

Minutes 24 July 2012



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 24 July 2012, commencing at 5.33pm.

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

187	Councillor Peter Kafer Councillor Glenys Francis
	It was resolved that the apology from Cr De Lyall be received and noted.

188	Councillor Ken Jordan Councillor Shirley O'Brien
	It was resolved that the Minutes of the Ordinary Meeting held on 26 June 2012 and the Extra-Ordinary meeting held on 10 July 2012 of Port Stephens Council be confirmed.

	<p>The Facilities and Services Group Manager declared an interest in Item 5 of the General Managers Report as Council was a tenderer.</p> <p>Cr John Nell declared a less than significant non-pecuniary conflict of interest in Item 19 (Aquatic Leisure Centres Sustainability Review). The nature of the interest is he is a regular user of the centre.</p>
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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: A2004-0851

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Information Paper No.1 on the agenda namely **108 Magnus Street, Nelson Bay.**
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include:
 - a) contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council proposes to conduct business.
- 3) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it may prejudice Council's commercial position and Council should have the same protection for its confidential commercial activities as that applying to other persons.
- 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.

ORDINARY COUNCIL MEETING – 24 JULY 2012

189	Councillor Ken Jordan Councillor Shirley O'Brien
	It was resolved that the recommendation be adopted.

**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 1

FILE NO: 16-2011-623-1

**DEVELOPMENT APPLICATION FOR 2 LOT TORRENS TITLE SUBDIVISION
AT NO 3121 NELSON BAY ROAD BOBS FARM – LOT 22 DP 748423**

**REPORT OF: PAUL MINETT - DEVELOPMENT ASSESSMENT AND COMPLIANCE ACTING
MANAGER**

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2011-623-1 for the following reasons:

- 1) Insufficient information submitted to enable a comprehensive assessment under Section 79C of the Environmental Planning and Assessment Act, 1979;
- 2) The development is inconsistent with the Performance Criteria in the Port Stephens Comprehensive Koala Plan of Management;
- 3) The development potentially poses an unspecified impact on threatened species, populations or ecological communities, or their habitats and supplementary koala habitat;
- 4) The development is inconsistent with zone objective (a) for the 1(a) Rural Agriculture zone in Port Stephens Local Environmental Plan 2000.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Ken Jordan
	That the development application for 2 Lot Torrens Title subdivision at No 3121 Nelson Bay Road, Bobs Farm – Lot 22 DP 748423, be approved subject to the conditions contained in Attachment 3.

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

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

Those against the motion: Crs Peter Kafer, Geoff Dingle and Glenys Francis.

ORDINARY COUNCIL MEETING – 24 JULY 2012

190	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that the development application for 2 Lot Torrens Title subdivision at No. 3121 Nelson Bay Road, Bobs Farm – Lot 22 DP 748423, be approved subject to the conditions contained in Attachment 3, subject to the deletion of condition 9, dot points 2 & 3 and 10.

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

Those for the Motion: Crs Bob Westbury, Ken Jordan Glenys Francis, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, John Nell and Sally Dover.

Those against the Motion: Crs Peter Kafer, Geoff Dingle and Frank Ward.

BACKGROUND

The purpose of this report is to present a development application to Council for determination at the request of Councillor MacKenzie.

DA 16-2011-623-1 seeks consent for a 2 lot Torrens Title subdivision of 3121 Nelson Bay Road, Bobs Farm – Lot 22 DP 748423.

The development is only permissible through a site specific clause in Port Stephens Local Environmental Plan 2000. Subdivision for residential purposes is generally prohibited on land zoned 1(a) Rural Agriculture, which applies to the subject site.

The development is recommended for refusal due to the potential impact on the natural environment, and the lack of information required to determine the extent of potential impacts and risks.

The subdivision will create an additional, vacant lot of land. The proposed building area is heavily vegetated with Coastal Sand Apple Blackbutt forest, which is considered to be in excellent condition and is mapped as supplementary koala habitat and is likely to provide habitat for a number of threatened species.

Any future development of the proposed lot will require significant vegetation removal for access, construction of a dwelling, provision of bushfire Asset Protection Zones and wastewater disposal areas.

The site contains existing cleared areas, particularly along the southern boundary, which provide an alternative option for building areas and would greatly reduce the vegetation removal required and potential for adverse environmental impacts.

The flora and fauna information (Assessment of Significance) submitted by the applicant is not considered sufficient to determine the likely impact of the development on the natural environment. In particular, Council's Natural Resources team advised that the on-site ecological work has not been undertaken in accordance with legislative requirements.

As a result, Council's assessment has been unable to determine whether further information (eg a Species Impact Statement) or legislative actions (concurrence from Department of Environment & Heritage) are required.

The DA is recommended for refusal, based on the available information and assessment from Council's Natural Resources Team, who do not support the proposal as it does not satisfy the Performance Requirements in the Comprehensive Koala Plan of Management (CKPoM) and may adversely impact threatened species.

It should be noted that provision of the necessary information may not necessarily alleviate concerns regarding the environmental impacts, particularly with regards to compliance with the CKPoM.

FINANCIAL/RESOURCE IMPLICATIONS

Determination of the development application is unlikely to have a significant financial or resource impact on Council, unless the decision is challenged in the Land & Environment Court.

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council Policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Environmental Impact	Medium	Require further information to determine likely impact/risk and appropriate process and mitigation measures	Yes – Worst case, can be imposed as condition

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The development is unlikely to have a significant social or economic impact, however, it does have the potential to have a detrimental impact on the local environment due to vegetation removal.

CONSULTATION

The application did not require advertising or notification under Council policy. No submissions were received.

OPTIONS

- 1) Adopt the recommendation and refuse the application;
- 2) Amend the recommendation;
- 3) Reject the recommendation and approve the application subject to the attached conditions in Attachment 3; or
- 4) Reject the recommendation and approve the application subject to modified conditions.

ATTACHMENTS

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

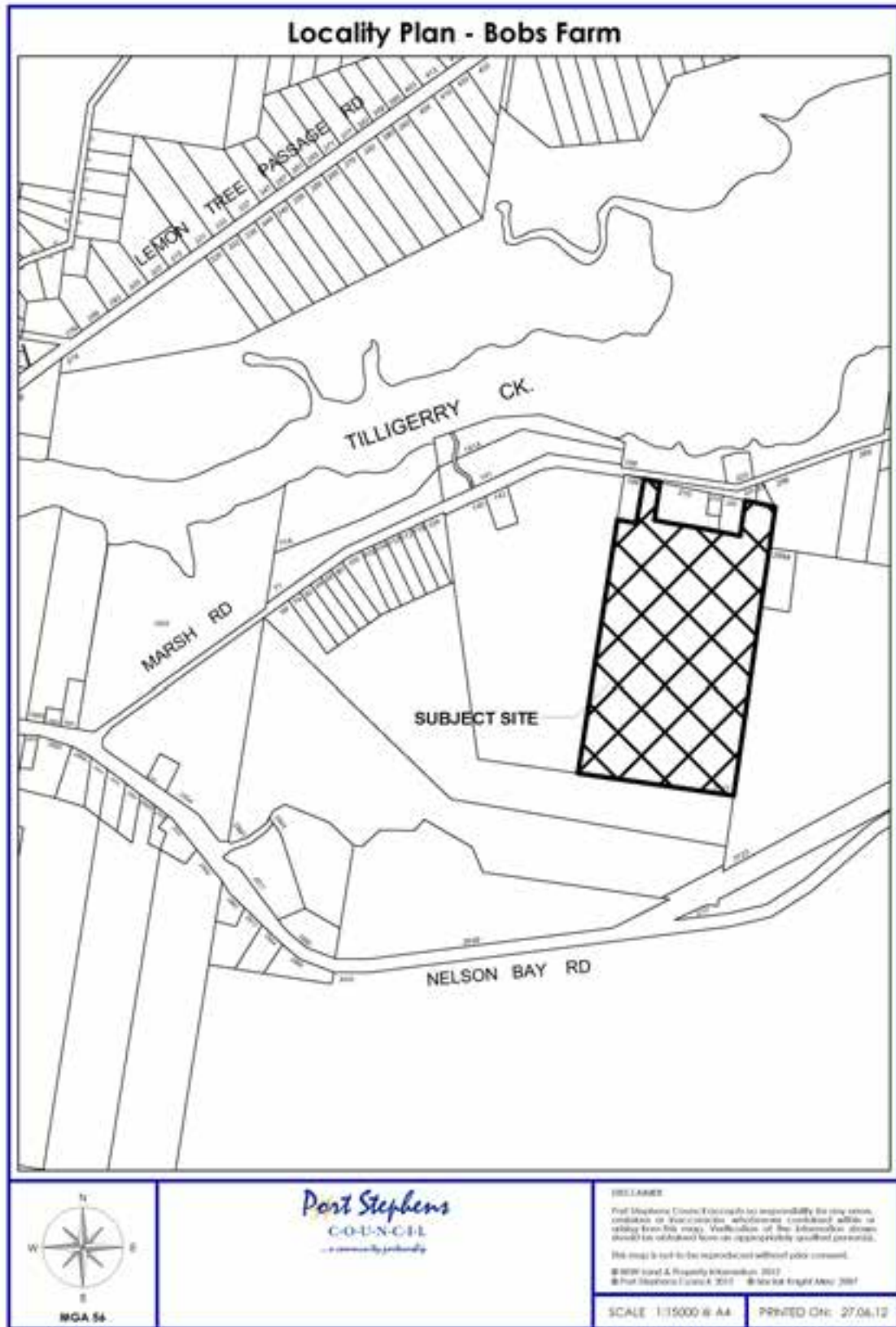
COUNCILLORS ROOM

- 1) Subdivision Plan

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

The application has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and the following is a summary of those matters considered relevant in this instance.

THE PROPOSAL

Consent is sought for a 2 lot Torrens Title subdivision of 3121 Nelson Bay Rd, Bobs Farm (Lot 22 DP 748423).

THE APPLICATION

Owner	Mr Barnsley
Applicant	Le Mottee Group Pty Ltd
Detail Submitted	SoEE, Subdivision Plan, Bushfire and Flora & Fauna Reports

THE LAND

Property Description	Lot 22 DP 748423
Address	3121 Nelson Bay Rd, Bobs Farm
Area	38.19 hectares
Dimensions	468m x 885m
Characteristics	Varying topography, with low lying land off Marsh Rd and a ridge running through the middle of the site. Heavily vegetated, with some cleared/disturbed areas off Marsh Rd, around the existing dwelling (middle of the site) and around shed (at southern end of site).

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	1 (a) Rural Agriculture
Relevant Clauses	12 – Subdivision within Rural zones 14 – Dwelling housing in rural zones 38 – Development on flood prone land 44 – Appearance of land and buildings 47 – Services 51A – Acid Sulphate Soils 62 – Additional Uses

Clause 44 - Appearance of land and buildings

Future development on either of the proposed lots is unlikely to have any significant visual impact when viewed from any waterway, main road or public space and is consistent with Clause 44.

Clause 47 – Services

Existing and future development on the proposed lots will require on-site sewerage management and will not be connected to Hunter Water services. However, all other services and public utilities will be available.

Clause 51A - Acid Sulphate Soils

The planning map identifies the site as having Class 3 (confined to the low lying area off Marsh Road) and Class 4 (remainder of the site) Acid Sulphate Soils.

Any future dwellings on the proposed lots will be in the Class 4 area. The proposal will not require significant excavation and does not trigger the need for further investigation at this stage under Clause 51A.

Port Stephens Comprehensive Koala Plan of Management

The vegetation on the site is mapped as Supplementary Koala Habitat. Following consideration of the documentation submitted by the applicant and comments from Council's Natural Resources Team, it is considered that the proposed development is not consistent with the Performance Criteria in the CKPoM.

In particular, (b) in the Performance Criteria (Appendix 4) requires development applications to *"maximise retention and minimise degradation of native vegetation within Supplementary Koala Habitat."*

The site has cleared areas around the existing dwelling, located in the middle of the site, and the existing shed which is located near the southern boundary.

Based on the information provided, it is considered that the cleared area near the southern boundary provides an alternative for a building area that would not require as much clearing or environmental impact as the identified building envelope for proposed Lot 222.

Development Control Plan 2007

The proposed subdivision is not considered to comply with the requirements of Section B2.8 – Koala Management, due to its inconsistency with the Performance Criteria in Appendix 4 of the CKPoM.

The development is generally consistent with the remaining requirements of Section B1 Subdivision and B2 Environmental & Construction Management in DCP 2007. In particular, the proposed lots are considered capable of accommodating a wastewater system for each dwelling.

State Environmental Planning Policy 44 – Koala Habitat Protection

Council has prepared a Plan of Management under Part 3 of SEPP 44, which is primarily used for assessing applications potentially impacting on koala habitat.

However, Clause 9 states that Councils determination of development applications on land considered to be core koala habitat "*must not be inconsistent with the plan of management*".

In this case however, the site is mapped as Supplementary Koala Habitat and is considered not to be core koala habitat.

State Environmental Planning Policy 71 – Coastal Protection

The proposal is consistent with the matters for consideration in Clause 8.

Port Stephens Section 94 Contributions Plan

The development will result in the creation of an additional lot, and requires Section 94 contributions to be paid prior to the issue of subdivision certificate.

1.2 External Referrals

NSW Rural Fire Service

The proposal involves subdivision in a bushfire prone area, and as such is considered to be integrated development. The DA was referred to the RFS, who issued their Bushfire Safety Authority on 7 December 2011, subject to recommended conditions.

1.3 Internal Referrals

Natural Resources - Ecology

The DA was referred to Environmental Services as the development will require significant vegetation removal in an area mapped as containing Supplementary Koala Habitat. The site was also identified following site inspection as containing Coastal Sand Apple Blackbutt Forest in excellent condition.

Environmental Services do not support the proposal in its current form for the following reasons:

- The Performance Criteria in the CKPoM has not been satisfied, and therefore the DA is not consistent with the requirements of SEPP 44 Koala Habitat Protection. In particular, the development does not comply with requirement (b) - maximise retention and minimise degradation of native vegetation within Supplementary Koala Habitat.
- It is not clear whether the development of the site as proposed will have a significant impact on threatened entities under s.5A of the EP&A Act.

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- The ecological work on site is considered to be insufficient and has not been undertaken in accordance with the LHCCREMS Flora and Fauna Survey Guidelines 2002.
- Endangered Donkey orchid *Diuris arenaria*, Vulnerable donkey orchid *Diuris praecox* and *Cryptostylis hunteriana* have not been surveyed for and this is required in appropriate flowering season.
- The habitat value of the area currently proposed for development is extremely high.

Particular concern was raised regarding the development not utilising existing and viable cleared areas for potential building areas.

It was advised that further flora and fauna information would be required in order to determine the developments potential impact on the natural environment, and whether it would significantly impact any threatened species (under section 5A of the Environmental Planning & Assessment Act). However, it was noted that provision of this information would not necessarily alter the developments compliance with the Performance Criteria in the CKPoM.

Wastewater

Council's Environmental Health Officer had no objections or conditions relating to the proposal following consideration of the potential impacts from an additional on-site sewerage management system for the development.

Engineering

Concern was raised that flood free access was not available from Marsh Road, and it was recommended that the applicant investigate provision of access from Nelson Bay Road.

The applicant advised that access to Nelson Bay Road would require access over the adjoining land owned by the Worimi Aboriginal Land Council, and that obtaining access over their land was not practical.

Given the development relates to a 2 lot subdivision for residential purposes and the number of existing dwellings using Marsh Road for access, it is considered unreasonable to require alternative access arrangements.

Building

Council's Building Surveyors had no comments or conditions relating to the proposal.

2. Likely Impact of the Development

Natural Environment

Following assessment of the available information submitted by the applicant and comments provided by Council's Environmental Services section, it is considered that the development has potential to have a detrimental impact on the natural environment.

The building envelope identified on proposed Lot 222 is currently vegetated with Coastal Sand Apple Blackbutt Forest and is mapped as Supplementary Koala Habitat. A site inspection conducted by Council's Environmental Services determined that the vegetation was in excellent condition and potentially habitat for a number of threatened species.

Any future development on this lot would require significant vegetation removal for construction of a dwelling, provision of bushfire Asset Protection Zones and wastewater disposal areas.

The Assessment of Significance submitted in respect of the application is not considered sufficient to determine the potential impact on threatened species around the site. Based on the available information, it is considered that the development has the potential to detrimentally impact the natural environment, particularly in a local context.

Further, the development is not consistent with the Performance Criteria in the CKPoM, as it does not achieve the requirement of minimising vegetation removal. The site contains some existing cleared area, which could be used for a building envelope and greatly reduce the potential impact on the environment.

The potential impacts are considered unjustified in this instance, and the application is therefore recommended for refusal.

Built Environment

The proposed subdivision is unlikely to significantly impact the existing amenity of adjoining properties, or have any visual impact on the Marsh Road streetscape. Further, the development is unlikely to impact any significant views around the site.

Traffic

The dwelling currently on Lot 22 DP 748423 has an existing access to Marsh Road via a 10m wide ROW. The proposed subdivision would result in the creation of an additional lot, which is unlikely to have a significant impact on local traffic or the existing access point onto Marsh Road.

3. Suitability of the Site

The site is not considered suitable for the development in its current form, due to the amount of vegetation removal required and the potential impact on the natural environment.

However, an amended subdivision proposal utilising the existing cleared areas would likely improve the developments suitability for the site.

4. Submissions

The development application was not required to be advertised or notified under Council policy. No submissions were received.

5. Public Interest

The development is unlikely to have any significant impact on the public interest.

**ATTACHMENT 3
CONDITIONS**

If Council decides to reject the recommendation for refusal, and intends to support the application, the following conditions are recommended.

STANDARD CONDITIONS

1. 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.

PLANNING DRAFT CONDITIONS OF APPROVAL

2. **Prior to the issue of a subdivision certificate**, an amended Assessment of Significance shall be submitted to and approved by Council addressing the environmental issues identified in Council's correspondence dated 16 May 2012.
3. A Subdivision Certificate must be obtained from Council. The applicant must submit a completed Subdivision Certificate Application Form (with applicable fee), six (6) copies of the Survey Plan, two (2) copies of any 88B Instrument and a check list demonstrating compliance with the conditions of this development consent.
4. Certification from a registered Surveyor shall be submitted to Council prior to the issues of the Subdivision Certificate, stating that no services (including stormwater) or public utility presently connected to the existing building shall straddle any new boundary. Alternatively, an easement shall be created to cover the services, utilities or structures.
5. A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

	Per Lot	Total
Civic Administration	(\$407)	(\$407)
Public Open Space, Parks and Reserves	(\$2206)	(\$2206)
Sports and Leisure Facilities	(\$5198)	(\$5198)
Cultural and Community Facilities	(\$2614)	(\$2614)
Fire & Emergency Services	(\$202)	(\$202)
Roadworks	(\$1476)	(\$1476)

6. Note:

a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.

b) Contributions are to be paid prior to **release of the final survey plan of the subdivision.**

c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.

