The objective of this Policy is to detail those Councillor expenses and facilities the cost of which shall be met by Council.

1.3.2 This Policy also aims to ensure compliance of the Port Stephens Council Code of Conduct.

1.4 Making, adoption and reporting of the Policy

1.4.1 This Policy is made under the *Local Government Act, 1993*, including Sections 248 to 254 and 731 and having regard to the provisions of the Division of Local Government Circular No. 09-36, 7 October 2009.

1.4.2 The Act requires that the Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and Councillors.

1.4.3 This Policy is to be adopted by Council annually, within five months after the end of the year.

1.4.4 Prior to adoption public notice must be given and public submissions invited for 28 days. Council must then consider all submissions received and make any appropriate changes to the Policy.

1.4.5 Council need not give public notice of a proposed amendment if Council is of the opinion that the proposed amendments are not substantial. The term "not substantial" should be taken to mean minor changes to wording of the policy or changes to monetary provisions or rates that are less than 5% or changes to the standard of equipment and facilities to be provided. Public notice is required prior to each annual adoption of the policy even if there are no proposed changes.

1.4.6 Section 428 of the Act and Clause 271 of the Regulation requires Councils to include detailed information in their annual reports about the payments of expenses and facilities to Councillors.

1.5 Legislative provisions

1.5.1 The relevant legislative provisions are the *Local Government Act 1993* and the *Local Government (General) Regulations 2005*.

Local Government Act 1993

248 FIXING AND PAYMENT OF ANNUAL FEES FOR COUNCILLORS

- (1) *A council must pay each councillor an annual fee.*
- (2) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (3) *The annual fee so fixed must be the same for each councillor.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*

248A ANNUAL FEES OR OTHER REMUNERATION NOT TO BE PAID DURING PERIOD OF SUSPENSION

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or*
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act, unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.*

249 FIXING AND PAYMENT OF ANNUAL FEES FOR THE MAYOR

- (1) A council must pay the mayor an annual fee.*
- (2) The annual fee must be paid in addition to the fee paid to the mayor as a councillor.*
- (3) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
- (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.*

252 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.*
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.*
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.*
- (4) A council may from time to time amend a policy under this section.*
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.*

253 REQUIREMENTS BEFORE POLICY CONCERNING EXPENSES AND FACILITIES CAN BE ADOPTED OR AMENDED

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
 - (c) a copy of the notice given under subsection (1).
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

254 DECISION TO BE MADE IN OPEN MEETING

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

254A CIRCUMSTANCES IN WHICH ANNUAL FEES MAY BE WITHHELD

- (1) Despite this Division, a council may resolve that an annual fee will not be paid to a councillor or that a councillor will be paid a reduced annual fee determined by the council:
 - (a) for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or
 - (b) in any other circumstances prescribed by the regulations.
- (2) Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to

that councillor that relates to the period of absence that is in excess of 3 months.

428 ANNUAL REPORTS

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

Local Government (General) Regulations 2005

217 ADDITIONAL INFORMATION FOR INCLUSION IN ANNUAL REPORT

- (1) For the purposes of [section 428](#) (4) (b) of [the Act](#), an annual report of a council is to include the following information:
- (a) details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),
 - (a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:
 - (i) the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),
 - (ii) telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,
 - (iii) the attendance of councillors at conferences and seminars,
 - (iv) the training of councillors and the provision of skill development for councillors,
 - (v) interstate visits undertaken during the year by councillors while representing the council, including the cost of transport,

the cost of accommodation and other out-of-pocket travelling expenses,

(vi) overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,

(vii) the expenses of any spouse, partner (whether of the same or the opposite sex) or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,

(viii) expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions

403 Payment of expenses and provision of facilities

A policy under [section 252](#) of [the Act](#) must not include any provision enabling a council:

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or
- (b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.

404 CIRCUMSTANCES IN WHICH COUNCILLORS' ANNUAL FEES MAY BE REDUCED OR NOT PAID

For the purposes of [section 254A](#) of [the Act](#), a prescribed circumstance for the non-payment or reduction of a councillor's annual fee is the circumstance where both of the following conditions are satisfied:

- (a) the payment of the annual fee adversely affects the councillor's entitlement to a pension, benefit or allowance under any legislation of the Commonwealth, a Territory or a State (including New South Wales),
- (b) the councillor agrees to the non-payment or reduction.

1.6 Other Government policy provisions

- Division of Local Government Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors.
- Port Stephens Council Code of Conduct, as amended.

- Division of Local Government Model Code of Conduct – June 2008.
- ICAC Publications.

Part 2 – Payment of Expenses

2.1 General Provisions

- 2.1.1 Council will determine an annual allowance, to be paid monthly in arrears, in accordance with Section 248 - 251 of the Local Government Act and the determination of the Local Government Remuneration Tribunal.
- 2.1.2 This Policy is intended to cover most situations where a Councillor reasonably incurs expenses in discharging the functions of civic office. The annual fees paid to each Councillors is generally not intended to offset those costs.
- 2.1.3 All allowances and reimbursements of expenses made under this Policy shall be in respect to costs directly associated with the functions of civic office.
- 2.1.4 Councillors are not permitted to claim expenses in connection with political activities, including political fundraising as this is considered a personal interest.

2.2 Reimbursement and reconciliation of expenses processes

- 2.2.1 All claims for reimbursement must be made within three (3) months of incurring the expense and shall be subject to the General Manager or delegated officer discretion.
- 2.2.2 All claims shall be submitted to the General Manager or delegated officer on **FORM 1**.
- 2.2.3 All claims must be supplied with a tax invoice or receipt to support the claim. If a Councillor is not able to provide a tax invoice or receipt then a Statutory Declaration is to be provided.
- 2.2.4 Claims for travel under this Policy shall be lodged using travel **FORM 2**, include:
- Date
 - Place of departure and arrival
 - Distance travelled

Changes

Insert - 2.1.5 Councillors will not be provided with general expense allowance. A general expense allowance is a sum of money paid by a Council to a Councillor to expend on an item or a service that is not required to be receipted and/or otherwise reconciled according to a set procedure and within a specific timeframe.