BUSHFIRE CONDITIONS

7. The development has been granted an approval from the NSW Rural Fire Service dated 7 December 2011 under their relevant legislation. Where conditions are imposed by the authority the development shall comply with the general terms of approval.

8. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling on proposed Lot 222, to a distance of 40m to the western and southern elevations, 50m to the northern elevation and 50m to the eastern elevation shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

9. Property access roads shall comply with the following requirements of section 4.1.3 (2) of 'Planning for Bushfire Protection 2006.'

- At least one alternative property access road is provided for individual dwellings (or groups of dwellings) that are located more than 200m from a public through road.
- Bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes.
- A minimum carriageway width of 4m for rural residential areas, rural land holdings or urban areas with a distance of greater than 70m from the nearest hydrant point to the most external part of a proposed building (or footprint).

- In forest, woodland and heath situations, rural property access roads have passing bays every 200m that are 20m long by 2m wide making a minimum trafficable width of 6m at the passing bay.
 - A minimum vertical clearance of 4m to any overhanging obstruction, including tree branches.
10. The existing building on proposed lot 222 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.
11. A bushfire report certifying compliance with the Bushfire Safety Authority conditions imposed by the Rural Fire Service shall be submitted to Council **prior to the issue of the Subdivision Certificate.**

GENERAL ADVICES

- a) 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.
- b) This approval relates to **Development Consent** only and does not infer any approval to commence excavations or building works upon the land. **A Construction Certificate should be obtained prior to works commencing.**
- c) 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.

ITEM NO. 2

FILE NO: 16-2011-507-2

DEVELOPMENT APPLICATION FOR A SECTION 96 MODIFICATION INVOLVING THE DELETION AND MODIFICATION OF BUSHFIRE CONSTRUCTION REQUIREMENTS FOR PROPOSED DWELLING AT NO 144 ROCKY POINT ROAD, FINGAL BAY

REPORT OF: PAUL MINETT – DEVELOPMENT ASSESSMENT AND COMPLIANCE ACTING MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

Refuse the Section 96 Development Application 16-2011-507-2 for the building design modification to reduce the extent of bushfire construction requirements and deletion of bushfire condition 21 of development consent DA16-2011-507-1 for the construction of a single storey dwelling the 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay for the following reasons:

- 1) The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, appropriate to the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and intensity of the bushfire attack on the proposed building;
- 2) The proposal is not supported by the NSW Rural Fire Service;
- 3) The development is inconsistent with the provisions of clause 16 (2)(e), Residential Zoning 2(a) – Residential "A" Zone of Councils Local Environmental Plan 2000; and
- 4) The development is does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor
	That Council indicate its support in principle with conditions of consent to be brought back to Council.

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

Those for the motion: Crs Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover, Frank Ward and Bob Westbury.

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

Those against the motion: Crs Geoff Dingle, Peter Kafer, John Nell, Caroline De Lyall and Glenys Francis.

ORDINARY COUNCIL MEETING – 24 JULY 2012

191	<p>Councillor John Nell Councillor Geoff Dingle</p> <p>It was resolved that Council refuse the Section 96 Development Application 16-2011-507-2 for the building design modification to reduce the extent of bushfire construction requirements and deletion of bushfire condition 21 of development consent DA16-2011-507-1 for the construction of a single storey dwelling the 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay for the following reasons:</p> <ol style="list-style-type: none">1) The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, appropriate to the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and intensity of the bushfire attack on the proposed building;2) The proposal is not supported by the NSW Rural Fire Service;3) The development is inconsistent with the provisions of clause 16 (2)(e), Residential Zoning 2(a) – Residential "A" Zone of Councils Local Environmental Plan 2000; and4) The development is does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Glenys Francis, Steve Tucker, Geoff Dingle, John Nell and Ken Jordan.

Those against the Motion: Crs Bob Westbury, Bruce MacKenzie, Shirley O'Brien, Frank Ward and Sally Dover.

BACKGROUND

This application has been called to Council by Councillor Mackenzie "as the Rural Fire (Service) conditions are not realistic for the location". The purpose of this report is to present a development application to Council for determination.

Development consent (Section 96 modification) has been sought for the design modification to reduce the level of bushfire construction requirements and deletion of bushfire condition requirements on the development consent that was approved for the construction of a single storey dwelling the 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay. (Dwelling plans are available for full inspection in the Councillors' room).

The subject site is zoned 2(a) – Residential “A” Zone which is described in Port Stephens Local Environment Plan 2000 (LEP). The subject site is identified as bushfire prone land, BAL – Flame Zone. (Site location plan **Attachments 1 & 2**)

Included in the original Development application submission was Parker Scanlon P/L bushfire assessment report dated 16 July 2010 (Amended 18 August 2011 – part attachment 5) which was referred to the NSW Rural Fire Service for comment in accordance Section 79BA of Environmental Planning and Assessment Act 1979.

The applicant's submitted bushfire assessment report and the returned documentation from the RFS indicated that construction requirements to the South Eastern, South Western and North Western elevations (building rear and side faces) must comply with section 9 (BAL FZ) AS 3959-2009 'Construction of buildings in bush fire prone areas'. Additionally it was a requirement the new construction on the north eastern elevation (front face) shall comply with section 8 (Bal 40) Australian Standard AS3959-2009 'Construction of buildings in bushfire prone areas' and section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection' (report attached).

Consequently the application was approved as submitted by the applicant in September 2011 adopting the RFS recommendations in accordance with 'Planning for Bushfire Protection 2006', Australian Standard AS 3959-2009 and the Building Code of Australia.

SECTION 96 DA MODIFICATION REVIEW APPLICATION- APPLICANTS SUBMISSION

The applicant has submitted a development application (DA) under the provisions of Section 96 to modify the proposed dwelling building design as approved by development consent issued 21 September 2011 (DA-16-2011-507-1) in the following ways:-

- 1) Change the building design and reduce the bushfire safety construction requirements for the site which is subject to a bushfire attack level (BAL) – **BAL 40** for the building front façade and **BAL Flame zone** for the building sides and rear.
- 2) Remove the DA condition 21 which references the Rural Fire Service letter dated 12/9/2011 that requires construction to incorporate the appropriate bushfire construction requirements.

Please refer to the Section 96 application submission made by the applicant (attachment 3) and the original RFS referral letter dated 12/9/2011 (part **Attachment 5**).

The applicant's submission to change the building design is summarised as "*appeal the RFS requirements for flame zone at the above property.*" The applicant supports his proposal by clarifying his intentions as follows:-

"DELETE:-

1. *Remove stainless steel mesh from all windows and doors cost saving \$5,000.00*

2. *Remove ember seals from garage doors as they are 45m from the fire trail cost saving \$1,000.00*
3. *Remove Trend Quantum Extreme windows and replace with standard range as they are now certified to BAL 40 cost saving \$21,100.00*
4. *Remove the RSF required bushfire shutters/fire curtains as they are not affordable cost saving on shutters \$53,000.00 or fire curtains \$70,000.00*
5. *Council allow to have the house moved forward 1m to have a 5m setback*

INCLUDE

We will have a greater protection than other homes in the street with these RFS requirements which we can afford & install:-

1. *Fire proof blanket in roof*
2. *leafless gutter system*
3. *5000L above ground tank*
4. *Fire retardant paint*
5. *Spark arrestors to brickwork*
6. *steel vent pipes*
7. *Brass headed sprinklers fitted to the top of the retaining walls facing the rear of the home and connected to either mains or bore water."*

The abovementioned proposed modifications have been assessed and it is considered that they do not comply with the following applicable standards:-

- Planning for Bushfire Protection, ISBN 0 9751033 2 6;
- Australian Standard 3959 2009; and
- The Building Code of Australia.

The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, appropriate to the:-

- a) *potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and*
- b) *intensity of the bushfire attack on the building.*

Accordingly the proposed modification is not supported. The applicant was advised of this likely assessment result shortly after lodgement of the Section 96 DA modification and given opportunity to review the proposal to better deal with the bushfire threat in a manner that was more likely to gain Rural Fire Service support. The applicant has however, chosen not to change the modification proposal and requested that the application as submitted be referred directly and unaltered to the RFS for appropriate consultation as required by the legislation.

The bushfire aspect of the DA is appropriately dealt with under the provisions of 79BA [1A] of the Environmental Planning and Assessment Act which provides that if Council *"is satisfied that the development does not conform to the relevant specifications and requirements, the consent authority may, despite subsection (1), grant consent to the carrying out of the development but only if it has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire."*

Accordingly, the DA proposal has been referred to the Rural Fire Service for Comment. The Rural Fire Service response of 19/6/2012 does not support the S96 modification application and their original correspondence dated 12/9/2011 still applies:-

"Based upon an assessment of the plans and documentation received for the proposal, the NSW Rural Fire Service does not support the request to remove construction standards from the development. As such the RFS correspondence to council dated 12 September 2011 still applies to the abovementioned Development Application.

The Rural Fire Service response dated 19/6/2012 is attached for Council's due consideration - **Attachment 6**.

The application as submitted can not be supported. Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be unsatisfactory. Therefore, it is recommended that the application be refused for the reasons as listed at the start of the report.

FINANCIAL/RESOURCE IMPLICATIONS

Should the Council decision be a refusal in accordance with the recommendation the applicant may choose to complete the building as per the original DA approval which is compliant with the relevant construction standards for the bushfire prone site.

Should the Council decision be to approve the application contrary to the recommendation there must be consideration given to the financial implications of defending such a decision possibly in the Land and Environment Court or, in the worst case scenario the Coroners court should a significant bushfire result in death of occupants and/or damages to the proposed building, adjoining or adjacent buildings.

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council Policy and it is inconsistent with the objectives of the Residential 2(a) zoning within the *Port Stephens Local Environmental Plan 2007*.

A review of the assessment report, the applicants submission and the appropriate 79C assessment under the provisions of the EP&A Act coupled with the potential risk indicated in the below table identify a decision contrary to the recommendation presents an unacceptable risk to Council as per Council's risk management matrix. There are unacceptable risks to Council in relation to public safety, Council reputation and legal exposure such that a refusal of the application is the only viable risk treatment.

A risk assessment has been under taken in accordance with Council's risk management framework and a refusal of the application is the only viable risk treatment.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
People– Multiple fatalities or extensive long term injuries	High	Determined by way of Refusal	Yes
Reputation- Extensive external criticism by Government and national media	High	Determined by way of Refusal	Yes
Legal- Extensive fines and litigation with possible class action; threat to viability of program or service; extensive financial loss; indictable offences	High	Determined by way of refusal	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that there may be potential adverse social, economic and environmental impacts given the proposal does not adequately address the bushfire threat in the building construction design. One of the intentions of the Environmental Planning and Assessment Act and Regulations is that over time improved developments will provide a safer and higher quality built environment better able to cope with the known bushfire threat. Council must recognise this responsibility and apply current standards.

Whilst some empathy should be shown towards the applicant, the proposal effectively lowers the construction standards the community can reasonably expect to be provided under the provisions of the NSW State policies and the Building Code of Australia and as such is not in the public interest. This is further reinforced by the objectives of the Residential "A" Zone which include the requirement "*to ensure that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk.*"

Should the Section 96 Modification DA be approved there may be a possible economic benefit for the existing landowners which is largely offset by the likely adverse impacts on adjoining properties and the wider community, including future owners who would rightly expect that a dwelling approved and constructed in 2012 would incorporate the appropriate bushfire construction requirements.

CONSULTATION

The application was not required to be notified or otherwise exhibited in accordance with Council policy being a single storey dwelling.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend or reject the recommendation;
- 3) Defer the application to allow the applicant the opportunity to liaise directly with the RFS with the view to agreeing on a performance based compromise that affords an acceptable level of bushfire construction appropriate to the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and b/ intensity of the bushfire attack on the building.

ATTACHMENTS – all listed below are provided under separate cover.

- 1) Locality Plan;
- 2) Aerial photograph locality plan;
- 3) Section 96 Application and applicant's submission letter;
- 4) The Assessment officers' assessment report;
- 5) Extracts from the existing approval including the RFS letter dated 12/9/2012, the Parker Scanlon Bushfire Assessment Report dated 16/7/2010 (Amended 18/8/2011), and the approved site plan DA 16/2011/507/01; and
- 6) Rural Fire Service referral letter dated 19/6/2012.

COUNCILLORS ROOM

- 1) Copy of the existing approved plans.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

FILE NO: 16-2011-543-1

REVIEW OF A DEVELOPMENT DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, FOR THE COMPLETION OF THE PARTLY CONSTRUCTED RURAL SHED AND ONGOING USE

REPORT OF: PAUL MINETT – DEVELOPMENT ASSESSMENT AND COMPLIANCE ACTING MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

Refuse the Section 82A review of development application 16-2011-543-1 for the completion of the partly constructed rural shed and ongoing use, for the following reasons:

- 1) The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000;
- 2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity;
- 3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses an unacceptable impact on adjoining premises in terms of solar access.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

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

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

Those for the motion: Crs Geoff Dingle, Caroline De Lyall, Peter Kafer, John Nell, Frank Ward, Sally Dover and Glenys Francis.

Those against the motion: Crs Bob Westbury, Ken Jordan, Bruce MacKenzie, Steve Tucker and Shirley O'Brien.

ORDINARY COUNCIL MEETING – 24 JULY 2012

	Councillor Ken Jordan Councillor Shirley O'Brien
	That Council indicate its support in principle and that draft conditions of consent be developed for Council's consideration.

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

Those for the Motion: Crs Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien and Bob Westbury.

Those against the Motion: Crs Peter Kafer, Glenys Francis, Geoff Dingle, John Nell, Frank Ward and Sally Dover.

192	Councillor John Nell Councillor Glenys Francis
	<p>It was resolved that Council refuse the Section 82A review of development application 16-2011-543-1 for the completion of the partly constructed rural shed and ongoing use, for the following reasons:</p> <ol style="list-style-type: none">1) The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000;2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity;3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses an unacceptable impact on adjoining premises in terms of solar access.

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

Those for the Motion: Crs Peter Kafer, Glenys Francis, Geoff Dingle, John Nell, Frank Ward and Sally Dover.

Those against the Motion: Crs Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien and Bob Westbury.

BACKGROUND

The purpose of this report is to present to Council for determination under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979.

The Applicant has constructed a machinery shed to frame stage, including concrete walls and a significant concrete floor slab without seeking prior consent for the works. Accordingly there has been no Construction Certificate issued and mandatory critical stage inspections have been missed.

The original issue of the unapproved works came to Councils attention via a written complaint from a neighbour's legal representative alleging that *"the owner of that property (2209 Pacific Highway Heatherbrae) has constructed a very large shed on the common boundary between that property (2209 Pacific Highway Heatherbrae) and our client's property (2207 Pacific Highway Heatherbrae). It appears that the owner was originally given permission to use the property for home industry purposes only but now has a fleet of vehicles, employs staff and has built large workshops and sheds at the rear of the house located on the property."*

The owner recently demolished a shed and has now replaced it with a large industrial shed of at least twice the size having approximate measurements of 35 metres x 15 metres with a height of 12 metres."

The correspondence requests advice regarding the permissible use and for Council to investigate the legality of the structure.

The subsequent compliance investigations suggested that the structure was intended to be used contrary to permitted land uses and outside the home employment consent.

It was also established that consent should have been sought for both the demolition of the (previously) existing structure and the newly constructed, much larger shed.

After being warned that legal action could be taken for various breaches of the Environmental Planning and Assessment Act 1979, the land owner lodged a development application for ongoing use and for the completion of the shed.

The development application was called to Council for determination by Cr Jordan and Council resolved at its meeting of the 24th April 2012 to refuse the application for the following reasons:

- 1) The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000;
- 2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity;
- 3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses an unacceptable impact in terms of solar access.

A concurrent application was lodged with Council for a Section 149A (Building Certificate) which was also refused and a subsequent Intention to Serve an Order (Demolition- Order 2) was issued.

The applicant has requested that Council review the determination of the 24th April 2012 by way of a (Environmental Planning and Assessment Act 1979) Section 82A review.

Breaches of the Environmental Planning and Assessment Act appear to have occurred for which there are significant penalties. The instigation of legal options has been deferred, pending resolution of this Section 82A review.

Section 82A Review application- Applicants Submission

In the context of Section 82A of the Environmental Planning and Assessment Act 1979 the applicant may make amendments to the development described in the original application and these amendments may be reviewed by the Consent Authority.

In the event that the applicant has made amendments to the development described in the original application, the consent authority must be satisfied that the development, as amended, is substantially the same development as the development described in the original application.

The applicant has made no amendments to the design or application as originally determined by way of refusal at its ordinary meeting of 24 April 2012.

The applicant's submission is contained as **Attachment 2**.

As the applicant has chosen not to modify the structure from that recommended for refusal by staff and subsequently refused by the elected Council at its ordinary meeting of 24 April 2012, the professional assessment of this application has been reviewed and the recommendation is unaltered and is included below for reference.

The bulk and scale of the structure as proposed and partially illegally erected and its proximity to the adjoining property boundary is considered to have an unacceptable environmental impact on the landscape character of the area and an adverse impact upon the amenity of the adjoining property.

FINANCIAL/RESOURCE IMPLICATIONS

In the context of a submission, the adjoining property owner has strongly reinforced the objection to the proposal and also expressed an intention to challenge any approval through the provisions of a Land and Environment Court appeal including claims for costs associated with any such appeal.

Should the decision be contrary to the recommendation there must be consideration given to the financial implications of defending such a decision possibly in the Land and Environment Court context.

Conversely, consideration should also be given to the applicant challenging any refusal. However, this risk is considered less considering that significant works have been carried out without prior lawful consent. Furthermore, the work already carried out would be unlikely to have gained consent under delegation without significant design amendments to reduce bulk, scale and impact upon adjoining premises.

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is inconsistent with Council Policy and it is inconsistent with the objectives of the Rural 1(a) zoning within the *Port Stephens Local Environmental Plan 2007*.

The current proposal does not comply with Councils recently adopted changes to the DCP which sets development parameters for sheds in rural zones. Appropriate consideration has also been given to the controls under which the application was originally lodged.

The adopted policy restricts a building of this type to a floor area of 200m² with a maximum height of 4.2m and a side boundary setback of 5m. The proposal is also well in excess of the provisions of the State Housing Code for complying development in terms of size.

The works have been constructed without lawful consent and proper regard to the amenity of adjoining property owners. The assessment under these policy parameters together with the merit based assessment considering amenity, bulk and scale, height and solar access, along with the potential risk indicated in the below table would indicate that a decision that is contrary to the recommendation would present an unacceptable risk to Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Third party (adjoining owner) litigation	High	Adopt recommendation to refuse the application. Follow-up the illegal works in accordance with Council's Compliance Policy.	Yes
Applicant appeal against refusal	Medium	Adopt recommendation	Yes

There exists a significant likelihood of a legal appeal from the complainant should Council approve this 82A review application.