Delete 2.2.2 and replace with "2.2.2 All claims shall be submitted to the General Manager and the delegated officer for assessment against the policy on **FORM 1**."

- Fare and parking fees paid

2.2.5 The kilometre rate payable to Councillors who travel in their own vehicle shall be the rate payable under the Local Government State Award.

2.2.6 Where travel is outside the Hunter Councils Area, Council shall as appropriate meet or reimbursement the lesser amount of the following expenses:-

- a) The cost of an economy class air ticket and associated taxi transfers.
- b) The cost of a first class rail ticket and associated taxi transfers.
- c) Transportation expenses using a Councillor's own vehicle (calculated under clause 2.2.5).
- d) Transportation using a Council-owned vehicles, actual costs incurred.

2.2.7 Where possible Council will pay all expenses directly by account or through use of a corporate credit card. In some instance it maybe necessary for Councillors to pay unexpected costs and seek reimbursement.

2.2.8 Once expenses of attending conferences, seminars or training course have been finalised, an invoice shall be forwarded to Councillors for any expenses payable by them.

2.3 Approval and Dispute resolution

2.3.1 The Executive Assistant – Councillor Support shall assess all claims against this Policy and provide the assessed documentation to the General Manager **or** Executive Officer for approval.

2.3.2 Claims will be paid on a monthly basis, generally the first Friday of the month.

2.3.3 Should the General Manager **or** Executive Officer determine that a claim should not be paid, the Councillor should be advised in writing. Should the Councillor still believe that the claim should be paid, in part or full, it shall be considered that a dispute exists.

2.3.4 In the event of a dispute at any time regarding payment of a claim or anything else under this Policy, the parties to this dispute shall each provide a written report on the nature of the dispute. The General

Changes

Delete "or" in 2.3.1 and replace with "and" as this is inconsistent with the DLG guidelines.

Delete "or" 2.3.3 and replace with "and" as this is inconsistent with the DLG guidelines

Manager shall submit such reports to the next open meeting of Council. The dispute shall then be determined by a resolution of Council having regard to the reports, this Policy, Act and any other relevant laws.

- 2.3.5 The decision of Council pursuant to clause 2.3.4 shall be binding on all parties.

2.4 Payment in advance

- 2.4.1 Councillors may require advance payment for an anticipated expense associated with attendance at a conference, seminar and training course. The amount is **\$200** per Councillor per event.

- 2.4.2 In the event of a payment being made in advance, Councillors must full reconcile all expenses against the amount of the advance and submit the reconciliation to Council with **30 days** of the event.

2.5 Monetary Limits

- 2.5.1 Monetary limits set out in this Policy are the maximum amount payable in respect of any facility or expense. Any additional costs above the limit will be incurred by the Councillor. All monetary limits are exclusive of GST.
- 2.5.2 Monetary limits may only be waived by a resolution of Council in exceptional circumstances. Any waiver of a monetary limit will apply to a particular event or circumstance and will not constitute an amendment to this Policy.

Spouse and Partner Expenses

- 2.6.1 Accompanying person means a person who has a close relationship with a Councillor and/or provides carer support to the Councillor.
- 2.6.2 In limited circumstances, Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions with the Port Stephens Local Government Area, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of **\$500.00** per year of term, not including the NSW Local Government and Shires Association annual conference.
- 2.6.3 Costs and expense incurred by the Councillor on behalf of their spouse, partner or accompanying person shall be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function.

- 2.6.4 In limited circumstances, Council shall meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of **\$1000.00** per year of term, not including the NSW Local Government and Shires Association annual conference.
- 2.6.5 Council shall meet limited expenses of spouse, partner or accompanying person associated with attendance at the NSW Local Government and Shires Association annual conference. These expenses are limited to the costs of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program shall not be met by Council.
- 2.6.6 Costs associated with spouse, partner or accompanying person associated with attendance conferences other than the NSW Local Government and Shires Association annual conference, or any seminars or training shall not be met by Council.
- 2.6.7 In no circumstances will the peripheral expenses of spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Specific Expenses for Councillors

2.7 Attendance at seminars, conferences, training and educational expenses

- 2.7.1 Council shall meet expenses incurred by Councillors in attending conferences and seminars or undertaking training and educational courses when the attendance is:
- a) To the NSW Local Government and Shires Associations' annual conference; or
 - b) Authorised by resolution of an open meeting of Council.
- 2.7.2 Councillors should generally have their attendance at a conference, seminar or participation in a training course authorised by Council in accordance with clause 2.7.1 (b).
- 2.7.3 Where it is impractical to have a Councillor's attendance or participation authorised by Council in accordance with clause 2.7.1 (b), Councillors wishing to claim expenses incurred due to their attendance or participation shall obtain the approval of the Mayor and the General Manager prior to attendance. Where the Mayor is seeking approval to claim his or her attendance or participation expenses under this clause, he or she shall obtain the approval of the Deputy Mayor and the General Manager.

2.7.4 Councillors shall submit their request for attendance in writing with the appropriate notice detailing the costs and benefits to the Councillor, to Council and the community.

2.7.5 In making its decision, the General Manager/Mayor or Council should consider:-

- a) The relevance of the seminar, conference, training or educational expenses to Council and the potential benefit that may result from attendance;
- b) The special interest of the Councillor/s wishing to attend;
- c) The total cost to Council of attendance relative to the Program budget;
- d) The fair and equitable division of opportunity for Councillors to attend conferences/seminars.