It is relevant to note that if Council approves the development via the Section 82A review and the decision is challenged or called into question that Rule 4.3(b) of the Land and Environment Court Rules 2007 applies. (Attachment)

Rule 4.3(b) of the Land and Environment Court Rules 2007 provides that, in any proceedings in which a public authority's decision is challenged or called into question, the Court may make an order directing the public authority to furnish any

other party with a written statement setting out the reasons for the decision, being a statement that includes:

- (i) The public authority's findings on any material questions of fact;
- (ii) The evidence on which any such findings were based;
- (iii) The public authority's understanding of the applicable law; and
- (iv) The reasoning process that led to the decision.

Accordingly should Council alter its decision of 24 April 2012 and choose to now approve the development it would be prudent that Council document the reasons for the decision in the minutes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that there may be potential adverse impacts given the reduction of amenity to adjoining property owners. The current proposal is akin to an industrial size and design with minimal boundary setback, which in turn can erode the character of the zoning in the immediate vicinity.

The objectives of the rural zone is to provide land for present and future agricultural activities whilst preserving the sense of space which remains a key attribute of these zonings. The current proposal (with consideration to other development on the site and the size of the lot) does not present a true need for a structure of this size given the limited agricultural activity being undertaken on this site.

The implications lead to a potential redesign of the use of the site from agricultural land to a pseudo industrial site. This promotes the fragmentation of agricultural land for uses contrary to the objective of the zone.

Should the Section 82A review be approved there may be a possible economic benefit for the existing landowners which is largely offset by the likely adverse impacts on the adjoining property.

If the application is refused as recommended the illegally constructed works are likely to be fully or partially demolished which, as a compliance function, will be determined by staff under delegation. Legal action may also be considered for breaches of the Environmental Planning and Assessment Act 1979.

CONSULTATION

The application was re-exhibited in accordance with Council policy and one (1) submission was received. The unauthorised works and significant commercial activities were originally brought to Councils attention by a complaint in March 2011.

The formal submission received from an adjoining property owner reinforces the objection to the overall bulk and scale of the development, stating an overdevelopment of the land with a resultant lowering of property values and an impact on amenity; going further to discuss the structure being out of character with the adjoining development. The objector's submission is contained as attachment 3.

The assessing officers generally concur with the objections, with the exception of the comment regarding overdevelopment of the site. The site has sufficient space to adequately support this proposal and existing sheds with minimal impact on adjoining property. However it is considered that this proposal is in the wrong location to maintain the area amenity and that there are more suitable alternative areas on the site to locate such a structure.

It is however noted that it is questionable that sufficient agricultural activities are taking place on site to justify the amount of overall shed space on this property (Please refer to the site plan contained in attachment 5 which confirms that the development site has 5 sheds).

The public interest considerations are activated in the context of a large proportion of this development has been erected with no appropriate consent in place. If Council were to support this development it may be seen to be condoning illegal activities. It would appear that the applicant's actions to reconcile this matter have only come about because of the non-compliance issues being raised by the complainant and then confirmed by Councils investigations.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation; or
- 3) Reject the recommendation and make a written statement setting out the reasons for the decision including the reasoning process that led to the decision in accordance with Rule 4.3(b) of the Land and Environment Court Rules 2007.

ATTACHMENTS – all listed below are provided under separate cover.

- 1) Locality Plan;
- 2) Applicants 82A review submission;
- 3) Objectors Submission
- 4) Assessment;
- 5) Site plan; and
- 6) Council report 24th April 2012.

COUNCILLORS ROOM

- 1) Plans, specifications and Statement of Environmental Effects as submitted with the Development Application;
- 2) Copy of the letter of objection; and
- 3) Copy of applicants Section 82A submission.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

FILE NO: 16-2011-842-1

REQUEST TO WAIVE DEVELOPMENT APPLICATION FEES FOR TWENTY-SEVEN (27) LOT SUBDIVISION AT NO 3 WADE CLOSE, MEDOWIE

**REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESSMENT AND COMPLIANCE
MANAGER**

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse the request to waive fees for Development Application 16-2011-842-1.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>
	<p>That Council waive the fees for development application 16-2011-842-1 in the sum of \$2642.50.</p>

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

Those for the motion: Crs Ken Jordan, Steve Tucker, Bruce MacKenzie, Sally Dover, Shirley O'Brien, Bob Westbury and Glenys Francis.

Those against the motion: Crs Geoff Dingle, Frank Ward, John Nell, Caroline De Lyall and Peter Kafer.

ORDINARY COUNCIL MEETING – 24 JULY 2012

193	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>
	<p>It was resolved that the Council Committee recommendation be adopted.</p>

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

Those for the Motion: Crs Bob Westbury, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien and Sally Dover.

Those against the Motion: Crs Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

BACKGROUND

The purpose of this report is to present to Council for determination a request to waive development application fees.

The development application subject to the request to waive development application fees is for a 27 lot residential subdivision of land at Wade Close, Medowie.

A development application (16-2009-227-1) was lodged in January 2009. During assessment of this proposal, new ANEF maps were promulgated resulting in development for the purposes of subdivision being unacceptable in terms of Aircraft Noise Impact. The application was ultimately refused on 12/05/2010 due to the ANEF noise maps and the impact of aircraft noise.

In August 2010 a new ANEF map was promulgated which resulted in a significant reduction in the footprint of the aircraft noise contours. These reductions brought the site within acceptable limits for aircraft noise and subdivision and the applicant lodged a fresh application (DA 16-2011-842-1) on 25/11/2011 for the subdivision of the site. This new application was consistent with the application refused in 2009 in terms of lot layout and yield. As the reason for refusal of the original application was no longer an issue due to the amended ANEF maps, the development was approved on 18/05/2012.

The applicant has applied for a waiving of the \$2642.50 development application fees as;

"The assessment had been carried out in full in the previous application and this application was identical so no further assessment was required other than a quick assessment of the acoustic report that was submitted".

To suggest that this application was merely an assessment of the acoustic report is incorrect. As with any application, all procedures and assessment need to comply with the provisions of the *Environmental Planning and Assessment Act, 1979*.

The application underwent full notification and advertising, external and internal referrals were made and comments received pursuant to Council policy.

A full assessment of the application, independent of the original application, was made under s79C of the *Environmental Planning and Assessment Act, 1979*.

FINANCIAL/RESOURCE IMPLICATIONS

To waive fees of \$2642.50 in this instance would not adequately take into account the resources required to undertake an assessment of the proposal as required in accordance with policy and legislative framework.

Given the level of assessment required for this application, the waiving of fees would not adequately take into consideration Council resources and time utilised.

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's Policy.

The waiving of fees may however give rise to a precedent being set for other applications determined by way of refusal and resubmitted at a later date due to a change in planning policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Precedent in the refunding of fees as a result of changed planning policy	High	Adopt recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The waiving of fees will not result in any adverse sustainability implications.

OPTIONS

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

ATTACHMENTS

- 1) Le Mottee Group correspondence dated 27 January 2012.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

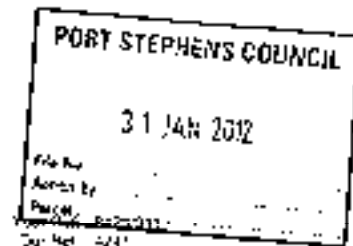
LE MOTTEE GROUP CORRESPONDENCE DATED 27 JANUARY 2012

Le Mottee Group

SURVEYING • CIVIL ENGINEERING • TOWN PLANNING • PROJECT MANAGEMENT
STRATEGIC EDUCATION • ECOLOGY • BUSH FIRE ASSESSMENT

Friday, 27 January 2012

The General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324



Dear Sir,

**RE: Proposed Subdivision of Lot 84 DP 259434 & Lot 1433 DP 716004
Wade Close, Medowie**

In January 2009, an application to subdivide the subject land was submitted to Council and the appropriate DA fee paid.

The design of the subdivision was a significant achievement in so far as it was a collective effort involving Bush Fire Consultants, Ecologists, Surveyors and planners to arrive at a layout that had all the lots achieving their maximum lot sizes, each lot had a flood free house site that was also far enough away from any vegetation to alleviate any bush fire threat and yet not a single tree needed to be removed to achieve this outcome.

Just prior to the application being determined a new ANEF map was promulgated in October 2009 and as a result, the DA was refused on the grounds of Air Craft Noise.

As you are no doubt aware, in August 2010 a further ANEF map was promulgated that significantly reduced the aircraft noise impact and made the subject subdivision permissible once again. Accordingly, a new Development Application was submitted with a letter requesting that normal fees should be waived as the assessment had been carried out in full in the previous application and this application was identical so no further assessment was required other than a quick assessment of the acoustic report that was submitted.

The staff advised that it was not within their powers to waive the fees and a separate letter should be addressed to the General Manager and or the Councilors seeking their determination to waive the fees which is now duly requested. The fees have been paid in the amount of \$2642.50 and other than a modest amount to cover the cost of assessing the acoustic report, should be refunded.



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Le Mottee Group Pty Ltd - ANEF Assessment
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20 North Street, Raymond Terrace NSW 2324
Tel: 02 9277 8200 Fax: 02 9277 8201
Email: le.mottee@le-mottee.com.au
www.le-mottee.com.au



Your advice regarding this matter is awaited.

Yours faithfully

Paul Le Moltup
Managing Director
Accredited State of NSW Registration No. 5981005



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ENGINEERING SURVEYING ARCHITECTURE
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ITEM NO. 5

FILE NO: PSC2006-0060

FUNDING OF CAPITAL WORKS PROJECTS – SECTION 94

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Allocate \$219,281 from current Section 94 funds from the Tomaree Sport & Recreation catchment to the Fingal Bay Surf Club project and allocate the remaining repealed Section 94 Funds (\$2,487,719) to the projects listed in **Table 1** (Option 1).

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

Cr Bruce MacKenzie left the meeting at 6.52pm prior to voting on Item 5.
 Cr Bruce MacKenzie returned to the meeting at 6.53pm prior to voting on Item 5.

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

MATTER ARISING

	<p>Councillor Geoff Dingle Councillor Peter Kafer</p>
	<p>That Council, if possible, be provided with the Lemon Tree Passage boardwalk tender for the July Council meeting.</p>

ORDINARY COUNCIL MEETING – 24 JULY 2012

194	<p>Councillor Ken Jordan Councillor Peter Kafer</p>
	<p>It was resolved that Council:</p> <p>1) Allocate \$669,281 from current section 94 funds from the Tomaree Sport and Recreation to the Fingal Bay Surf Club project and allocate the remaining section 94 repealed funds \$2,037,719 to the projects listed in Table 1; (Option 1);</p> <p>2) That the remaining section 94 repealed funds of \$450,000 be set</p>

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

	aside for identified non-funded works: a) adopted in the 2011/2012 budget or b) adopted in Councils strategic asset management plan; 3) That specific details to be included in quarterly budget reviews.
--	--

Cr Peter Kafer left the meeting at 6.52pm prior to voting on the Matter Arising.

Cr Peter Kafer returned to the meeting at 6.53pm prior to voting on the Matter Arising.

MATTER ARISING

	The Matter Arising lapsed as the report is included in the business paper at Item 5 of the General Manager's report.
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BACKGROUND

The purpose of this report is to identify those capital works projects committed in 2011-2012 with a potential Section 94 funding shortfall due to investment losses (as previously reported to Council on 20 December 2011), and propose options for the reallocation of funding. This report only addresses those capital works projects for which there is a Section 94 funding issue and does not address those capital works projects for which there is no Section 94 funding issue.

It should be noted that roles and responsibilities for the financial management of development contributions across Council groups have changed substantially in recent times. Processes are being identified, documented and improved where possible in order to adhere to legislative requirements and improve efficiency and effectiveness. The Finance Services team now have a much stronger role in the accounting processes of development contributions however some outstanding issues have arisen in regard to requests for development contributions funding allocation for the 2011-2012 financial year. These funding issues have occurred primarily as a result of investment losses applied to Section 94 accounts since the projects were initially planned.

A number of capital works projects have previously been considered by Council and it is proposed that funding for each of these projects now be allocated from a combination of current Section 94 funds and repealed Section 94 contributions as described in **Table 1**. Recent advice from the Department of Planning and Infrastructure has also highlighted the need to improve accounting processes for repealed Section 94 contributions. The use of these repealed funds as outlined in **Table 1** complies with this advice.

Table 1 – Proposed Funding Allocation

Capital Works Project	Proposed Current Section 94 Allocation	Proposed Repealed S94 Allocation	Total of Proposed S94 Allocation	Total Project Cost
1. Henderson Park Upgrades	\$0	\$40,000	\$40,000	\$140,000
2. Lemon Tree Passage Boardwalk	\$0	\$110,000	\$110,000	\$190,000
3. Shoal Bay Foreshore Improvements	\$0	\$500,000	\$500,000	\$2,500,000
4. Fingal Bay Surf Club	\$219,281 (Sport & Recreation Tomaree Catchment)	\$1,764,719	\$1,984,000	\$3,404,000
5. Salt Ash Hall Improvements	\$0	\$40,000	\$40,000	\$40,000
6. Tilligerry Men's Shed	\$0	\$33,000	\$33,000	\$33,000
Total	\$219,281	\$2,487,719	\$2,707,000	\$6,307,000

Table 2 outlines the balances in development contributions as at 30 June 2012. This table does not include expenditure.

Table 2 – Current Development Contributions Balances

Contribution Type	Note 17 Balance as at 30.6.11	Collected (current income) 1.7.11 to 30.6.12 financial year	Totals
Section 94	*\$2,068,000	\$3,694,649	\$5,762,649
Section 94A	*\$407,000	\$338,601	\$745,601
Haulage Levies	*\$3,161,000	\$746,793	\$3,907,793
Repealed S94	\$2,487,719	Not applicable	\$2,487,719
Totals	\$8,123,719	**\$4,780,043	**\$12,903,762

*These figures are as published in Council's Financial Statements and are rounded to nearest 000. **These figures do not include expenditure.

FINANCIAL/RESOURCE IMPLICATIONS

The development contributions system is a key tool for the management of Council's finances and resources. It provides a framework for identifying where development pressures will require additional public services and facilities. It also requires the preparation of a schedule of these works, including identifying their cost and resource implications for Council and it provides for some of those costs to be met by the development activity itself.

The financial management of development contributions must strictly adhere to terms of the Environmental Planning and Assessment Act, 1979, and its regulations. Development contributions cannot legally fund or partially fund projects unless they are done so in accordance with the Act and Council's development contributions plans.

Internally borrowing between Section 94 catchments is time consuming and difficult to manage financially. It could also jeopardise the delivery of future projects that would potentially be partially funded from those catchments in the future years. Internally borrowing is therefore not a recommended funding option for these projects.

LEGAL, POLICY AND RISK IMPLICATIONS

The allocation of current and repealed development contributions in accordance with Option 1 meets the requirements of previous legal advice provided to Council, advice from Department of Local Government and recent advice from Department of Planning and Infrastructure. It is considered that if Council does not adopt the recommendation, then this could impose a legal and financial risk to Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
If funds collected under Council's development contributions plans are not allocated in accordance with those plans and in accordance with the EP&A Act, 1979 and its regulations, this could impose a legal and financial risk to Council.	Medium	It is recommended that Option 1, as outlined in this report, be adopted in order to avoid internal borrowing and creating nil balances and deficits within Section 94 Catchments. Internal borrowing is difficult and time consuming to manage financially. Leaving nil balances and creating deficits within Section 94 Catchments should be avoided as it could jeopardise the delivery of those projects identified in the Works Schedules of Council's Development Contributions Plans. Henderson Park Upgrades, Lemon Tree Passage Boardwalk and Shoal Bay Foreshore Works are all capital	Yes

		<p>works projects listed within the Open Space Catchments of Tilligerry and Tomaree in Council's Section 94 and 94A Development Contributions Plans however the total s94 allocation of these three projects (\$606,500) should not be funded from current Section 94 funds as no funds are available in the appropriate catchments. Fingal Bay Surf Club project is listed as an all areas Sport & Recreation Catchment in the Works Schedules of Council's Section 94 and 94A Contributions Plans, therefore this project could potentially be funded this way without internal borrowing, however, this would leave little or no funding available for other Sport & Recreation projects identified in Council's Section 94 and 94A Contributions Plans in future years.</p>	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Applying development contributions effectively and equitably to facilitate the balanced economic management of Council finances and other resources is the main sustainability implication.

CONSULTATION

Extensive consultation has been conducted with staff from Council's Facilities and Services Group and Finance Section in compiling data for this report. This matter has also been discussed by Council's Section 94 Panel at its recent meeting.

OPTIONS

To meet the requested Section 94 funding component of the capital works projects identified in **Table 1** the following options are suggested:

- 1) Allocate \$219,281 from current Section 94 funds from the Tomaree Sport & Recreation catchment to the Fingal Bay Surf Club project and allocate the remaining repealed Section 94 Funds (\$2,487,719) to the projects listed in **Table 1**;
- 2) Allocate \$219,281 from current Section 94A funds to the Fingal Bay Surf Club project and allocate the remaining repealed Section 94 Funds (\$2,487,719) to the projects listed in **Table 1**;
- 3) Allocate funds from other Section 94 catchments;
- 4) Find alternative sources of funding to development contributions.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: PSC2011-01192

TANILBA BAY FORESHORE EROSION MANAGEMENT PLAN

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Tanilba Bay Foreshore Erosion Management Plan and adopt its recommendations.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Steve Tucker
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 24 JULY 2012

195	Councillor Bruce MacKenzie Councillor Steve Tucker
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to provide an overview of the Port Stephens Council Tanilba Bay Foreshore Erosion Management Plan.

The foreshore erosion at Tanilba Bay has been an ongoing issue, increasing in urgency as the foreshore park disappears and threatens infrastructure. Addressing this erosion issue is a high priority recommendation of the Port Stephens and Myall Lakes Estuary Management Plan 2000 and given priority in the Foreshore Management Plan (2009). Budgetary constraints have meant that Council has been unable to fund the necessary works and external funding has been unattainable until a specific management plan for the area has been developed. Past ad hoc authorised and unauthorised control methods such as tyres, concrete, steel, and bricks, have been undertaken without adequate understanding of the flow on effects for the wider Bay, in many cases simply moving the problem. In addition many of these past structures are now failing, presenting a safety risk.

In 2011, Council obtained funding from the Waste and Sustainability Improvement Program, Estuary Management Program and councils environmental "levy" projects budget to engage specialist consultants to develop the Tanilba Bay Foreshore Erosion Management Plan. This plan investigated the coastal processes occurring across Tanilba Bay itself; identifying that the erosion is largely the result of the wind wave climate and human factors (landfill, dredging, and existing defences such as the structures previously mentioned). Four different management options were developed and assessed for their economic, environmental and social impacts. Consideration was given to the issues raised through a community feedback session run in February 2012. Also, the plan was considered by the Estuary and Coastal Zone Management Committee in November 2011 and April 2012.

The recommended management option concentrates resources on the priority area between President Poincare Parade and President Wilson Walk. This is considered the most feasible option, allowing for a realistic projection of funding, preserving environmental values, and enhancing the recreational function of the area. Engineering drawings were produced for this priority area which provided a staged and detailed plan for stabilising that section of foreshore. These plans will enable continued use by the community, in addition to the protection of infrastructure, environmental and amenity values.