2.7.6 Councillors shall at the conclusion of their attendance at the seminar, conference, or training provide a written report to Council on the aspects of the seminar, conference or training. This report should be submitted to Council within one month of their attendance. Attendance at the NSW Local Government & Shires Association annual conference will not require a report to Council.

2.7.7 The General Manager's Office will make all arrangements for the attendance of Councillors and accompanying persons, where required at a conference, seminar or training.

2.8 Seminars, Conferences and Training Expenses

2.8.1 Council will meet the costs for attendance at approved conferences and seminars, training and educational courses to a maximum of **\$2,000.00** per Councillor per year of term, excluding the costs associated with attendance at the NSW Local Government and Shires Associations' annual conference:

- a) **Registration fees** – Council will meet the cost of the registration fee set by the organiser, including costs of related official lunches and dinners, and associated tours where they are relevant to the business and interests of Council.
- b) **Accommodation** – where a conference, seminar or training course is not located within the Port Stephens Local Government Area, Councillors shall where required be accommodated in the hotel where the event is being held or the nearest hotel to it that is of a

Changes

Delete \$2,000 and replace with \$3,500.

similar standard, or as arranged by the conference organiser. Accommodation shall be provided at the rate of a double room. Any additional nights prior to or following the conference, seminar or training course Council will not be included in the expenses paid by Council. **Note:** Movie hire and Mini Bar Facilities will be paid for by the Councillor.

- c) **Transportation** – Councillors attending a conference, seminar or training course shall travel by the most appropriate route, subject to any personal medical requirements. Any costs incurred in undertaking activities not related to attendance at the conference, seminar or training course shall not be included in any expenses paid by Council.
- d) **Educational Materials** – where a Councillor is participating in an approved training or educational course and specific reference materials are required (for example, prescribed text books), Council shall purchase such educational materials on the Councillor's behalf. At the completion of the relevant training or educational course, educational materials purchased pursuant to this clause shall be returned to Council and be available for the use of all Councillors in the Councillor's Room

2.8.2 Conferences, seminars and training held outside the Port Stephens Local Government Area, Council shall as appropriate (having regard to availability, time/cost effectiveness of the transport options) meet or reimburse the lesser amount of the following transportation expenses:

- a) The cost of an economy class air ticket and associated taxi transfers.
- b) The cost of a first-class rail ticket and associated taxi transfers.
- c) Transportation expenses by a Councillor with the Councillor's own vehicle (refer to clause 2.2.5).

2.8.3. If a Council-owned vehicle utilised that cost will be determined by way of actual costs incurred.

2.9 Meals

2.9.1 Council shall meet the cost of breakfast, lunch and dinner for Councillors attending a conference, seminar or training course where any such meal is not provided by the organiser. Council shall also meet the reasonable cost of drinks accompanying the meals.

2.9.2 Costs payable by Council under clauses 2.9.1 and 2.9.2 shall be capped at a maximum of **\$100.00** per Councillor per day inclusive. Councillors will be paid actual costs if under **\$100.00** per day.

2.9.3 Council shall meet the reasonable cost of Councillors' meals where due to their attendance to Official Business of Council the Councillor is reasonably unable to partake of a meal at their residence and so incurs additional expense.

2.9.4 Costs payable by Council under clause 2.9.3 shall be capped at a maximum of **\$50.00** per Councillor per day or actual costs, whichever is less.

2.10 Local Travel Arrangements and Associated Expenses

2.10.1 Travelling expenses shall be reimbursed to Councillors for travel by public transport or private vehicle on Official Business of Council in the Hunter Councils area, to a maximum amount of **\$6,000.00** per Councillor per year of term.

2.10.2 Councillors may, where available, use Council owned vehicles to attend to Official Business of Council.

2.10.3 Council shall meet the cost of parking fees and road tolls but not the cost of traffic or parking fines, which shall remain the sole responsibility of the Councillor.

2.10.4 Claims for reimbursement under this clause 2.10 shall be made in accordance with clause 2.2.

2.11 Travel outside the HROC Area including Interstate and Overseas Travel

2.11.1 Payment of any travel expenses to a Councillor, incurred on Council related business outside of the Hunter Councils area and not otherwise addressed in clause 2.8 requires approval by resolution of Council in an open meeting.

2.11.2 Approval for payment of travel expenses under clause 2.11.1 may be granted subject to any conditions Council so determines, and Council shall meet only those expenses that Council so determines.

2.12 Communication Device Costs and Expenses

2.12.1 Council shall reimburse Councillors to a maximum of **\$3,000.00** per term for the purchase of a personal computer/laptop, multifunction device, peripherals and Microsoft office software.

2.12.2 Council shall not purchase the equipment in item 2.12.1 on a Councillors behalf.

2.12.3 Council shall reimburse Councillors for all maintenance and repairs which are to be arranged by individual Councillors.

2.12.4 Council shall reimburse Councillors for all consumables such as ink cartridges and reasonable supply of paper for official Council business.

- 2.12.5 Council shall reimburse Councillors for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business to a maximum cost of **\$200.00** per Councillor per month of term. All communication device costs incurred above this maximum are at the Councillors own expense.
- 2.12.6 If a Councillor so elects, Council will provide the Councillor with a mobile phone instead of paying a contribution towards the Councillor's expenses on their existing mobile phone, however the maximum amount of mobile phone expenses incurred by Council must not exceed the amount set out in clause 2.12.5. All communication device costs incurred above this maximum must be reimbursed to Council by the Councillor. Councillors are encourage to purchase their own mobile phone and seek reimbursement under clause 2.12.5.
- 2.12.7 If a Councillor does not have a telephone line or internet connection at their home, Council shall meet the installation costs.
- 2.12.8 Council shall meet the cost of providing and maintaining an internet connection at the residence of the Councillor to a maximum of **\$60.00** per Councillor per month of term. Any internet costs incurred above this maximum are at the Councillors own expense.
- 2.12.9 Upon a Councillor ceasing to hold office, that Councillor must return to Council any items provided to him or her under this clause. Generally Council does not provide such equipment as Councillors are required to by such equipment under 2.12 and seek reimbursement.