FINANCIAL/RESOURCE IMPLICATIONS

The total cost of stage 1 of the priority area is estimated at \$400,000. A funding application has been made via the NSW Estuary Program for the State Government to fund the works on a dollar-for-dollar basis. It is expected that successful applicants will be announced in the coming months. Timely implementation of the engineering plans is imperative as they are based on current foreshore conditions and profile. If these change significantly over time, the drawings will need to be resurveyed and the works redesigned.

The development of a holistic plan is essential for external funding of the erosion control works. Without external funding, Council would not be able to undertake the works and the situation will continue to worsen. The recommended management option stages the works ensuring funding is allocated in the most efficient and effective manner addressing the priority areas.

LEGAL, POLICY AND RISK IMPLICATIONS

If strategic works are not undertaken existing structures will continue to fail and be undermined; and sand, parkland and existing mature trees will continue to be lost. There will be the ongoing significant risk to critical infrastructure such as sewers and roads; as well as public safety.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Certain members of the community will be unhappy with the plan	Low	The designs took into consideration community concerns (refer to	yes

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

designs		consultation section). Community education prior to works commencement will be undertaken to promote the reasoning behind the selected management option	
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SUSTAINABILITY IMPLICATIONS

The Foreshore Erosion Management Plan has been developed to address the social, economic and environmental issues associated with the foreshore. The priority area represents one of the highest public use areas and the area of highest risk to infrastructure and safety. The plan provides guidance to addressing these areas of risk in a cost effective manner. The development of the plan is vital to accessing external funding, which, if attained, will reduce Council's costs by 50%.

If endorsed and implemented the plan will provide a way forward to accessing external funding to implement best practice foreshore erosion control to maintain a safe and viable foreshore.

CONSULTATION

Community consultation was undertaken as part of the development of this plan. Both the concept plans and the final engineering drawings were reviewed by the Port Stephens/ Myall Lakes Estuary and Coastal Zone Management Committee. Community feedback was obtained through a public meeting in February. In addition Marine Parks have been constantly consulted throughout the entire project.

The community feedback identified access and the spread of materials (ie small rocks) from past control measures as priority foreshore issues. There were conflicting views within the community between the desires for a natural foreshore and a vertical seawall instead of rocks. Neither of these are realistic or viable options. A vertical seawall will encourage sand loss from the base leading to the need for ongoing sand nourishment or the eventual undermining of the wall. This concept will also not be approved by Marine Parks. To adequately stabilise the foreshore in the long-term, hard engineering in the form of rocks is required. The designs for the priority area have married this with best practice environmental aspects to create natural areas within the structure in the form of low foreshore vegetation and pocket beaches. These areas will soften the appearance of the rocks and maintain the natural amenity of the foreshore. Within stage 1, four access points have also been included. The locations of these were selected through feedback at the community session. The Foreshore Erosion Management Plan and associated designs if implemented will preserve the existing trees, and enhance the environmental and recreational value of the foreshore while provide safe access points which was the ultimate aim of all community feedback.

OPTIONS

- 1) Endorse the Tanilba Bay Foreshore Erosion Management Plan and adopt its recommendations;
- 2) Endorse the Tanilba Bay Foreshore Erosion Management Plan and adopt particular recommendations; or
- 3) Reject the Tanilba Bay Foreshore Erosion Management Plan and its recommendations.

ATTACHMENTS

- 1) Tanilba Bay Foreshore Erosion Plan Executive Summary.

COUNCILLORS ROOM

- 1) Tanilba Bay Foreshore Erosion Plan.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1 TANILBA BAY FORESHORE EROSION PLAN EXECUTIVE SUMMARY

Executive Summary

The Snowy Mountains Engineering Corporation (SMEC) was commissioned to undertake the *Tanilba Bay Foreshore Erosion Management Plan* on behalf of Port Stephens Council.

Tanilba Bay is located within the NSW Central Coast region, on the southern shore of the inner estuary of Port Stephens. Previous studies indicated that the foreshore had been subject to retreat over the last twenty years. Review of these studies and analysis of the most recent photogrammetric data suggest that foreshore recession rates of up to 0.4m / year over the 15 year period between 1993 and 2008. Adjacent to the Tilligerry Habitat State Reserve there is evidence that recently, greater recession rates have occurred. However, the limited temporal coverage of photogrammetry and uncertainties in the data due to dense vegetation cover at the site does not allow accurate quantitative assessment.

Ad hoc protection works have been implemented in an attempt to address ongoing recession. Whilst in some areas these measures have been relatively successful in arresting recession, the failure of some of the less adequate engineering designs or lack of consideration for adjacent areas have locally exacerbated recession rates. Furthermore the degradation of some of these failed measures significantly reduces public safety and amenity values.

The foreshore is a high value area offering recreational opportunities and visual amenity and as such, there is a large degree of community interest in the foreshore. Furthermore, the section of Tilligerry Habitat State Reserve within Tanilba Bay possesses significant environmental values.

The underlying cause of the foreshore erosion at Tanilba Bay is due to a number of factors:

- Seasonal variability in the predominant wave climate (wind generated waves).
- Changes in the sediment supply within the bay.
- Anthropogenic influences:
 - historical landfilling and dredging practices
 - changes to the littoral processes resulting from stormwater drains.
 - degradation of existing *Ad hoc* defences.
 - non uniform *Ad hoc* defences exacerbating erosion processes.

Based on the outcomes of coastal processes investigations, four concept options were developed to manage the erosion hazard along the Tanilba Bay foreshore. These options were developed and assessed with regard to relative economic, environmental and social impacts. This relative assessment and consequent consultation was aimed at assisting Council's decision making process to select the most feasible option considering available funding for the proposed works, priorities in preserving environmental values, enhancing recreational and visual amenity and accommodating Tanilba Bay community requirements.

A brief summary of the conceptual management options and associated indicative order of magnitude construction cost are as follows:

- **Option 1, Bay Wide Holistic Concept** - a comprehensive strategy that aims to address the erosion mechanisms affecting the entire Tanilba Bay foreshore. (**\$3M - \$4.5M**)
- **Option 2, Bay Wide Budget Concept** - a strategy incorporating reduced, more economically efficient foreshore stabilisation measures than Option 1. (**\$2 - \$3M**)

- **Option 3, Property and Critical Infrastructure Concept** - a strategy that is limited to providing erosion mitigation measures in the foreshore areas backed by residential properties and infrastructure. **(\$ 1M - \$1.5M)**
- **Option 4, Priority Area Concept** - a strategy that is limited to providing erosion mitigation measures in the foreshore area identified in Council's briefing documents as the "Priority Area". **(\$0.65 - \$1.0M)**

Following consultation and community feedback, significant budgetary constraints were identified. Accordingly, a staged, low-cost foreshore stabilisation strategy, that revised the preferred management options to meet budgetary constraints, was proposed that incorporates:

- Stage 1 – detailed design and construction of a low cost sloped rock revetment seawall along Zone C (incorporating pockets of vegetated revetment and utilising existing structures where possible).
- Stage 2 – detailed design of an optimised sloped rock revetment seawall with incorporated pocket beaches along Zone D for later construction.
- Stage 3 – sand nourishment concepts plans for Zone E, to be developed further and implemented by Council, if and when an appropriate sand source becomes available.
- Stage 4 – foreshore stabilisation concepts for Zone F for future reference, detailed design and implementation by Council when funding is available.

Note: Foreshore Zones are indicated in **Figure 24 - Figure 27** in **Section 7**.

A concept plan indicating overall staging and proposed foreshore access points for Stage 1 is provided in **Figure E1**.



Figure E1 Concept staging plan

The implementation of the staged foreshore erosion management measures aims to reduce foreshore recession rates on a prioritised basis. This will be achieved through the consolidation of *ad hoc* and failed protection works (replaced by engineered designs) and further Bay-wide measures which give consideration to the local coastal processes and environmental and social values of the area.

ITEM NO. 7

FILE NO: PSC2010-05281

BIO BANKING OF COUNCIL OWNED OPERATIONAL LAND AT KARUAH

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the placement of Bio Banking Credits on the NSW Office of Environment and Heritage website for the sale of those credits;
- 2) Authorise the Property Services Section to assess the bio banking credit value of Lot 1 in DP 552739 to include on the Bio Banking Register for sale;
- 3) Agree to the sale of 45 credits, at a purchase price of \$2,100 per credit.

COUNCIL COMMITTEE MEETING – 10 JULY 2012**RECOMMENDATION:**

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

ORDINARY COUNCIL MEETING – 24 JULY 2012

196	Councillor Glenys Francis Councillor Ken Jordan
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to inform Council of the outcomes of the Bio Banking report that has been prepared for Council owned Operational land, located off Tarean Road at Karuah. The land is zoned Rural Agriculture 1 (a), comprises 4 separately titled parcels and is legally described as:

Lot 85 DP753196 – area 57.5 hectares
Lot 55 DP753196 – area 110.9 hectares
Lot 2 DP552739 – area 46.4 hectares
Lot 2 DP573068 – area 29.5 hectares.

Council purchased this land in 2004 as a possible future development site for a purchase price of \$3.2m. The reality is that the land has far too many constraints to

be considered for any development. In May 2010 a Mayoral Minute was endorsed by Council to seek Expressions of Interest (EOI) for the sale of the land.

As a result of that resolution, in October 2010 the property was offered for sale as an "en globo" site through an EOI process. There was very little interest in the property and the only offers that were received were so low that they were rejected. As a consequence of the lack of interest in the site and the limited development potential a report was submitted to Council on 14 December 2010 recommending that Council decline any of the offers to purchase the land and that Council obtain a Bio Banking Assessment Report on the land. The recommendation was adopted by Council.

In October 2011, the Property Section advertised for interested parties to submit a quotation to provide a Bio Banking Assessment of the Karuah land and subsequently engaged Newcastle based company, GHD Pty Ltd to undertake the Bio Banking assessment. GHD's highly qualified and experienced team, are all accredited NSW Bio Banking assessors with experience in the Hunter Region.

The bio diversity banking and offsets scheme was established by the NSW Office of Environment and Heritage as a method to address the loss of bio diversity and threatened species. It provides a legislative framework for offsets for development by enabling developers to purchase "credits" of the same species that is being impacted on by their development.

To establish credits for a bio banking site a land holder must commit to enhancing and protecting bio diversity values over time. A bio banking agreement is entered into and registered on the title of the land, binding both the current and future landowners to maintaining bio diversity through the completion of a range of management actions on the site. There is a Bio Banking Public Register that contains;

Bio Banking agreements

Expression of interest to establish bio bank sites (land owners)

Expression of interest to purchase credits (developers and traders/speculators)

Availability of biodiversity credits

Bio banking statements

Credit status and transactions.

The registers can be accessed at www.environment.nsw.gov.au/bimspr/index.htm.

A bio banking trust fund has been established at OEH to ensure that land owners have the money needed to carry out the management actions required each year and provides a financial incentive to land owners to carry out those actions. This payment is made at the beginning of the financial year so that the landowner is not impacted upon financially.

GHD undertook the site assessment in January, February and March 2012. The assessment report detailed the bio diversity credits that were calculated at the site according to the methodology presented in the Department of Environment and Climate Change, Bio Banking Assessment and Credit Calculator Manual. Data is

entered into the Credit Calculator based on the information collected in the site surveys, desktop analysis and GIS mapping software.

The result of the assessment report indicated that approximately 225 hectares of the Karuah land would be conserved as a bio banking site. The vegetation mapping of the site indicated that this would produce approximately 1,683 eco system credits.

The purchase price for credits is determined by negotiation between the parties and based on demand. The price is then split into two parts – Part A and Part B. The Part A component is paid directly to OEH and is deposited into the bio banking trust fund. The Part B component is paid to the land owner as profit. The value of Parts A and B are determined by the vegetation types identified on the site and the amount of maintenance required to manage those bio diversity credits. The annual maintenance fee is then paid in advance to the land owner by OEH to manage their biodiversity values.

A parcel of land shown in attachment 2 (broken line outline) is 25 hectares in area and has been identified to also contain species that would potentially be valuable as bio banking credits. The lot is described as Lot 1 in DP 552739 and adjoins the proposed bio banking site to the west. It is recommended that an assessment of this land be undertaken with a view to adding the credits to the bio banking register for the sale of the credits.

FINANCIAL/RESOURCE IMPLICATIONS

Credit trading has now commenced in the Hunter with the first trade, selling eco system credits at a base rate of \$1,420 each. If we were to adopt this price, it would produce an all up value of approximately \$2.4m for the Karuah credits.

Council's Property Services section has already been approached by a developer requiring 45 credits of a particular eco system credit. The developer has agreed to pay a base rate of \$2,100 each (see Attachment 1). This equates to a purchase price of \$94,500 for the first transaction. Calculating the value of the Karuah credits at a base rate of \$2,100 would be in excess of \$3.5 million however this is considered to be the minimum amount as it is expected that the value of the credits will increase over time. As stated below another developer has expressed an interest in purchasing 230 credits at \$2,300 per credit. There has been an increase in developer interest in the bio banking scheme due to the fact that it cannot be challenged in court as other offset agreements have been.

GHD have been advised that the Part A component for the entire site must be paid to OEH before the Part B components are paid to the land owner. The Part A component for Karuah has been estimated to be \$500,000.

GHD have also advised that another Developer has made contact with them and is in need of **(approximately 230 credits at a price around \$2,300 each)**. This amounts to approximately \$530k.

These first two transactions would total approximately \$625k, allowing Council to pay the entire Part A component with a balance of \$125k. All subsequent credits sold

would be entire profit which would equate to \$3.25 million (excluding the \$500,000 part A payment and the \$125,000 profit already received).

In addition to the credit pricing at Karuah, the Property section has identified approximately 20 hectares of land fronting Tarean Road that has no vegetation types included in the area that has the potential to be developed as Rural Residential lots, adding further value to the overall income generating opportunity. A simple feasibility has indicated that if this land were to be developed as rural/residential it would potentially add an additional \$1.5 million value to the land. The total profit to Council would be approximately \$4.7 million. The development of the land would be subject to rezoning.

The additional financial benefit for Council is that Council will be paid in perpetuity to manage the land.

LEGAL, POLICY AND RISK IMPLICATIONS

Bio banking was established by the NSW State Government and is fully legislated and controlled by the Office of Environment and Heritage therefore unlike other offset agreements it cannot be challenged in the Land & Environment Court.

When a bio banking agreement is entered into, the Eco System credits are registered on title.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Council does not enter into the bio banking agreement and continues to pay for the management of the land and additional costs such as rates etc	Medium	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The opportunity with this proposal has three main economic benefits to Council:

- The sale of eco system credits that has the potential for Council to recover the entire purchase price of the land and still retain ownership;
- The annual payment of funds through the OEH trust fund for the maintenance and management of the property, which Council does not have the benefit of currently;
- The opportunity to create a Rural Residential subdivision on the remaining parts of the land not effected with the bio diversity.

By placing the site into the Bio Banking system, the site will be maintained in perpetuity for the protection of bio diversity values and is a means of encouraging conservation.

It provides a mechanism and method to address the loss of bio diversity and threatened species.

CONSULTATION

Councils Property Services section and representatives from GHD presented an overview at the 2 way conversation held on Tuesday 17 April 2012.

OPTIONS

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

ATTACHMENTS

- 1) Letter of Offer;
- 2) Aerial Photograph.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

The General Manager
Port Stephens Council
PO Box 62
Portwood Terrace NSW 2324

Attention: Council Team
Council@portsteps.nsw.gov.au

Dear Emma

Re: Offer to Purchase Ecosystem Credits

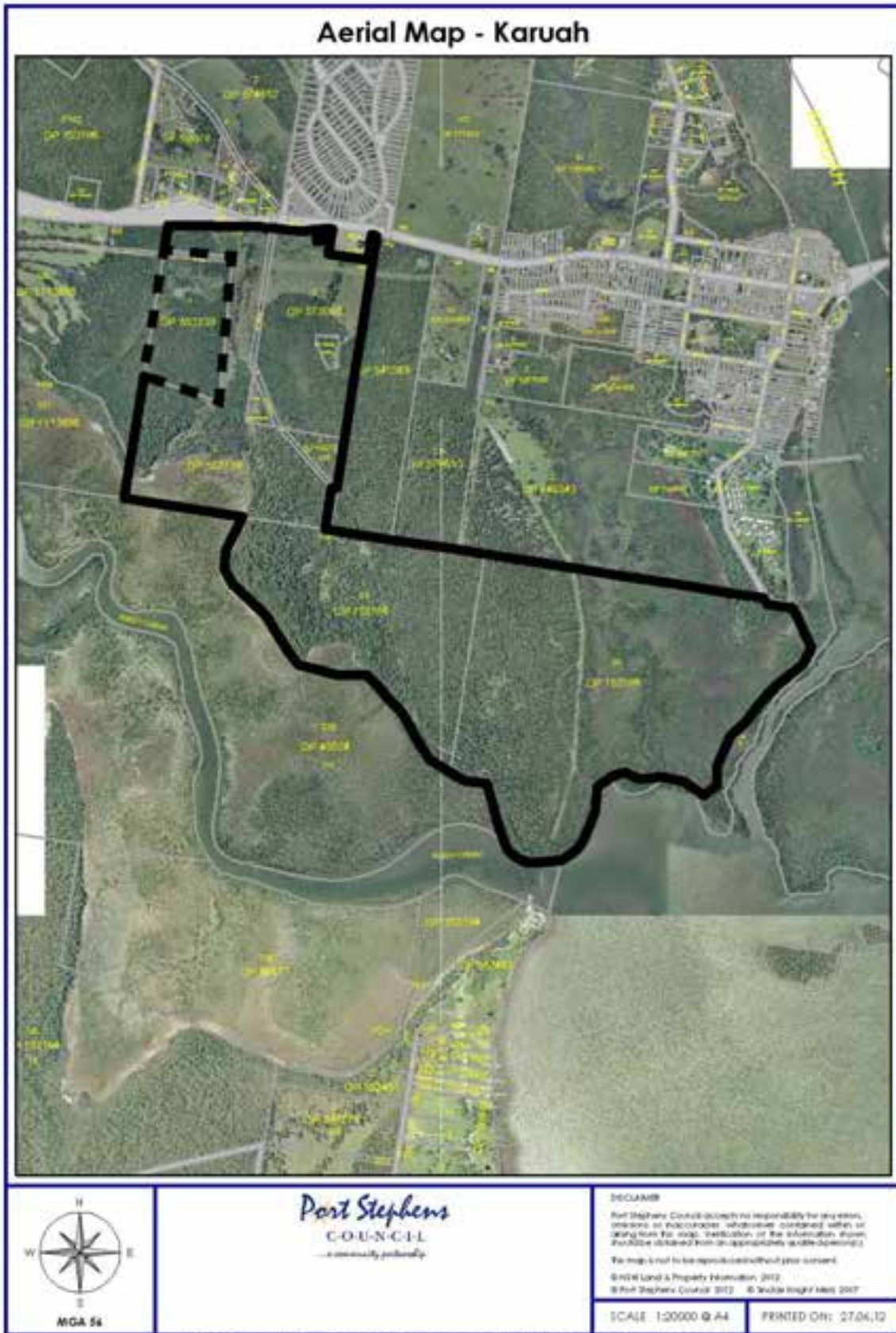
Thank you for recommending and Council's offer of up to 45 ecosystem credits from a proposed credit fund to be established in Australia, NSW, under the NSW Biodiversity Scheme. I confirm that I am the applicant for a Development of Forestry's Beach NSW which has been issued in the name of Reference Development 1100, requiring 45 ecosystem credits to be raised as part of the Development Consent for the proposed development.

I understand that Council has offered to sell 45 credits for \$2,000 per credit, and in view of that Council's offer and advice that I will purchase the credits for a total price of \$904,500 (exclusive of GST) and the credit fund made available for sale.

Yours faithfully,

Julie H. Park
Terra Ecosystems Group Pty Ltd
ABN 99 125 703 444

ATTACHMENT 2



ITEM NO. 8

FILE NO: PSC2011-02880

END OF TERM REPORT 2008-2012**REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES**
GROUP: CORPORATE SERVICES GROUP**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the End of Term report 2008-2012 presented as Tabled Document 1.

COUNCIL COMMITTEE MEETING – 10 JULY 2012
RECOMMENDATION:

	Councillor Frank Ward Councillor Bob Westbury
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 24 JULY 2012

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

BACKGROUND

The purpose of this report is to table the End of Term report 2008-2012 as required by Section 406 Guidelines and Essential Element 1.10 of the Local Government Act 1993. The legislation requires that a report for the period of the Council's term be tabled at the last meeting of the Council term.

FINANCIAL/RESOURCE IMPLICATIONS

The End of Term 2008-2012 report is in the form of a 'state of the shire' snapshot of progress against the Community Strategic Plan. Financial information contained in the report refers to the audited financial accounts of Port Stephens Council, that is it does not include financial year 2011-2012.

The report was prepared by Corporate Strategy & Planning using existing public records such as annual reports, quarterly and six-monthly reports; and information publicly available from the internet.

LEGAL, POLICY AND RISK IMPLICATIONS

Essential Element 1.10 of the Local Government Act requires that this report be compiled and presented at the final meeting of Council before an election; and the Integrated Planning & Reporting Manual indicates that the 'state of the shire' format is the recommended format. The report is required to measure the progress towards achieving the goals set out in the Community Strategic Plan, including the contribution of Council towards those goals.

The legislation intends the End of Term report to be a guide for the incoming councillors to see what has been achieved and what is still to be done towards achieving the community's goals. The report is also intended as a report to the community on progress. The report is required to be attached as an appendix to the Annual report (Section 428).

The End of Term 2008-2012 report is the first of its kind completed by Council and as such will act as a baseline document for future reports.

The report shows data about the Port Stephens LGA under the headings of the Community Strategic Plan, and shows in blue boxes the Council's contribution to the goals, in red boxes the contribution of other State agencies, and in green boxes the contribution of community, business etc. At the end of each chapter a table uses traffic light colours to indicate progress against the indicators in the Community Strategic plan.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
The End of Term report 2008-2012 contains errors of fact regarding non-Council information	Low	Data obtained from public web sites and where possible cross-checked	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The End of Term report 2008-2012 is organised in alignment with the Community Strategic plan and addresses the five pillars – Our Citizens, Our Lifestyle, Our Environment, Our Economy and Our Council – which is aligned to the sustainability pillars. The report provides empirical data on progress against the goals of the Community Strategic plan.

CONSULTATION

The End of Term report 2008-2012 was compiled using empirical data obtained from Council's records and publicly available internet records. Input from across Council staff was used to check the reliability of data.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) End of Term Report 2008-2012.

ITEM NO. 9

FILE NO: PSC2012-00636

2012 CUSTOMER SATISFACTION SURVEY REPORT**REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES****GROUP: CORPORATE SERVICES GROUP****RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the 2012 Customer Satisfaction Survey report presented as Tabled Document 1.

COUNCIL COMMITTEE MEETING – 10 JULY 2012**RECOMMENDATION:**

	Councillor Bob Westbury Councillor Caroline De Lyall
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 24 JULY 2012

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

BACKGROUND

The purpose of this report is to present the findings of the Customer Satisfaction Survey conducted in April and May 2012.

FINANCIAL/RESOURCE IMPLICATIONS

The Customer Satisfaction Survey report for 2012 sets out the community's perceptions of Council's performance across a range of service packages and generally. Outcomes for specific categories of facilities and services should guide the prioritisation of expenditure.

LEGAL, POLICY AND RISK IMPLICATIONS

There is no legislative requirement for Council to conduct a survey of customer satisfaction however, the Operational Plan 2011-2012 requires that Corporate Strategy & Planning conducts an annual survey in May each year and report to Council and the community the outcomes (5.8.2).

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

The 2012 Customer Satisfaction Survey was conducted under Council's Community Engagement policy. The survey achieved a representative sample of 362 responses with a confidence interval of 0.05 and a relative standard error of 5.25%, thus mitigating the risk that the sample would be unrepresentative.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Unrepresentative responses	Low	Had the responses been less than representative the survey to be extended and re advertised targeting specific cohorts	Yes – allowed for in planning the survey

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The 2012 Customer Satisfaction Survey report details outcomes from survey instrument questions targeted at social implications with a series of questions related to services and facilities for various demographic cohorts. It also targeted lifestyle and economic implications such as rating of facilities and performance of Council in supporting local businesses. Part of the survey sought the community's views on Council's management of the environment, monitoring of water quality, and land use planning.

CONSULTATION

The survey instrument was submitted to the Council's Executive Team for consideration and approval before being used for this survey. Consultation occurred with the Community Engagement Panel in sourcing the representative sample. Assistance was sought from the Department of Housing, the Karuah and Worimi Local Aboriginal Land Councils, Port Stephens Youth Network and Council's libraries to distribute surveys and encourage participation. A sample of 1,173 was also drawn from the Council's rates database and received a hard copy for completion and return in a reply-paid envelope.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) 2012 Customer Satisfaction Survey Report.

ITEM NO. 10

FILE NO: PSC2011-02657

**REPORT FOR PERIOD JANUARY TO JUNE 2012 AGAINST
OPERATIONAL PLAN 2011-2012 AND DELIVERY PROGRAM 2011-2015**

**REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES GROUP**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Six-monthly report January to June 2012 against the Operational Plan 2011-2012 and Delivery Program 2011-2015 presented as Tabled Document 1.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	Councillor John Nell Councillor Caroline De Lyall
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 24 JULY 2012

199	Councillor Geoff Dingle Councillor Frank Ward
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to present a report on the progress of Council in achieving the objectives and actions outlined in the integrated plans for the period January to June 2012.

The Local Government Act, 1993 (as amended), Section 404(5) requires the General Manager to make six-monthly reports to Council on progress against the integrated plans.

The Six-monthly report fulfils the requirement of Section 5.10.1 of the Port Stephens Council Operational Plan 2011-2012: Monitor and report on the implementation of all plans and strategies.

FINANCIAL/RESOURCE IMPLICATIONS

The Six-monthly report provides a summary of financial performance and the General Manager's message indicates exceptions and variances if they occurred. All financial information in this report is presented on the basis that financial performance figures are estimates only as the performance for the financial year 2011-2012 will be available after external auditing in November 2012 in the Annual report.

LEGAL, POLICY AND RISK IMPLICATIONS

The report for January to June 2012 complies with Section 404(5) of the Local Government Act 1993.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Inaccurate information in the report leading to loss of reputation and confidence in Council's commitment to transparency	Low	The draft of this report was circulated to the Council's Executive Leadership Team prior to finalisation	Yes
Failure to produce the report in the statutory timeframe, leading to breach of the Local Government Act 1993 and consequent damage to Council's reputation	Low	The process for production of this report commenced and concluded in the specified timeframe	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The integrated plans are structured under the headings:

- Our Citizens;
- Our Lifestyle;
- Our Environment;
- Our Economy;
- Our Council.

And were developed within the four pillars of sustainability and under the principles of equity and social justice.

This report addresses specifically progress under the sustainability headings of:

- Social Sustainability;
- Environmental Sustainability;
- Economic Sustainability;
- Governance and Civic Leadership.

CONSULTATION

The report January to June 2012 was constructed from information provided by all sections of Council.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Six-monthly Report against the Operational Plan 2011-2012 and the Delivery Program 2011-2015.

ITEM NO. 11

FILE NO: PSC2012-01622

**NSW DEPARTMENT OF PREMIER AND CABINET, LOCAL
INFRASTRUCTURE RENEWAL SCHEME****REPORT OF: JOHN MARETICH - CIVIL ASSETS MANAGER
GROUP: FACILITIES & SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) That Council endorse the Local Infrastructure Renewal Scheme interest subsidy of 4% against a \$1 million loan over 10years, if Department of Local Government offers that to Port Stephens Council;
- 2) That if successful, Council delegate to the General Manger the authority to raise the loan funds, sign document and affix the Council seal to those documents.

COUNCIL COMMITTEE MEETING – 10 JULY 2012**RECOMMENDATION:**

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

ORDINARY COUNCIL MEETING – 24 JULY 2012

200	Councillor Ken Jordan Councillor Shirley O'Brien
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to gain acceptance of possible funding that Council has applied for through the NSW Department of Premier and Cabinet, Local Infrastructure Renewal Scheme (LIRS). The NSW government is providing up to \$70 million for a 4% interest subsidy across the state for Councils to reduce their infrastructure backlog. This subsidy aims to provide an incentive to Councils to make better use of borrowed money to fast-track investment in infrastructure backlogs.

Council's Plan Strategic Direction, Section 5.4.1 – "Develop, review and manage Council's assets in accordance with best practice asset lifecycle principles", sets the funding principals for asset renewal. Councils current budget falls short of the required funds required to sustainably maintain our asset network. This grant will

subsidise a small portion of the extra money needed to prolonging the life of these particular road assets.

Councils application requested the 4% interest subsidy be used against a \$1 million loan intended to bring forward some of the road reseal works.

To be eligible for the NSW Local Infrastructure Renewal Scheme Council had to meet the application criteria and conditions detailed in the NSW Local Infrastructure Renewal Scheme Guidelines January 2012, full list of details are provided in an attachment to this report.

Port Stephens Council has submitted an application under this scheme for \$1 million to be used for resealing part of our road network. Councils current reseal with heavy patch preparation budget allocation is \$1,300,000 annually which is approximately \$1,100,000 short each year of what is required to optimise our road network.

Applications were submitted to the NSW Department of Premier and Cabinet on the 30th March 2012. It is likely that Council will hear a determination of the application sometime in July 2012. As there will be no Council meeting from now until October 2012 and if successful Council is expected to sign the Agreement within 30 day of receipt, and agreement from Council is required to accept this subsidy is granted otherwise if unable to meet this deadline the agreement will lapse and be offered to another applicant Council.

FINANCIAL/RESOURCE IMPLICATIONS

Council's recurrent road reseal program with heavy patch preparations has current budgeted \$1,300,000 each year. If granted this LIRS interest subsidy this years budget for 2012/2013 will be increased to \$2,300,000 and works will be brought forward and undertaken at a more ideal time for the protection of asset.

Council's application requested assistance against a \$1 million third party loan to be repaid over a 10 year period. It is proposed that the loan would be repaid from the existing operational budget for first two years. This repayment source of funds will be reviewed at year 3.

The saving that Council will achieve through the 4% interest subsidy of \$1 million over 10 years is \$228,085.

LEGAL, POLICY AND RISK IMPLICATIONS

This is a very low risk activity as detailed below:

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Financial Risk	Low	Repayments can be funded from recurrent maintenance budget	Yes
Interest Rate Risk	Low	Interest on a \$1 million loan is such a small figure compared to operating budget	Yes
Contract Risk	Low	Contractor from Preferred list	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Sustainability of asset management is what Council is trying to achieve. Funding these works at an earlier date will improve the asset life and thus create a more sustainable maintenance schedule on these assets.

CONSULTATION

Consultation was undertaken with Council's financial institution.

OPTIONS

- a. Adopt the recommendation.
- b. Amend the recommendation.

ATTACHMENTS

- 1) Extract from the NSW Local Infrastructure Renewal Scheme Guidelines January 2012.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Extract from the NSW Local Infrastructure Renewal Scheme Guidelines January 2012

Essential Criteria that Council needed to meet to be eligible for assistance included:

- Funds are to be used for legitimate infrastructure backlog works
- Evidence that Council has insufficient funds to undertake these infrastructure works.
- Evidence that Council can achieve these works and has the necessary resources.
- Evidence that Council can complete the works within the proposed budget and timeframe.
- Works must commence within 12 months of signing the LIRS Agreement.
- Project is to have a clear completion date.
- Evidence that Council has a commitment to delivering affordable and sustainable infrastructure as detailed in Port Stephens Councils Asset Management Plan and Long Term Finance Plan.

Conditions of LIRS Assistance are:

- Financial assessment and benchmarking by NSW Treasury Corporation (TCorp) – The purpose of this assessment is intended to be a general review of Councils overall finances and financial prospects to assist councils' asset acquisition and investment management strategy, including capacity to utilise debt when appropriate.
- Loan to be subsidised must be obtained from third party lender
- NSW Government will not guarantee any part of borrowings or financial obligations for loans obtained under this LIRS.
- Council must comply with legislative requirements that may apply to the program.
- Councils are only eligible for one subsidy contribution per works project but can submit a maximum of two projects/programs for each application round.
- LIRS interest subsidy can only be used on new loans issued by third party lenders to be used for the cost of works and not administration, travel or salaries associated with the project.
- Deadline for council and lender to agree on loan terms – an agreement between lender and Council is required prior to deadlines set in the LIRS. Port Stephens Council has agreement with lender pending signing LIRS Agreement.
- Loan Duration to be no longer than 10 years
- LIRS subsidy to be fixed at commencement of LIRS agreement with a known dollar figure.
- Councils accept all risk apart from the LIRS subsidy in LIRS agreement
- LIRS will be paid on a reimbursement basis.
- Submission of final approval Loan Agreement and Bank Term Sheet upon taking up the LIRS offer.

ITEM NO. 12

FILE NO: PSC2011-00149

SHOAL BAY FORESHORE AND WHARF REVITALISATION PROJECT UPDATE

REPORT OF: STEVEN BERNASCONI – COMMUNITY AND RECREATION SERVICES MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Continue with project planning phases for the Shoal Bay Foreshore and Wharf revitalisation project;
- 2) Initiates procurement processes and implementation of works once Holiday Park Reserve funds and other grants are approved and received for use on the nominated projects.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 24 JULY 2012

201	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to respond to Council Minute 166 (10 May 2011) by providing a report on the replacement of the Shoal Bay wharf including options and associated costs. This report has been expanded to also provide an update on the total Shoal Bay Foreshore Revitalisation Project.

Project planning work commenced in earnest on the Shoal Bay Foreshore Revitalisation Project in mid 2011. The table below outlines the current progress of each component of the project.

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

Component	Status	Future actions
Boat Ramp	Completed. Total cost \$356,000 Source of funds: \$94 - \$178,000 Grant - \$178,000 (NSW Better Boating Program Grant – received)	Grant funding acquittal.
Car park near boat ramp	Detailed design, surveys and all associated paper work is on schedule Project ready for construction when funding becomes available. Resubmit business case report to Crown Lands confirming funding allocation. Estimated cost: \$350,000 Source of funds: Grant - \$175,000 (NSW Better Boating Program Grant) Holiday Park Reserve - \$175,000 (not confirmed)	Confirm all funding sources. Commence works. Grant funding acquittal.
Foreshore paths, landscaping, furniture and amenity improvements	Design, survey and associated paper work is 50% completed. On schedule to be completed by 30 September 2012. Resubmit business case report to Crown Lands confirming funding allocation. Estimated cost: \$914,000 Source of funds: Holiday Park Reserve - \$914,000 (not confirmed)	Confirm funding source. Commence works.
Wharf	Concept plans completed. Final (4 th) round of stakeholder consultation required. Approximately 3 weeks work required to have design paper work ready for tendering process. Resubmit business case report to Crown Lands confirming funding allocation. Estimated cost: \$880,000 Source of funds: \$94 - \$279,500 Grants – \$189,500 (not confirmed)	Seek grants funding. Confirm all funding sources. Liaise with commercial boat operators regarding limitations to design for deep draft vessels. Commence works. Grant funding acquittals.

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

	Holiday Park Reserve - \$411,000 (not confirmed)	
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Attachment 1 shows the recommended wharf design. This design has been consulted on widely with key stakeholders and is considered being within the funding and environmental constraints of the project. Attachments 2 and 3 show plan views of the proposed car park near the boat ramp and concepts for the foreshore upgrade at the eastern end of Shoal Bay.

FINANCIAL/RESOURCE IMPLICATIONS

A business plan was prepared and submitted to Crown Lands in May 2012. This plan was required by Crown Lands for approval to allocate Crown Trust funding from the Holiday Parks Reserves to Shoal Bay Foreshore Reserve.

In order for the remainder of the project to progress, Holiday Park Reserve funding needs to be released. Without these funds the project cannot proceed.

In order for the wharf to be rebuilt before the summer of 2012/13 funding needs to be confirmed as a priority in order for the tendering process to commence, contracts awarded and work to begin.

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Reputation risk of not proceeding with the project	High	Adopt the recommendation	Yes
Asset risk of not upgrading the foreshore structures now and delaying increasing asset maintenance costs	High	Adopt the recommendation	No. Will require funding from future budgets
Financial risk of progressing construction phases before confirming approval to use Holiday Park Reserve funds	High	Adopt the recommendation	No. This project is largely reliant on the use of Holiday Park Reserve funds
Financial risk of proceeding with the wharf construction with no confirmed grant funding	High	Adopt the recommendation	No. If there are no grant funds to the wharf, funding from other capital projects will be required to be redirected to complete the job
Compliance risk of progressing project using Crown Reserve funding	High	Adopt the recommendation	Yes

that has not been consented to by Crown			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant foreseeable social implications associated with this project. No specific groups of people will be disadvantaged more than any others during the construction phase. There will be some disruption to beach users, pedestrians and road traffic during construction. Resident and visitors to Shoal Bay will be able to enjoy renewed assets and infrastructure.

Completion of the project will have a positive impact on the local economy by stimulating tourist activity and visitations and thus adding to the local spend in Shoal Bay CBD.

All environmental impacts will be dealt with by the approvals process for the wharf construction and the review of environmental factors for each of the project items. It is not anticipated that the revitalisation of the Shoal Bay foreshore including the wharf will have any new negative long term effects on the local ecological processes in the surrounding ecosystems.

CONSULTATION

This project has been consulted on widely and will continue to be as each item of the project completes the planning phase and moves into construction.

There has been one open community meeting at the start of the process in early 2011 plus a number of other informal meetings and discussions with other stakeholders since this time.

Stakeholder consultation/discussions have occurred with:

- 1) Shoal Bay Country Club;
- 2) Shoal Bay Fishing Club;
- 3) Shoal Bay Community Association;
- 4) Shoal Bay Beach Preservation Committee (355c);
- 5) NSW Marine Park Authority;
- 6) NSW Waterways;
- 7) NSW National Parks and Wildlife Services;
- 8) NSW Crown Lands;
- 9) Tomaree Lodge.