2.13 Care and Other Related Expenses.

- 2.13.1 In this clause, "relative" shall have the same meaning as set out in the Dictionary in the Act, being at the date of this policy:

"Relative, in relation to a person, means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;*
- (b) the spouse or de facto partner of the person or of a person referred to in paragraph (a)."*

- 2.13.2 Where a Councillor has responsibilities for the care and support of any relative, Council shall reimburse the actual cost incurred by the Councillor to engage professional care for the relative whenever considered necessary by the Councillor (acting reasonably) in order for the Councillor to discharge the functions of civic office.

2.13.3 The total amount paid to a Councillor under this clause 2.13 shall not exceed **\$2,000.00** per year of term.

2.13.4 Claims for reimbursement under this clause 2.13 shall be made in accordance with clause 2.2.

2.14 Insurance Expenses

Councillors shall receive the benefit of insurance cover for:

2.14.1 Personal Accident - Personal Accident insurance covers personal injury which is caused by violent, accidental external and visible means that solely and independently of any other cause results in a Councillor's death or disablement. The cover applies anywhere in the world during and while travelling to and from Council business. The capital benefit for the death of a Councillor is \$500,000. The cover does not include medical expenses.

2.14.2 Professional Indemnity - Professional Indemnity insurance covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.

2.14.3 Public Liability - Public Liability insurance covers Council's legal liability to pay compensation to third parties arising in connection with the business activities of Council. Matters arising from Councillors' performance of civic duties or exercise of their functions as Councillors are covered subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme policy wording.

2.14.4 Councillors' & Officers' Liability - Councillors' & Officers' Liability insurance protects Councillors and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Councillors for personal liabilities as a result of wrongful acts subject to any limitations or conditions set out in the policy of insurance.

Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by the Risk Management Co-ordinator.

2.15 Legal Expenses

2.15.1 Councillors shall receive legal expenses, in the event of:

(a) An enquiry, investigation or hearing by any of:

- The Independent Commission Against Corruption;
- The Office of the Ombudsman;
- Division of Local Government;
- The Police;
- The Director of Public Prosecutions;
- The Local Government Pecuniary Interest Tribunal; or
- Council's Conduct Review Committee/Reviewer.

into the conduct of a Councillor; or

(b) Legal proceedings being taken **by or** against a Councillor, arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor (with the exception of defamation proceedings), Council shall reimburse such a Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED THAT:

Changes

Delete the wording "by or". This is inconsistent with the DLG guidelines.

The amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

The Councillor's performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper (Section 731 of the Act).

The amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's Hunter based Solicitors will be paid ie any portion of the expenses representing any hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

- (c) Defamation proceedings or other proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

Note: Council may not meet the costs of any action in defamation taken by a Councillor as plaintiff in any circumstances (DLG Circular 00/22).

To ensure that indemnity or reimbursement in respect of costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

- (d) Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the Local Government Pecuniary Interest Tribunal or an investigative body PROVIDED the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.
- (e) Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something which a councillor has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.
- (d) In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach has occurred may not necessarily be considered a substantially unfavourable outcome.

2.15.2 Council shall not meet any Councillor's costs of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, Council itself.

POLICY

General

Where proceedings have been foreshadowed or commenced against any of the Mayor and Councillors arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following "Three Criteria" are satisfied through the required procedure set out below namely:

- (a) The statement was made or the act was done in relation to discharging the functions of civic office;
- (b) The Councillor concerned was acting in good faith; and
- (c) The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will indemnify or reimburse the Councillor for:

- (a) all legal expenses properly and reasonably incurred, given the nature of the legal services provided; and
- (b) any other fees, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

In responding to or defending such proceeding **PROVIDED THAT** the amount of such indemnity or reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

Engagement of Legal Representatives – Required Procedure

1. The Councillor must, as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. This notification must;
 - i. be in written form;
 - ii. include all details including any correspondence from the alleged injured party concerning the possible claim; and

- iii. Include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2. The Councillor must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by council or its solicitor or the insurer or its solicitor. The Councillor must at all times without undue delay keep Council fully informed of any oral or written communications made to the Councillor by the alleged injured party or the injured party's agents or legal representative in respect of the claim.
3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.
4.
 - i. If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed Solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Councillor concerned in written form of that view.
 - ii. If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.
5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause (4); the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to consultation with the General Manager and the Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the insurers

the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.

- If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
7. If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
- i. Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - ii. Accounts being considered and approved by the General Manager prior to payment; and
 - iii. All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.
8. Notwithstanding the provisions of paragraph 5.1 (ii) and 5 above, once proceedings have actually been commenced then the procedures set out in paragraph 5 above must be followed. (Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

This policy will not apply to any defamation or other action brought by any Councillor or Council employee against any Councillor, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:

- i. the statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Department of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
- ii. The statement:

- is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and
- is in accordance with the Local Government (General) Regulations 2005 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
- Does not breach any other law.

Part 3 Provision of Facilities

3.1 Provision of Facilities Generally

- 3.1.1 Unless otherwise stated, where a facility may be provided by Council in accordance with this Policy and a Councillor chooses to accept the facility, it shall be provided by Council with all establishment, routine maintenance, operating, training, replacement and insurance costs being met by Council, subject to any limits specified and adequate funds being allocated and available in Council's adopted Management Plan.
- 3.1.2 All facilities provided shall be of adequate capacity and functionality to allow the role of Councillor to be fully undertaken.