OPTIONS

- 1) Proceed with the project planning of Shoal Bay Foreshore Revitalisation Project;
- 2) Cease project planning of Shoal Bay Foreshore Revitalisation Project.

ATTACHMENTS

- 1) Plan view of proposed new Shoal Bay Wharf;
- 2) Plan view of proposed car park near boat ramp – Shoal Bay;
- 3) Plan view concept of foreshore upgrade eastern end – Shoal Bay

COUNCILLORS ROOM

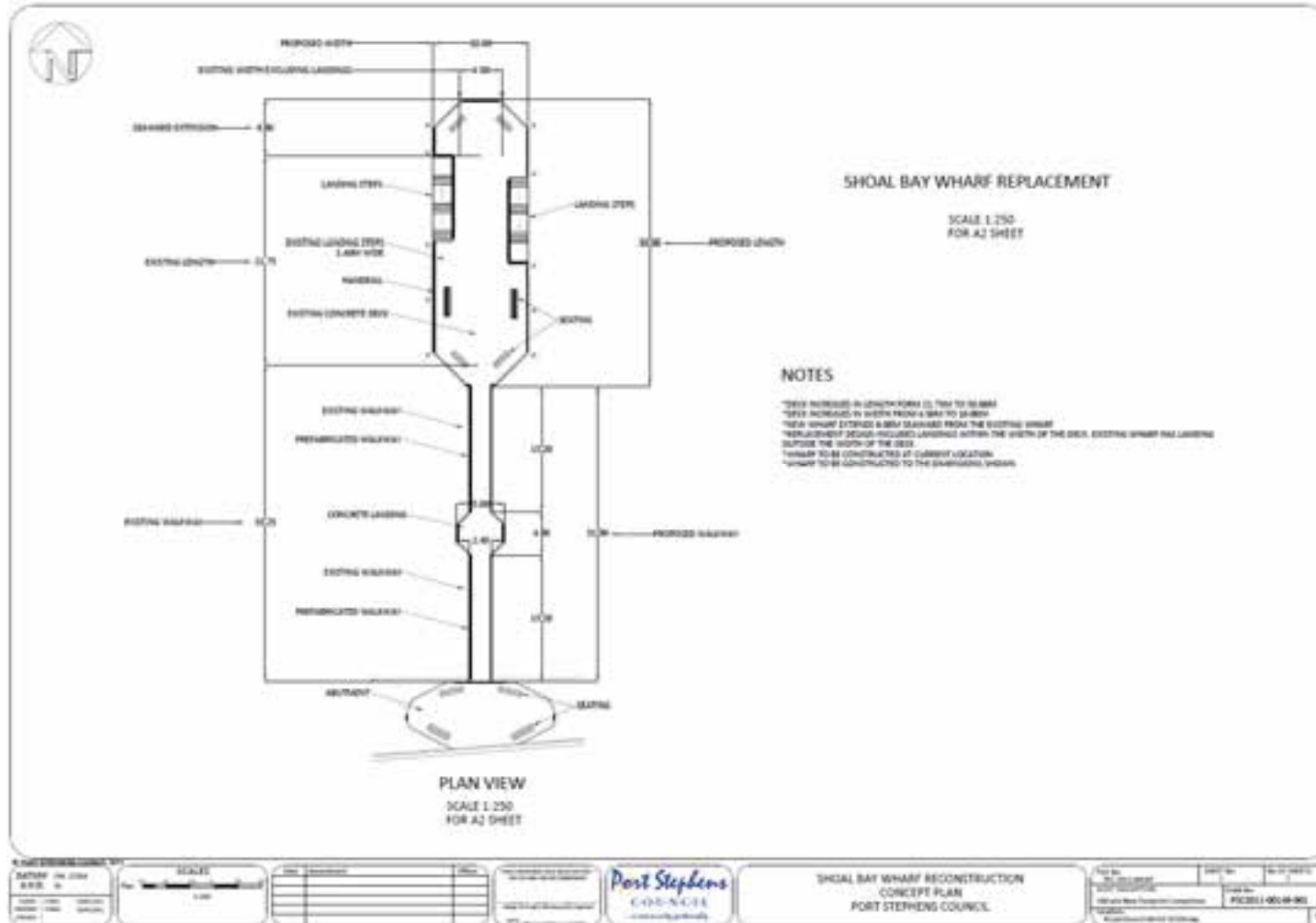
Nil.

TABLED DOCUMENTS

Nil.

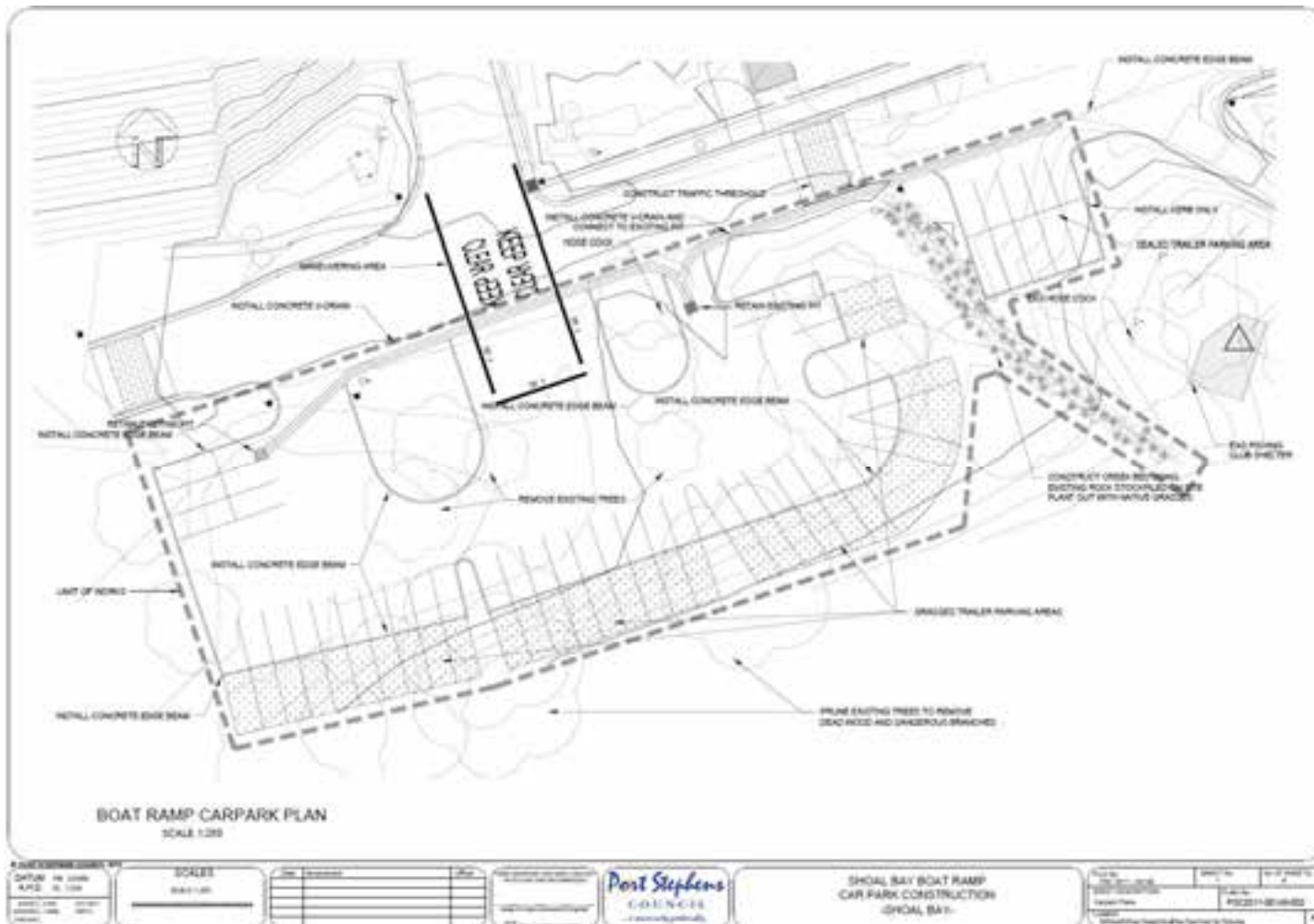
ATTACHMENT 1

PLAN VIEW OF PROPOSED SHOAL BAY WHARF ASSET RENEWAL



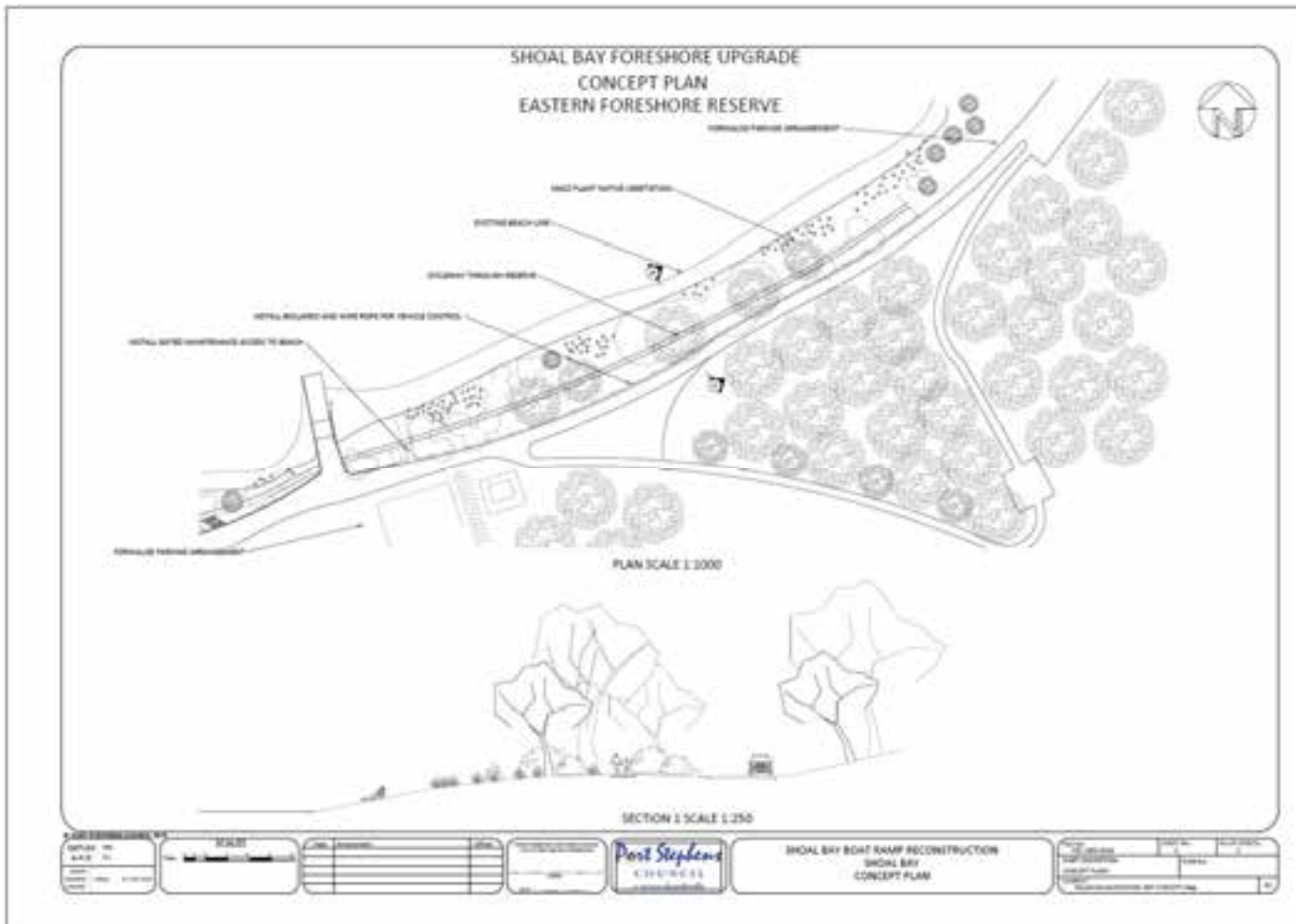
ATTACHMENT 2

PLAN VIEW OF PROPOSED CAR PARK NEAR BOAT RAMP – SHOAL BAY



ATTACHMENT 3

PLAN VIEW CONCEPT OF FORESHORE UPGRADE EASTERN END – SHOAL BAY



ITEM NO. 13

FILE NO: A2004-0929

NELSON BAY TOURIST CHARTER BOATS PTY LTD – PROPOSED OPTION LEASE OVER LOT 558 AT EASTERN GROYPNE NELSON BAY**REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER**
GROUP: CORPORATE SERVICES GROUP**RECOMMENDATION IS THAT COUNCIL:**

- 1) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease documentation relating to Nelson Bay Tourist Charter Boats Pty Limited.

COUNCIL COMMITTEE MEETING – 10 JULY 2012
RECOMMENDATION:

	Councillor Bob Westbury Councillor Sally Dover
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 24 JULY 2012

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

BACKGROUND

The purpose of this report is to advise Council that the existing tenant of Lot 558 at Eastern Groyne, Nelson Bay (see Attachment 1) has exercised its option under the lease for a further term of ten (10) years following the expiry of the original ten (10) year lease which expired on 30 March 2012.

Lease documentation is being prepared in consultation with Harris Wheeler Lawyers while Tew Property Consultants have undertaken a valuation of the current market rental.

FINANCIAL/RESOURCE IMPLICATIONS

Property Services act in many transactions for other Sections across Council (asset owners) in ensuring that favourable lease terms are agreed and that obligations such as the payment of contributions towards outgoings recovery are enforceable.

In having a valid and enforceable Lease Council is protected and the ability to recover costs means that the property returns funds to Council as opposed to contributing as a liability for rates, maintenance, asset management and other factors.

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the provisions of the Conveyancing Act, leases in excess of three years total duration, including the option period, are to be registered upon the title of the land to which they apply. Accordingly, if the lease is to be registered the common seal must be affixed upon signing under Clause 400, Local Government (general Regulation) 2005.

The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
With no formalised lease in place a tenant could vacate at short notice and there would be a loss of income as a result	Medium	Lease documentation to be formalised as recommended	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Commercial Property Manager;
- 2) Property Investment Coordinator;
- 3) Tew Property Consultants and Valuers;
- 4) Harris Wheeler Lawyers.

OPTIONS

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

ATTACHMENTS

- 1) Location Plan.

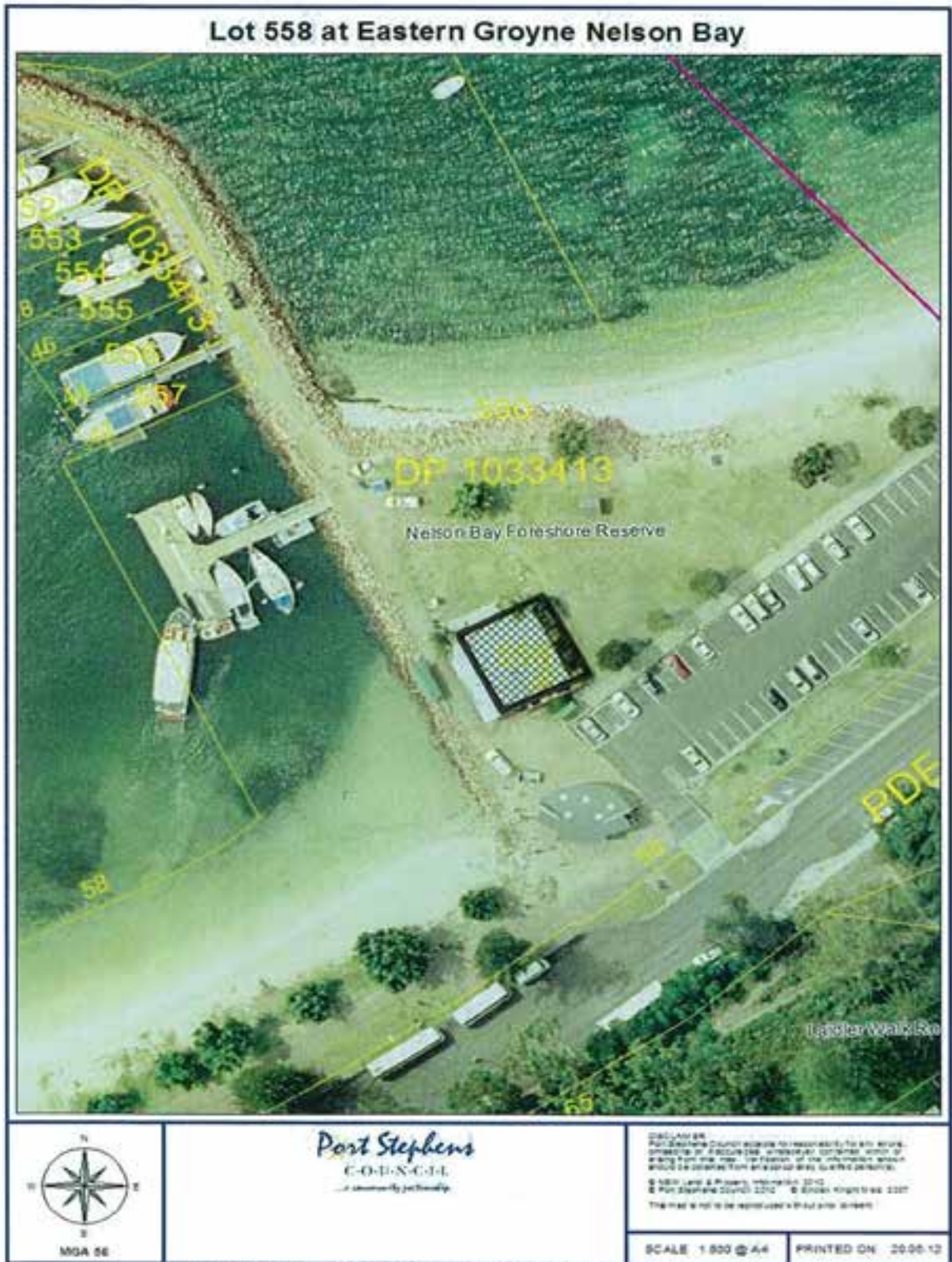
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



ITEM NO. 14

FILE NO: A2004-0217 PSC20080599

NSW COASTLINE CYCLEWAY GRANTS - SANDY POINT ROAD

REPORT OF: JOHN MARETICH – CIVIL ASSETS MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Proceed to construct, in the 2013 calendar year, the Sandy Point Road shared path from Foreshore Drive to Conroy Park cycleway as originally designed. (Attachment 1);
- 2) Proceed to construct, in 2013 calendar year, the Sandy Point Road shared path from Worimi Drive to Foreshore Drive cycleway as originally designed. (Attachment 1);
- 3) Continue to seek long term funding for the Corlette headland route of the NSW Coastline Cycleway Project. (Attachment 2).

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	Councillor John Nell Councillor Caroline De Lyall
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 24 JULY 2012

	Councillor Sally Dover Councillor Peter Kafer
	That Council postpone the decision on the Corlette cycleway until cost comparisons and links to existing cycleways have been examined and the Corlette community have been consulted.