3.2 Private Use of Equipment and Facilities

- 3.2.1 Councillors shall not generally obtain private benefit from the provision of equipment and facilities. This includes benefits such as a travel bonus or other benefit arising from a loyalty scheme. However, incidental personal use of Council equipment and facilities may occur from time to time. No entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.
- 3.2.2 If a Councillor does obtain a private benefit for the use of a facility provided by Council being more than incidental use, the Councillor shall be invoiced for the amount of the private benefit with repayment to be in accordance with Council's normal terms.
- 3.2.3 The value of a private benefit to be invoiced under this clause 3.2 shall be determined by the General Manager or, at the request of the Councillor in receipt of the private benefit, the General Manager, or any two Councillors, by resolution of an open meeting of Council.
- 3.2.4 Equipment, facilities and services provided under this Policy shall not be used to produce election material or for any other political purposes.

3.3 Councillors' Room

3.3.1 Councillors shall be provided with equipment and facilities at the Raymond Terrace Administration Building. Equipment provided under this clause remains the property of Council.

3.3.2 The Councillors' Room furnished for use by all Councillors shall be provided with:

- a) A telephone, computer with internet access, multifunction device and computer peripherals for use by all Councillors.
- b) A library including Council policies, relevant legislation, reports on Development Applications and other relevant documents.

3.3.3 Light refreshments such as biscuits, health bars and beverages.

3.4 Administration Support, Stationery, Postage & Business Cards

3.4.1 Council shall provide the support services of Councillor Support Executive Assistant with suitable experience and skills to support Councillors.

3.4.2 Council shall post all correspondence for Councillors relative to the discharge of the functions of civic office.

3.4.3 Council shall provide appropriate letterhead stationery, business cards and Christmas cards for use by Councillors.

3.4.4 Correspondence by Councillors relative to the discharge of the functions of civic office is considered official correspondence of Council where the matter is referred to the General Manager for attention. The correspondence shall be attached to the appropriate Council file for registration, attention and reply.

3.4.5 Under no circumstances shall Councillors use the administration services, staff or other facilities provided in association with Local, State or Federal Government Elections.

3.4.6 Under no circumstances shall Councillors use the administration services or other facilities provided for the initiation of circular type letters without prior authority of the Council being obtained.

3.4.7 Council shall provide Councillors with official name badges indicating the wearer holds the office of Councillor, to wear at Civic functions.

3.5 Meals

3.5.1 Councillors will be provided with meals and refreshments following Committee and Council meetings and at other times considered appropriate by the Mayor and General Manager. The standard of the meal will be determined by the Mayor and/or the General Manager.

3.5.2 Light refreshments such as biscuits, health bars and beverages will be provided in the Councillors Room.

3.6 Transport Facilities

3.6.1 Four designated car parking spaces shall be provided for Councillors in the Council car park at the Council administration building, to be shared amongst Councillors.

3.6.2 Councillors will be reimbursed for all transport costs (taxi, use of private vehicle, etc) in accordance with clause 2.2 for their attendance at official Council functions. This includes deputising for the Mayor.

3.7 Corporate Uniform

3.7.1 Councillors may choose from a selection of Corporate Uniform provided by Council's approved supplier. Council will contribute a subsidy to 35% of the initial cost to a maximum of \$220 per annum. A sundry debtor account will then be forwarded to the Councillor for payment of the balance. Alternatively, a deduction can be made from the Councillor's monthly allowance.

3.8 Superannuation

3.8.1 Councillors may elect to contribute all or part of their Councillor Allowance into an approved Superannuation Scheme by completing **FORM 3**.

3.9 Health & Wellbeing Initiative

3.9.1 Councillors shall be able to access a Health Initiative program which includes gym membership at local facilities. The program requires a minimum six (6) month membership with a payment to be made in advance for three (3) months – non refundable.

3.9.2 Councillors shall investigate any taxation implications for individual councillors as a result of the membership.

3.9.3 Further details can be obtained through Council's Recreation Services Section at Council.

3.10 Provision of Safety equipment

3.10.1 Councillors shall be provided with the following Protective Apparel:

- hard hat;
- safety vest;
- safety footwear;
- safety glasses and;
- hearing protection

to accord with the NSW Occupational Health & Safety Act, for on-site inspections.

Provision of Additional Expenses, Equipment and Facilities for the Mayor

3.11 Additional Expenses, Equipment and Facilities

- 3.11.1 The Mayor is paid an additional annual fee. The fee is the amount fixed by Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.
- 3.11.2 This Policy is intended to cover most situations where the Mayor reasonably incurs additional expenses in discharging the functions of Mayoral office. The annual fee paid to the Mayor is generally not intended to offset those costs.

3.12 Equipment and Facilities

- 3.12.1 The Mayor shall be provided with additional equipment and facilities. Equipment provided under this clause remains the property of Council.
- 3.12.2 The following facilities and equipment shall be provided to the Mayor:
- 3.12.3 A furnished office with computer, printer, internet access, phone, facsimile and computer peripherals.
- 3.12.4 Office refreshments.
- 3.12.5 Mayoral letterhead.
- 3.12.6 A corporate credit card, to be used only to pay expenses allowed under this policy.
- 3.12.7 A mobile phone for the use of the Mayor in discharge of their formal duties, the cost of which shall be fully met by Council.
- 3.12.8 All items provided to the Mayor under this clause 3.12 must be returned to Council when the Mayor ceases to hold office.

3.13 Mayor's Staff

- 3.13.1 Council shall provide the services of the Councillor Support Executive Assistant with suitable experience and skills to support the Mayor.
- 3.13.2 The Councillor Support Executive Assistant shall provide support to the Deputy Mayor in the absence of the Mayor.

3.14 Mayoral Motor Vehicle

3.14.1 The Mayor shall be provided with:

3.14.2 A fully maintained motor vehicle, of a standard appropriate to the Office of the Mayor for the use of discharging function of the Mayor.

3.14.3 A fuel card, to be used for official Council business.

3.14.4 A car parking space at the Raymond Terrace Administration Building.

3.14.5 All items provided to the Mayor under this clause 3.14 must be returned to Council when the Mayor ceases to hold office.

Part 4 Other Matters

4.1 Acquisition and Return of Facilities and Equipment by Councillors

4.1.1 Upon ceasing to hold office a Councillor may purchase any Council equipment held by the Councillor at the market value of the equipment at the time of ceasing to hold office as approved by the General Manager.

4.2 Status of the Policy

4.2.1 This Policy replaces the previous version of the Policy adopted by Council on 24 November 2009.

4.2.2 This Policy shall only be amended by resolution of Council.



COUNCILLORS' EXPENSES CLAIM FORM

116 Adelaide Street, Raymond Terrace NSW 2324
 PO Box 42, Raymond Terrace NSW 2324



Form 1

COUNCILLOR.....

MONTH.....

DATE	PURPOSE	\$	POLICY LIMITS	Klms TRAVELLED	TOTAL CLAIM \$ (Office Use Only)
	Phone Call Claim (receipts required)		\$200/month (for landline rental and calls, facsimile, mobile phone calls and rental/plan)		
	Line Rental (receipts required)				
	Fax Expenses (receipts/documentation required)				
	Mobile Claim (receipts required)				
	Internet Claim (receipts required)		\$60.00/month		
	Travel (log required)		\$6,000/year		
	Conference/Seminars (receipts required)		\$2,000/year		
	Partner Expenses (receipts required)		\$500/year for Councillor & \$1,000/year for Mayor		
	Computer/laptop, multifunction devices, peripherals and software (receipts required)		\$3,000/term of Council		
TOTAL					

*** PAYMENT WILL ONLY BE MADE WHERE RECEIPTS AND VEHICLE LOG IS PROVIDED.**

Signature of Claimant..... Date.....

Councillors – Please note that ALL Councillor's reimbursement claims will be paid the **first Friday** of each month. Therefore Councillors are required to lodge their claims with the Executive Assistant Councillor Support at the end of each month at the **Ordinary Council meeting** for payment the following week.



**COUNCILLORS' MOTOR VEHICLE LOG
BOOK CLAIM FORM**

116 Adelaide Street, Raymond Terrace NSW 2324
PO Box 42, Raymond Terrace NSW 2324



Form 2

COUNCILLORMONTH.....YEAR.....

DATE	PURPOSE	START	FINISH	TOTAL KILOMETRES
TOTAL				

Signature of Claimant..... Date



COUNCILLORS' REMUNERATION
SACRIFICE ELECTION FORM –
SUPERANNUATION

116 Adelaide Street, Raymond Terrace NSW 2324
PO Box 42, Raymond Terrace NSW 2324



Form 3

Councillor Name: _____

Date to commence arrangement _____

Annual Remuneration _____

Annual Sacrifice Amount _____

Your Superannuation Fund Details:

Fund Name _____

Membership No (if applicable) _____

Account Name _____

Super Fund ABN (if applicable) _____

Superannuation Product
Identification Number (if applicable) _____

DECLARATION OF COUNCILLOR

I, _____ hereby certify that I have not relied on information or advice gathered through sources or resources from Port Stephens Council to make the decision to enter into a sacrifice arrangement.

I certify that I have obtained independent financial advice or made the decision based on my own investigation in relation to this sacrifice election.

I understand that at all times it remains my responsibility as a Councillor to notify Finance in writing of any change to the benefits sacrificed.

I have attached:

- A letter from the trustee stating that this is a complying fund and (for a self managed superannuation fund) a copy of documentation from the Tax Office confirming the fund is regulated
- Written evidence from the fund that they will accept contributions from Council, and
- Details about how Council can make contributions to this fund.

Signed: _____
Signed: _____

Councillor
Finance Officer

Date: _____
Date: _____

ITEM NO. 2

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 18 October 2011.

No:	Report Title	Page:
1	DESIGNATED PERSONS – PECUNIARY INTEREST	
2	LAWRENCE WATERHOUSE PTY LTD (IN LIQUIDATION)	

	<p>Councillor Frank Ward Councillor Geoff Dingle</p>
	<p>That Council:</p> <ol style="list-style-type: none"> 1) Note the report; 2) The President of the Bar Association be requested to nominate a senior member to conduct a review of the prosecution in the Lawrence Waterhouse Pty Ltd matter; 3) The conduct of the liquidator be referred to the Australian Securities and Investment Commission (ASIC) for review in Lawrence Waterhouse Pty Ltd matter; 4) The conduct of the liquidator in the prosecution of the Lawrence Waterhouse Pty Ltd matter be referred to the Australian Senate Committee on commercial matters through the Hon. John Williams.

The motion was lost.

386	<p>Councillor Ken Jordan Councillor Bruce MacKenzie</p>
	<p>It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 18 October 2011.</p>

GENERAL MANAGERS INFORMATION PAPERS



INFORMATION ITEM NO. 1

DESIGNATED PERSONS – PECUNIARY INTERESTS

REPORT OF: PETER GESLING
GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2011-03647

BACKGROUND

The purpose of this report is to advise Council of designated persons who have submitted returns.