AMENDMENT

203	Councillor Frank Ward Councillor John Nell
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1. That this matter be deferred until a report is submitted to the next Council;2. That the staff make representations to the NSW Coastline Cycleway Project to allow Council to review the program having regard to the changing pattern of development;3. That the staff confer with the local groups as the Corlette Committees, the local cycling groups and Landcom in order to ensure that the development of the pathways network is constructed in a coordinated manner to get the greatest value for the funds spent and for the best use by the residents.

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

BACKGROUND

The purpose of this report is to inform Council of the status of the NSW Coastline Cycleway projects along Sandy Point Road, Corlette and to officially inform the funding agency of Councils way forward with the monies already designated to Council.

The NSW Government's Coastline Cycleway program provides funding for a continuous 1,400km cycle route from the Queensland border to the Victorian border, linking coastal communities to provide economic stimulation and avoiding main roads where possible.

The route of the Coastline Cycleway within Port Stephens Council's area starts at Fern Bay and ends at D'Albora Marina at Nelson Bay. The route generally follows Nelson Bay Road, Fullerton Cove Rd, Marsh Rd, Port Stephens Drive, Salamander Way, Bagnall Beach Rd, Sandy Point Road, Bagnall Beach Reserve and Burbong Street, where it connects to the existing concrete cycleway along Dutchies Beach.

In 2008 Council submitted a grant application to the Department of Planning under the NSW Coastline Cycleway Grants Program for the shared path along Sandy Point Rd from Foreshore Drive to Conroy Park. In April 2009 the Minister for Planning, The Hon Kristina Keneally MP, announced a \$167,500 grant to Port Stephens Council.

In addition to the above grant, in 2009 Council submitted grant application to the Department of Planning for a shared path along Sandy Point Rd from Worimi Drive to Foreshore Drive. In May 2010 the Minister for Planning, The Hon Tony Kelly MLC, announced a \$147,500 grant to Port Stephens Council under the same NSW Coastline Cycleway Grants Program.

The shared path routes as proposed in the Coastline Cycleway Grants Program applications are shown in Attachment 1.

Survey and design for the Foreshore Drive to Conroy Park section was completed mid 2010 for a September start to works. Following on from some Community concern about the location of the proposed shared paths Council tabled a Notice of Motion at the Ordinary Council Meeting 28 September 2010 Minute No. 315 that Council:

- "1) Not commence the construction of the cycleway link between Conroy Park and Foreshore Drive, Corlette.
- 2) That an urgent meeting be held with staff and East Ward Councillors to reconsider the safety aspect of this route alongside the road.
- 3) The alternate route alongside the waterfront be investigated and costed. This route would provide a safe cycleway with no danger of intersecting driveways and although it may be more expensive it will provide the residents and visitors of Port Stephens with a superior, safe and scenic cycleway of which we can all be proud."

Construction was stopped and a meeting with Councillors and staff was held 28 September 2010, and a follow up meeting 12 November 2010 to progress the investigation of the alternative route.

The alternative route starts at Roy Wood Reserve as a concrete path following the foreshore around to Corlette Headland, constructing a raised pedestrian walkway around the headland to the Anchorage marina, utilising the marina boardwalk before joining back to the foreshore land and terminating at Conroy Park. The alternative route does not change the section from Worimi Drive to Foreshore Drive. Alternative route around the headland is shown in Attachment 2.

The material concept design of the raised pedestrian boardwalk is based on information and data provided by local residents, criteria set by Marine Parks Authority to protect the environment, materials required to withstand the harsh salt marine environment, and ideas taken from other raised pedestrian boardwalks in Councils.

Estimated cost for this alternative route is approximately \$270,000 for the typical concrete sections and \$1,400,000 for the raised pedestrian boardwalk, totalling \$1,670,000. The estimate does not include lighting and would require detailed review if Council were to progress this option.

Anchorage Marina have indicated they will replace their current decking with a more suitable material at their cost, but major modifications to the stairs at the western end will be required, along with the addition of handrails and modifications to the seawall to suit the shared path at Councils cost.

A further resolution from Council at the ordinary Council meeting 23 August 2011 Minute No. 300 Allocation of Ward Funds – East and West Wards was to:

- 4) Defer the following cycleway projects:
 - a) between Conroy Park, Corlette and Roy Wood Reserve, Corlette
 - b) between Foreshore Drive, Corlette and Worimi Drive, Salamander Bay
- 5) Re-allocate Council funds from these two projects to Apex Park, Nelson Bay and;
- 6) That staff consult with the organisations who have provided grants to the cycleway projects to discuss future implementation."

Council funds for these projects have been reallocated in accordance with the above resolution and the monies allocated by the Department of Planning have been put into a reserve. Both projects have been put on hold but need to be programmed into Councils future works. The Department of Planning have expressed their concerns with the delays of the projects but understand the situation and do not require the grant funding to be returned at this stage, but want an official update on where Council stands with these projects.

FINANCIAL/RESOURCE IMPLICATIONS

The initial budget for the Foreshore Drive to Conroy Park shared path is \$335,000 of which a 50% contribution is from NSW Department of Planning. If the alternative route is chosen there is a \$1,335,000 shortfall in funds to construct shared path. At this stage no specific grants have been available to fund the difference. Minimal contributions to works can be sought to provide additional funds for the project due to the location of the path within the Council controlled reserve.

Initial suggestions to get local businesses to fund the difference will be unlikely at this point in time given the current economic climate.

The initial budget for the shared path Worimi Drive to Foreshore Drive is \$295,000 of which a 50% contribution from NSW Department of Planning. No additional funding would be required to complete this section of cycleway.

Project	Total (Est)	Grant	PSC Funds	Unfunded	Comment
1a.Foreshore Drive to Conroy Park via Sandy Point Road	\$335,000	\$167,500	\$167,500	\$0	PSC Funds to be allocated in 2013/2014 from Asset Rehabilitation Reserve.
1b.Foreshore Drive to Conroy Park via headland	\$1,670,000	\$167,500	\$167,500	\$1,335,000	There are no allocated funds.
2. Worimi Drive to Foreshore Drive via Sandy Point Road	\$295,000	\$147,500	\$147,500	\$0	PSC Funds to be allocated in 2013/2014 from Asset Rehabilitation Reserve.

LEGAL, POLICY AND RISK IMPLICATIONS

In accepting the grants Council is required to construct the shared paths as per the funding application. While the funding agency understands there is now an alternative route, any change to the application may result in the funds being withdrawn.

The Department of Planning does not accept any legal obligation for the projects and as such Council will be responsible for all legal obligations and liabilities during construction and the ongoing maintenance of these facilities.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Placing a shared path adjacent to driveways Risk that interface with reversing vehicles and cyclists /pedestrians is unsafe and could lead to accidents	High	Modify alignment where possible to reduce risk, though it should be noted that each driver has a duty of care and the NSW Road Rules 2008 states: Division 3: Entering or leaving road related areas and adjacent land; Road Rule 74 states: Giving way when entering a road from a road related area or adjacent land (1) A driver entering a road from a road related area, or adjacent land, without traffic lights or a stop sign, stop line, give way sign or give way line must give way to: (c) any vehicle or pedestrian on any road related area that the driver crosses to enter the road	Yes
Constructing path around headland through private property	High	Constructing a shared path around the headland will involve traversing private land through the Anchorage Marina utilising their jetty and seawall. Verbal concurrence of this has been obtained but no agreement has been reached in relation to compensation costs, maintenance responsibility, liability responsibility, ownership of Council installed materials	No. Additional funding, legal and technical resources will be required
Financial risk of constructing path	High	Need to allocate funds to undertake detailed investigation	No.

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

around the headland exceeding budget. Many unknowns in constructing a structure in a marine environment such as, increase material cost, unexpected rock types or archaeological findings		and design, geotechnical investigations, environmental impact studies	Additional funds and technical resources will be required.
Not constructing paths in the near future causing lack of confidence in the Funding Agency and risk of not gaining future grants	Medium	Need to officially notify Dept of Planning of Council's future plans to build this link of the NSW Coastline Cycleway	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Locating the shared path off street and around the Corlette Headland would create a unique scenic route for the coastline cycleway. The path could become its own tourist attraction with the potential views and aesthetic appeal along its meandering course. Socially the Councillors and Community are split as most argue to pro's and con's of both routes. A shared path does not currently run along Sandy Point Road. Many pedestrians and cyclists use this route daily for exercise and commuting to and from work. Providing a scenic path around the headland may be perceived as too far off route given one of the criteria for the NSW Coastline Cycleway is to provide pedestrian and cyclist traffic through retail shopping centres.

Community feedback with a cycleway being constructed along the foreshore instead of the road has also been met with mixed feelings as many residents do not wish for such a path to be constructed through the area as many young children and aged residents utilise the area and may not be able to interact well with cyclists at speed.

Environmental issues have been discussed with Marine Parks Authority, but no formal environmental or archaeological assessments have been undertaken. The aesthetic affects on a natural area of placing a built structure on a headland has also not yet been compared to the overall benefits to the Community.

CONSULTATION

East Ward Councillors, Senior staff of the Facilities and Services Group, Asset specialists within Facilities and Services Group, members of the community.

OPTIONS

- 1) Adopt the recommendations;
- 2) Make a determination that the Headland Option is the preferable route.

ATTACHMENTS

- 1) NSW Coastline Cycleway Shared Path Grant Applications
- 2) Sandy Point Road Foreshore Drive to Conroy Park Alternative Route around Corlette Headland.

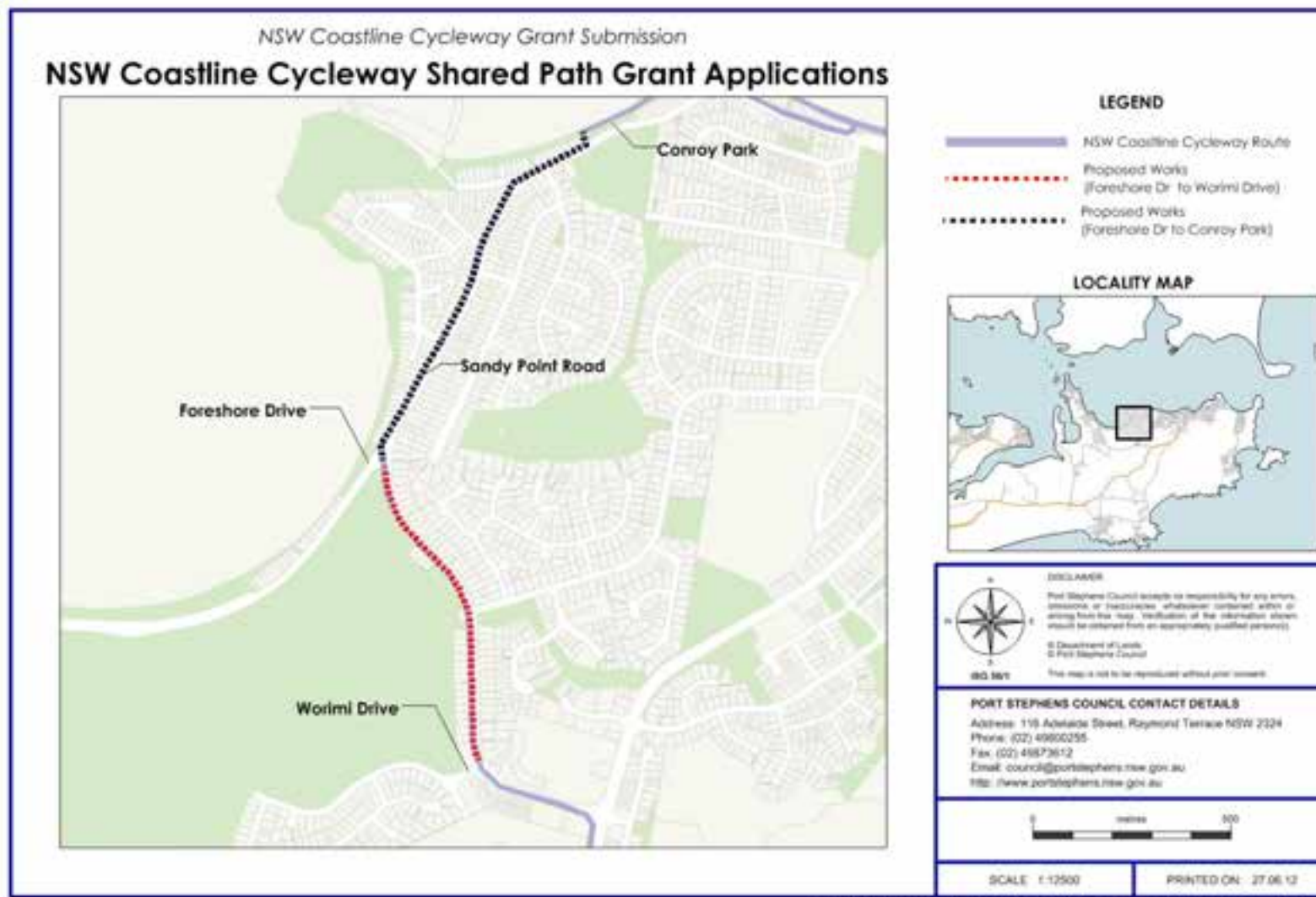
COUNCILLORS ROOM

Nil.

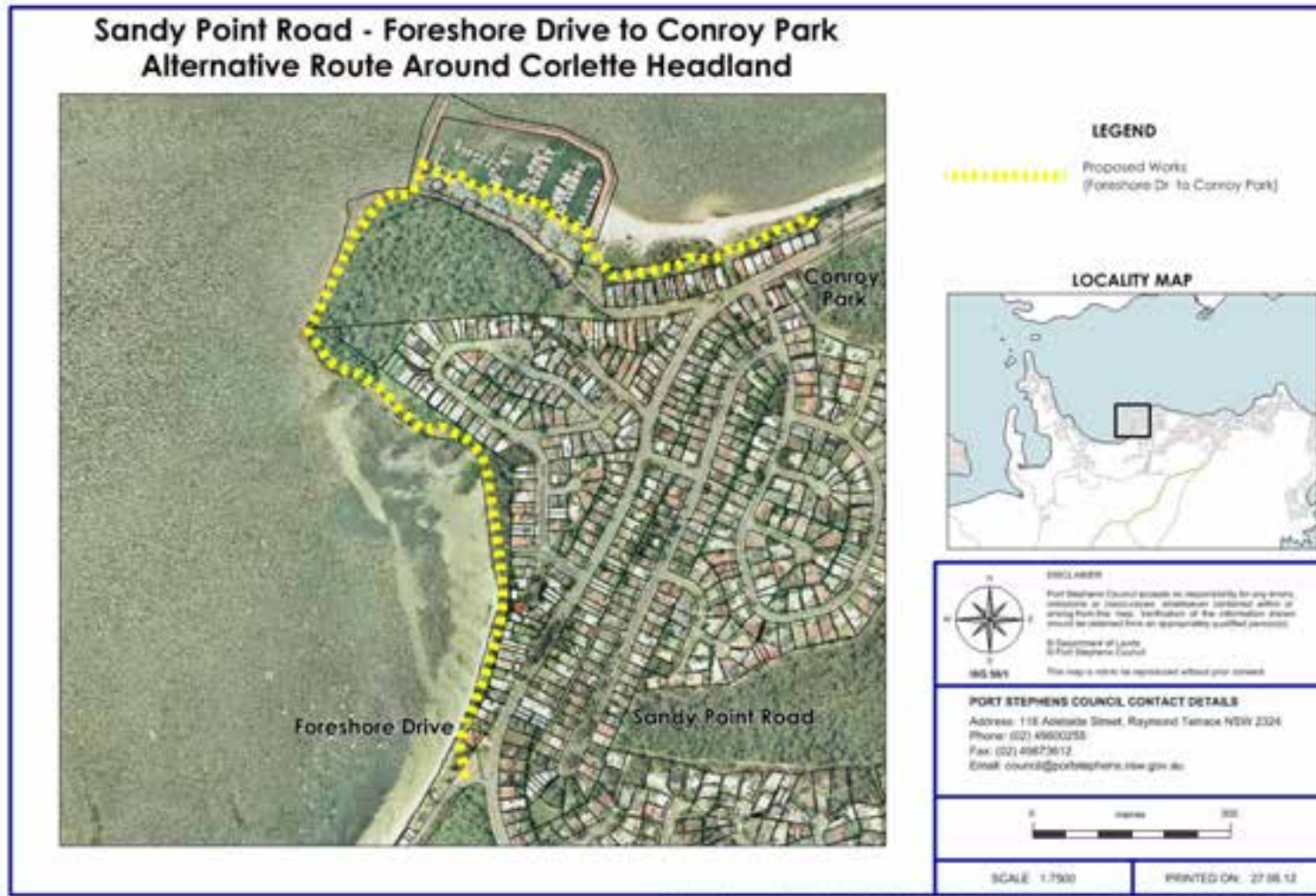
TABLED DOCUMENTS

Nil.

ATTACHMENT 1



ATTACHMENT 2



ITEM NO. 15

FILE NO: PSC2011-04350

SUSTAINABILITY REVIEW – COMMERCIAL BUSINESS UNIT

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategies – Commercial Business Unit and endorse the findings of the review.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

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

ORDINARY COUNCIL MEETING – 24 JULY 2012

Cr Ken Jordan left the meeting at 7.30pm prior to voting on Item 15.

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

BACKGROUND

The purpose of this report is to present to Council the outcomes from the sustainability review for the Commercial Business Unit incorporating Commercial Cleaning, Business Support and Holiday Park Services.

Following Council's decision early this year to restructure, three of the services previously in the Commercial Enterprises Section have been incorporated into the Property Services Section of the Corporate Service Group. The decision to disband the Corporate Clean business unit from the organisational structure and assign cleaning staff to the various areas of Council has negated the need to progress the commercial cleaning service delivery review.

In consideration of the structural changes and the Crown Lands requirements for the Crown holiday parks (Halifax, Fingal Bay and 35%/Shoal Bay) the service functions

have been presented together to provide a holistic approach to the services now to be provided under the newly formed Commercial Business Unit.

The Commercial Business Unit is responsible for the overall business support and performance of the Holiday Parks. The service provides for the leadership, management and operation of tourist accommodation properties (both Council & Crown) contributing to a diversified revenue base for Council.

Council's continued management of the Crown Land Holiday Parks also assists to benefit targeted future investment toward improvements within the Port Stephens Crown land estate. The services also give Council first hand knowledge and insight into the local tourism industry as well as contributing to the local economy.

The functions of the Business Support and Holiday Park services are summarised in **Attachment 1**.

FINANCIAL/RESOURCE IMPLICATIONS

The Commercial Business Unit sustainability review has identified initial net savings to Council of \$254,789 per annum as outlined in the table below.