Councillors

Cr Bruce MacKenzie
Cr Shirley O'Brien
Cr Peter Kafer
Cr Frank Ward
Cr Steve Tucker
Cr Geoff Dingle
Cr Bob Westbury
Cr John Nell
Cr Sally Dover
Cr Ken Jordan
Cr Glenys Francis
Cr Caroline De Lyall.

General Manager's office

General Manager
Executive Officer.

Corporate Services

Group Manager Corporate Services
Legal Services Manager
Communications & Customer Relations Manager
Information Management Manager
Organisation Development Manager.

Sustainable Planning

Group Manager Sustainable Planning
Manager Development Assessment and Environmental Health
Manager Environmental & Development Planning
Manager Building Assessment
Strategic Planning Coordinator
Senior Strategic Planners (3)
Strategic Planner (2)

Urban Release Planner – Kings Hill
Senior Strategic Engineer
Business Support Coordinator
Development Assessment Coordinator
Senior Development Planner (3)
Student Development Planner
Development Planners (2)
Building Surveyor
Health & Building Surveyors (4)
Senior Fire Safety Officer
Section 94 (Developer Contributions) Planner
Social Planning Coordinator
Coordinator Environmental Health and Regulation
Coordinator Natural Resources
Compliance Officer
Executive Planner
Environmental Health Team Leader
Rangers (5)
Vegetation Management Officer
Environmental Health Officer (3).

Commercial Services

Group Manager Commercial Services
Principal Property Advisor
Commercial Property Manager
Commercial Enterprises Manager
Tourism Manager
Financial Services Manager
Fleet Management Supervisor
Finance & Assets Coordinator
Financial Accountant
Economic Development Manager
Procurement & Contracts Coordinator
Property Development Coordinator
Property Investment Coordinator
Corporate Clean Business Manager
Fleet and Depot Services Coordinator.

Facilities & Services

Group Manager Facilities & Services
Community & Recreation Services Manager
Civil Assets
Project Services Manager
Operations Manager
Recreation Planning & Development Coordinator
Parks & Waterways Coordinator
Community & Recreation Assets Coordinator
Recreation Operations Coordinator

Works Manager (2)
Drainage Engineer
Civil Assets Engineer
Design and Development Engineer
Coordinator – Construction
Coordinator – Roads
Coordinator – Roadside & Drainage (2)
Coordinator – Parks (2)
Project Management Coordinator
Development Engineering Coordinator
Senior Development Engineer Coordinator
Library Services Manager
Children's Services Coordinator
Community Options Coordinator
Waste Management Coordinator
Traffic Engineer
Student Development Engineer (2).

TABLED DOCUMENTS

- 1) Pecuniary Interest Returns.

INFORMATION ITEM NO. 2

LAWRENCE WATERHOUSE PTY LTD (IN LIQUIDATION)

REPORT OF: WAYNE WALLIS - GROUP MANAGER

GROUP: CORPORATE SERVICES

FILE: PSC2008-9885V2

BACKGROUND

The purpose of this report is provide Councillors with an update on costs recovery proceedings including recent orders made by the Supreme Court *In the matter of Lawrence Waterhouse Pty Ltd (in liq) - Shaw v Minsden Pty Ltd [2011] NSWSC 964*.

As notified in PS Newsletter of 26 August 2011 and discussed with Councillors during the Legal Services two-way conversation on 6 September 2011, judgment in the matter of *Shaw v Minsden* (Minsden matter) was handed down in the Supreme Court on 24 August 2011 by Ward J who made the following findings:

- That Minsden Pty Ltd holds the Nelson Bay land (at 62 Magnus Street) subject to a charge in favour of Lawrence Waterhouse Pty Ltd (in liquidation) (LW) for indemnification of costs incurred by LW as trustee of the land.
- The Deed of Charge granted by LW in favour of Wayne Lawrence is set aside because it was entered with the intention to defraud creditors.
- Mr Lawrence breached his statutory duty to LW in failing to keep proper books and records.

Hearing on Costs and Orders

The matter was referred back to the Supreme Court for hearing of submissions on costs and orders, with that hearing taking place before Her Honour on 14 September and again on 21 September 2011. The following orders were made by Ward J.

In relation to the legal costs owed to Council for the Land & Environment Court (LEC) and Court of Appeal (CA) proceedings brought by LW:

- Minsden Pty Ltd to pay \$78,000 by (costs owed in LEC matter plus interest) and \$42,000 (into trust account while CA costs are being assessed) 20 October 2011.
- Should the above amounts not be paid by the due date, then Ray Tolcher of Lawler Partners will be appointed as a Receiver to sell the Nelson Bay land (NB land).
- The injunction over the NB land (preventing sale without reference to the Liquidator) to stay in place until 20 October 2011.

In relation to the Minsden matter (and indemnification of the Liquidator by Council):

- Minsden and Wayne Lawrence to pay legal costs on a party-party basis.
- An injunction is in place until 20 October 2011 over Minsden's and Mr Lawrence's assets in Australia (including personal assets) to the extent that three business days' notice in writing is to be given to the Liquidator of any intention by Minsden and Mr Lawrence to deal with their assets.
- Council has priority over other creditors in payment of proceeds from the winding up of LW.
- An account of all payments made by LW to be taken before an Associate Justice on a wilful default basis (that is, the onus is on Mr Lawrence to personally account for all payments made by LW). The first directions hearing for the account is on 18 November 2011.

Of particular note are the comments made by Her Honour in her 21 September 2011 judgment in which she refers to the conduct of Mr Lawrence as having contributed significantly to the costs incurred by the Liquidator.

Her Honour also made reference to the Liquidator being justified in criticising Mr Lawrence's lack of assistance with the schedule of accounts and production of records required for the Minsden matter.

Costs to Date

To date, the costs of the current proceedings are approximately \$500,000 (excluding GST). Of this, approximately \$226,000 was spent in the three month lead-up to the May 2011 hearing, as well as during the five day hearing and in relation to the post-judgment hearings on costs and orders. This extension of costs from what had been originally envisaged is, in the main, due to the conduct of the defendants who seemingly have done everything possible to frustrate the matter.

It should be noted that the costs of the current proceedings as well as the costs LEC and CA are the subject of the September orders made by Ward J.

Advice is being sought as to the best way forward to recover the costs. More will be known after 20 October 2011 (the date by which the payment of \$120,000 is due).

Consultation with Council

The winding up of Lawrence Waterhouse Pty Ltd and the Minsden matter have been on foot since late 2008.

The decision to pursue recovery was made following careful consideration of assets available to Council and Councillors have been regularly briefed on proceedings via the Legal Services Two Way Conversation presentations in:

- May 2009 (when proceedings were commenced by the Liquidator to retrieve assets from Minsden Pty Limited and Mr Lawrence)

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

- August & December 2009 (during which it was discussed the defendants had engaged legal representation thereby increasing the cost risk to Council if proceedings were not successful)
- March & June 2010 (indicating the matter hearing had been deferred due to the late service of evidence by the defendants)
- September & December 2010 (when Councillors were advised of significant delays caused by the defendants)
- March 2011 (prior to the hearing, when Councillors were informed Council still had good prospects of success in the proceedings; the defendants' obfuscations might make it difficult to retrieve the money owed; and that Council had agreed to a settlement conference proposed by the defendants provided the defendants were genuine about trying to settle)
- June 2011 (noted the Liquidator had tried to settle the matter, to no avail; that the five day hearing had gone ahead in May 2011 and that judgment had been reserved)
- September 2011 (following the handing down of judgment and prior to the hearings on 14 and 21 September as to orders and costs)

Updates have also appeared from time to time in PS Newsletter when significant milestones have occurred in the matter.

ATTACHMENTS

Nil.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

HUNTER WATER CORPORATION AGREEMENT

COUNCILLOR: MACKENZIE, TUCKER, JORDAN

THAT COUNCIL:

- 1) Request that the Mayor write to the Member for Port Stephens and request he broker an agreement with the Hunter Water Corporation in the matter of its dispute with Council over the lease of the site occupied by the State Emergency Services Organisation (SES) at Rees James Road, Raymond Terrace.
-

387	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that Council request that the Mayor write to the Member for Port Stephens and request he broker an agreement with the Hunter Water Corporation in the matter of its dispute with Council over the lease of the site occupied by the State Emergency Services Organisation (SES) at Rees James Road, Raymond Terrace.

BACKGROUND REPORT OF: STEVEN BERNASCONI, COMMUNITY AND RECREATION SERVICES MANAGER

BACKGROUND

Over the past two years Council has been in discussions with Hunter Water over land owned by Hunter Water and occupied by State Emergency Services and Rural Fire Services at James Rees Road Raymond Terrace.

The focus of these discussions has been the change in Hunter Water's position over the value of lease fees payable by Council on the land.

In 1992, a letter from Hunter Water officers to Council's General Manager offered Council the use of the land for a State Emergency Control Centre for a term of 20 years with a 20 year renewal option for an annual rental amount of \$500 indexed to annual increases. This correspondence from Hunter Water confirms a nominal rental amount and supports verbal accounts of the same from previous and current staff at Council and Rural Fire Services.

However, recent communications with Hunter Water have Hunter Water seeking to commence commercial rental on the land to a value of \$27,000 per year or for

MINUTES FOR ORDINARY MEETING – 18 OCTOBER 2011

Council to purchase the site outright. There has been no common ground between either party to the reasonable value for neither the annual commercial rental nor an outright purchase.

Given that the land parcel is dissected by the Pacific Highway, is currently surplus to Hunter Water's needs, is of low commercial value and contains an important community facility that provides essential public safety services to both Hunter Water and the Council it is recommended that the intent of the original agreement to lease the land for a nominal figure be maintained.

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 – 18 OCTOBER 2011

388	Councillor Ken Jordan Councillor Caroline De Lyall
	It was resolved that Council move into Confidential Session.

ITEM NO. 1

FILE NO: T13-2011 PSC2005-2522

**T13-2011 TENDER SALAMANDER WASTE DEPOT WEIGHBRIDGE
DUPLICATION**

REPORT OF: PETER AVIS – PROJECT SERVICES MANAGER
GROUP: FACILITIES AND SERVICES

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

389	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that Council accepts the tender offered by Accuweigh for \$145,840 (ex GST) for the supply and installation and commissioning of a 60 tonne trade use weighbridge including all civil works required to complete the installation.

CONFIDENTIAL

ITEM NO. 2

FILE NO: T16-2011; PSC2005-0786

T16 2011 TENDER FINGAL BAY SURF CLUB ELECTRICAL INSTALLATION

REPORT OF: PETER AVIS - PROJECT SERVICES MANAGER

GROUP: FACILITIES AND SERVICES

ORDINARY COUNCIL MEETING – 18 OCTOBER 2011

390	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that Council accepts the tender offered by Novocastrian Electrical for \$158,275 (GST excluded) for the electrical installation in the Fingal Bay Surf Life Saving Club.

ORDINARY COUNCIL MEETING – 18 October 2011

391	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that Council move out of Confidential Session.

There being no further business the meeting closed at 7.24pm.

I certify that pages 1 to 177 of the Open Ordinary Minutes of Council 18 October 2011 and the pages 178 to 188 of the Confidential Ordinary Minutes of Council 18 October 2011 were confirmed by Council at its meeting held on 22 November 2011.

.....
Cr Bob Westbury
MAYOR