Service reviewed	Existing cost of service (2011)	Identified cost savings to the service	Costs to be redistributed to other areas	New costs to be added	Net savings to council
Holiday Parks	\$7,789,003	\$230,260	\$0	\$20,000	\$210,260
Commercial Cleaning	\$2,762,837	\$577,853	\$339,661	\$0	\$238,192
Business Support	\$703,972	\$0	\$0	\$193,663	-\$193,663
Combined Total	\$11,255,812	\$808,113	\$339,661	\$213,663	\$254,789

Further opportunities for savings have been identified and will be implemented over the next two financial years in line with Crown Lands' requirements and through the implementation of further cost control measures and business improvements identified within the service strategies. Testing the market to outsource components of the holiday park operations has been identified as a future option. At present the resources, systems and performance criteria have not sufficiently progressed to support this approach however, and this will be addressed during the 2013 financial year.

LEGAL, POLICY AND RISK IMPLICATIONS

Council in its capacity as Corporate Trust Manager for Crown Land is required to comply with the Crown Lands Act and operate the Crown Holiday Parks within the requirements of the Crown Lands Trust Handbook. Council also has land management obligations under the Crown lease for Samurai Beach Resort.

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Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Loss of Crown Lands confidence in Council's management of the Holiday Parks	High	Adopt the recommendations contained in the sustainability review	Yes
Financial performance of Samurai Beach Resort	High	Progress the identified options for Samurai Beach Resort	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council's management of the Holiday Parks contributes to environmental and economic sustainability by managing active open space and assisting to create future investment opportunity toward improvements within the Port Stephens Crown land estate. The services also give Council first hand knowledge and insight into the local tourism industry as well as contributing to the local economy.

CONSULTATION

Significant consultation has been undertaken with 'best practice' and comparable councils as well as marketing, tourism and industry professionals and internal Council staff as follows:

- Local Government: Executive Manager – Tweed Coast Holiday Parks, Caravan Parks/Reserves Business Manager – Coffs Harbour Holiday Parks, Manager Business Units – Wyong Council, Holiday Park Coordinator – Lake Macquarie Council, Port Stephens Council staff including General Manager, Corporate Services Group Manager, Marketing & Communications Section Manager, Holiday Park Managers, Customer Service Supervisors and Marketing Manager;
- State Government: General Manager & Regional Manager – Crown Lands Division;
- Other: Port Stephens Tourism, Family Parks Australia, Top Tourist Parks Australia, Big 4 Australia, Massey Online Management and StraightSell;
- Two Way Conversation: Held 5th June 2012.

OPTIONS

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

ATTACHMENTS

- 1) Business Support Service Package;
- 2) Holiday Park Service Package;
- 3) Service Review Findings.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Impacts on the Sustainability Review from the corporate restructure
- 2) Service Strategy – Holiday Parks
- 3) Service Strategy – Business Support
- 4) Service Strategy – Commercial Cleaning.

ATTACHMENT 1**BUSINESS SUPPORT SERVICE PACKAGE**

The new structure provides support to the holiday parks business needs regardless of the future method of service delivery (ie contract or direct employee labour). The focus of business support is to assist the holiday parks and resort to optimise their performance and increase return on business investment. The new structure is similar to one of the Crown Lands preferred business models (Tweed Heads Council's holiday park structure).

The three functional areas of the service are:

Financial & administrative support – monitor and maintain compliance and standards, financial reporting and budget control, contract management, casual labour distribution, purchasing coordination, business reporting and statistical analysis.

Marketing & development – delivering marketing collateral and resources, increase product exposure, maintain and improve web and social media marketing, product development and implementation.

Group & conference development – identify and capture new business, facilitate access to suitable properties and coordinate functions.

Income/Expenditure/Staffing

Operating Expenditure	(2011 FY)	\$730,972 (cost recovery from business units)
Capital Expenditure	(2011 FY)	Nil.
Income	(2011FY)	\$141,519
Staffing (EFT)	(2011FY)	8

ATTACHMENT 2**HOLIDAY PARK SERVICE PACKAGE**

The provision of Holiday Park services consists of five (5) properties owned or managed by Port Stephens Council. The operation encompasses four (4) Holiday Parks and a Resort including Shoal Bay Holiday Park (Crown Reserve & Council land), Fingal Bay Holiday Park (Crown Reserve), Halifax Holiday Park (Crown Reserve), Soldiers Point Holiday Park (Council land) and Samurai Beach Resort (Crown Lease).

The holiday parks offer a broad range of accommodation experiences and associated products to cater to a wide variety of target markets. Accommodation occupancy across the business portfolio is variable and very seasonal as well as weather dependent. The five (5) properties combined provide 210 possible accommodation sites varying from cabins, villas, motel rooms, tourist van sites and camping sites.

The three functional areas of the service are:

- Park operations – delivering agreed return on investment, land and environmental management.
- Asset management – maintaining assets to optimise returns and developing assets to maintain market profitability and standards.
- Financial performance & reporting – delivering capital and operational budgets, monitoring performance, contributing to quarterly returns and annual reports.

Income/Expenditure/Staffing

Operating Expenditure	(2011 FY)	\$7,789,003 *
Capital Expenditure	(2011 FY)	\$989,669 (varies year to year)
Income	(2011 FY)	\$9,239,333
Staffing (EFT)	(2011 FY)	28 (supported by casual cleaning staff)

*Operating costs include financing costs and corporate overheads.

MINUTES FOR ORDINARY MEETING – 24 JULY 2012Financial Performance

Holiday Park Services	2009	2010	2011
Revenue	\$8,374,943	\$9,053,643	\$9,330,424
Operating expenses	\$6,043,541	\$6,547,651	\$6,281,523
Operating result - profit (loss)	\$2,331,402	\$2,617,356	\$3,048,900
Financing costs	\$665,292	\$544,204	\$466,847
Overheads & Administration	\$970,759	\$1,022,385	\$1,040,632
Contribution to Reserve:			
Crown Trust Reserve	\$1,031,879	\$1,402,714	\$1,567,788
Commercial Business Reserve	-\$336,528	-\$351,947	-\$26,367
Contribution to Reserve (Nett)	\$695,351	\$1,050,767	\$1,541,421
Yield	8.3%	11.6%	16.5%

ATTACHMENT 3

SERVICE REVIEW FINDINGS

The benchmarking exercise undertaken compared four other councils operating holiday parks on Crown and Council owned land. The four councils used for comparison purposes were Tweed Shire Council, Coffs Harbour City Council, Wyong Shire Council and Lake Macquarie City Council. All operate within different structures using contract and or direct employees. Additional research was undertaken to gain an understanding of how the Crown operated the North Coast Holiday Parks group (now totalling 26) between Port Stephens and Brunswick Heads. Marketing services were also benchmarked against external service providers.

Benchmarking considered the management structure, finance and administration, marketing, group and conference coordinating, holiday park operations (contract or direct labour), asset management, and financial performance.

Management Structure - Following discussions with Crown Lands one of their preferred management structures is based on the Tweed Heeds model. The recent restructure has established the Commercial Business unit. This structure represents sufficient similarities to progress the approach supported by Crown Lands. The structure is also robust enough to support park operations via the business support function utilising either direct labour or contract.

Finance & Administration - All councils that managed holiday park operations from either direct labour or contract had a support structure in place that provided administration and financial services.

Marketing – Various component services of the marketing function were identified that could be provided by using external contracts. The costs to outsource and manage these services exceeded the current internal cost of providing the services in house. The service is proposed to remain within the current service delivery model.

Operations – Of the four councils reviewed through this process three holiday parks utilised contractors for the daily operations with the exception of Coffs Harbour. Coffs Harbour's view is Holiday Parks operating with direct Council staff delivered a better standard of customer service and park presentation and as such all parks were brought under direct council staff operation. Where contract operations are in place there is a common accepted industry approach to pay the operator a monthly fixed retainer and profit incentives, which are based on revenue, generated from the park operation. Under this service delivery model, Council is still responsible for some operating costs as well as financing costs.

Future Direction:

Over the next financial year 2012/2013, it is proposed to progressively implement the Crown Lands requirements along with the identified service delivery improvements utilising Council employees in the operations. Also planned for 2012/2013 is the refinement of processes and systems to enable a contractor model to be implemented, preparing contract documents and identify best practice models prior

to a competitive tender process. Market testing will identify the best value option for delivering the service (ie contract or direct labour). The proposal put forward is to test the under performing properties initially in preparation for potential implementation commencing 2013/2014 FY. In addition, it is proposed to continue to negotiate the best value option for Samurai Beach Resort eg. disposal by land swap, direct sale, maintain current operations in house or outsource operations through contract.

Asset Management - From the information collected, effective asset management ideally should remain in the control of Council. The advantages include long term financial management, full life cycle costing and maintenance intervention levels. Substantial work has already been undertaken across the holiday parks and resort to establish asset management plans and long term financial plans.

Under a contractor operated model minor repairs would form part of the contract however asset maintenance and prevention work would remain part of the costs under Council's responsibility. The service is proposed to remain within the Business Support service delivery model.

Financial Performance – Limited financial performance data was available due to commercial reasons however the Crown Lands has previously advised that they expect 30% return from each Crown land caravan park. The financial performance indicator proposed by Crown Lands is profit from the operations expressed as EBITDALL (Earnings before Interest, Tax, Depreciation, Amortisation and Lands Levy). The three Crown based holiday parks delivered a combined percentage of 32.3% (2011 FY) where as the combined % return for the five properties was 16.5%. The Crown parks are on track to maintain above the 30% return in 2012. The proposal is to implement the improvements identified in the Holiday Parks service strategy.

ITEM NO. 16

FILE NO: PSC2011-04367

SUSTAINABILITY REVIEW – PROPERTY DEVELOPMENT**REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER****GROUP: CORPORATE SERVICES GROUP****RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the information contained in the Service Strategy – Property Development and endorse the findings of the review;
- 2) Acknowledge the savings achieved by the Property Services Section through the 2009 restructure of the section.

COUNCIL COMMITTEE MEETING – 10 JULY 2012**RECOMMENDATION:**

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

ORDINARY COUNCIL MEETING – 24 JULY 2012

205	Councillor Geoff Dingle Councillor John Nell
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to present to Council the outcomes of the sustainability review of the Property Development function of the Property Services Section.

The Property Development Coordinator has two key functions, the management and development of Council's operational development land bank and the rezoning and reclassification of Council owned land that has been identified to be surplus to Council and the Community's needs.

The two functions are described as follows:

Property Development

Port Stephens Council owns a significant development land bank in the LGA primarily located in the Raymond Terrace CBD, the Nelson Bay CBD and the Salamander Bay commercial precinct. Whilst Council has received considerable profits over the years from its land development activities, it now has, for many reasons, become more

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

difficult and expensive to develop land therefore cost control is paramount. Prior to 2009 Council's land development projects were managed externally. Research has indicated that from 2004 to 2008 the Council paid on average \$10,000 per month to external agents to manage the development function of Council (see table in "Improvements in the service prior to the review").

Rezoning & Reclassification of Surplus Council Land

Port Stephens Council has two roles in the rezoning and reclassification of land process. It is both the landowner and the assessment authority. Property Services acts on behalf of the asset manager/owner (Facilities and Services) to prepare and submit the planning proposals to Council as the assessment authority. The benefit of the Development Coordinator managing the application for Facilities and Services is that the commercial aspect is considered before the application progresses. This is an important focus given the costs associated with the process, not only the application costs to Council but the consultants cost to prepare the planning proposals. Consideration must be given to the cost benefit of proceeding with the reclass/rezoning and the potential income/revenue that would reasonably be generated through the sale of the land.

Improvements in the service prior to the review

As discussed previously Council engaged external consultants/agents and on average expended \$10,000 per month for the service as outlined in the table below. The restructure of the Property Section in 2009 created the Development Coordinator position to undertake the development of Council owned land and this position currently saves Council approximately \$40,000 per annum.

2004	\$128,147
2005	\$124,634
2006	\$160,312
2007	\$123,684
Until October 2008	\$118,479

Current Income/Expenditure and Staffing

Operating Expenditure 2011/2012	\$244,407 (\$144,950 of the operating expenditure is land rates for Council's Operational Land bank) salary is \$80,556. The development of Council land is funded from the profits of land sales. This is now reported as a % return on development at the end of a project
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Capital Expenditure 2011/2012	\$260,168 (the capital expenditure varies and this financial year the expenditure has been for environmental studies for 155 Salamander Way, obtaining drainage design and geotechnical information to construction certificate for Tarrant Road to enable construction to commence when market conditions change and construction of a driveway at 14 Bagnall Avenue to enact the DA, environmental and archaeological studies for 398 Cabbage Tree Road for Sand Extraction, Reclassification & Rezoning Fees)
Revenue 2011/2012	Nil (note that this is dependant on market conditions and other opportunities, previous years (2010 FY) profit was \$5,788,977)
Staffing (EFT)	1

Service Review Findings

Property Development - Benchmark to Private Enterprise

It is difficult to benchmark Property Development to the industry due to the various terms of employment for Property Development and Project Managers ie. Permanent v Consultants.

Consultants: Property Development Manager – current market estimate between 1% and 1.5% of the total project costs (land not included). Property Project Manager – 2.5% to 3% of the construction cost. Both these terms of employment are on a job by job basis.

Employment: Property Development Managers – depending on experience level, annual salary from \$55k to \$150k. Property Project Managers – again depending on experience annual salary from \$75k to 125k.

Previously Council engaged an external consultant company to project manage the Property Development component of Council.

Property Development - Benchmark to Local Government

As stated previously in this report Port Stephens Council has a significant operational development land bank that most other Councils do not have. Lake Macquarie and Newcastle Council do have some land holdings (Newcastle's holdings are primarily in the CBD). Newcastle Council does not manage its development internally and outsources all its development activities. Lake Macquarie has a Valuation and Development Co-ordinator and Development Officer to manage the development function in house.

Reclassification and Rezoning - Benchmark to Local Government

The majority of Council's manage the rezoning a reclassification of land through the planning section of Council except for Lake Macquarie Council who employ a dedicated officer to manage all of Council's rezoning and reclassification (Council owned land and external applications) who reports to the Property Manager and works two days per week.

As the reclassification and rezoning function by Hunter Council's is managed several different ways and the workload is variable it is reasonable to include the task within the responsibilities of the Development Coordinator and the function is then managed according to priority. Prior to any report being submitted to Council, all Council units are consulted with regarding the current/potential use of the land. This ensures when initially assessing if Council should proceed with the reclassification/rezoning process all aspects are considered i.e. financial, economic, environmental and community benefits.

FINANCIAL/RESOURCE IMPLICATIONS

In 2009 the restructure of the Property Section the position of Development Coordinator was created. As detailed previously in this report Council's previous cost for this service per annum was circa \$120,000. This was only for property advice and project management and did not include:

- Property advice to other sections of Council;
- Rezoning and reclassifications;
- Involvement in other committees and panels of Council.

Progressing with the current business improvement strategies and the focus on cost control will continue to provide the current service level. The Development Coordinator also has the responsibility of identifying further opportunities to generate revenue, for example the sand extraction tender/lease at 398 Cabbage Tree Road, Williamstown and the Bio Banking of land at Tarean Road, Karuah.

LEGAL, POLICY AND RISK IMPLICATIONS

Any development of land is subject to assessment under the Environmental Planning and Assessment Act. Council as any other developer is required to comply with the legislation to obtain approvals for development. Relevant legislation is Councils' LEP and DCP, Local Government Act, Threatened Species Act, Native Vegetation Act, SEPP's, EP&A Act. It is essential that Council has the internal knowledge and skills to progress the efficient and effective development of Council's development land bank.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Council has external consultants managing the property development function of Council increasing costs to Council which shows from research an increased risk of variation of costs on projects	Medium	Adopt the recommendations contained in the Sustainability Review – Property Development	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Should Council not have the Property Development function within Council there will also be a loss of specialist advice to other sections of Council and will result in the loss of a resource for the rezoning and reclassification of Council owned land.

CONSULTATION

Consultation has been undertaken with several Councils in the Lower Hunter, private developers, project managers and real estate agents.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Service Strategy – Property Development.

ITEM NO. 17

FILE NO: PSC2011-04348

SUSTAINABILITY REVIEW – PROPERTY SERVICES

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Property Services and endorse the findings of the review;
- 2) Acknowledge the significant savings already achieved by the Property Services Section as a result of the incorporation of the Principal Property Advisors responsibilities into two existing positions in the Property Section upon the retirement of the Principal Property Advisor in 2011.

COUNCIL COMMITTEE MEETING – 10 JULY 2012**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Sally Dover
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 24 JULY 2012

206	Councillor Bruce MacKenzie Councillor Glenys Francis
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to present to Council the outcomes of the sustainability review of the Property Services functions across Council.

The Property Services unit provides two key functions, the provision and management of Statutory Services related to Port Stephens Council owned or Council managed Crown Land properties; and property research and advice for the public and internal staff. Additionally the Property Officer maintains and updates Council's Land Register for public enquiries and for Council staff to access.

The property statutory function of Council is to prepare and provide legal documents for registration at various Government Department (ie. Land & Property Information), then upon registration the Property Officer provides information to relevant departments for action to enable accurate mapping and land records. The statutory

requirements on Council are highly regulated and the many steps in each of the processes must be followed precisely.

The property function is primarily concerned with the effective management of accurate property data for day to day operation and historical records used by Council staff for internal and external enquiries or actions.

The critical functions of Property Services activities can be summarised as follows:

- 1) Road Closures;
- 2) Road Naming;
- 3) Reserve & Place Names;
- 4) Lease or Licence over unused Public Roads;
- 5) Compulsory Acquisition of land for various Council functions such as Road widening;
- 6) Easements such as drainage;
- 7) General Property research.

Improvements in delivery of the service to date

\$97,515 saving as a result of the retirement of Principal Property Advisor in 2011.

Solicitor costs are rarely required due to this position completing various legal documents required to complete registration at LPI. Property Services continues to maintain a focus on cost control in general.

Income/Expenditure and Staffing

The statutory functions required to perform Road Closures, Road Naming, Reserve & Place Names are recouped from the property owner or community group requesting the work. Road Naming procedures allow for Property Services to receive 20% of income generated from the fees charged. This varies each year depending on the number of applications received.

Lease or Licences over unused public roads provide a small income each year, again the amount is dependant on the number of applications received and approved. All income is distributed to the Civil Assets Section.

Compulsory acquisition negotiations are generally performed by the Facilities & Services Civil Assets Section, with the statutory requirements completed by Property Services. The budget for acquisitions is provided by the section requiring the land for Council purposes.

Service Review Findings

Benchmark to private enterprise

There are currently many Property Officers employed by councils across the Hunter, however no two position descriptions are the same. Each Council has a different way of managing the statutory requirements and they are incorporated into various positions across the councils. The update of internal databases or recording of historical matters are either shared by several staff or not done at all by council staff. It is clear from the research that the responsibilities of the Property Officer are primarily managed by council staff and not external agents.

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Therefore, whilst Solicitors provide this work at some councils it can increase the costs considerably. Most solicitors that provide this service at these councils are employed by council as a staff member with a salary commensurate with the skills and knowledge of a Solicitor. An external Solicitor's fees will range between \$200 to \$350 per hour depending on the service required. A legal secretary (paralegal) may prepare some of the documentation however that service would still be charged to Council at approximately \$150 per hour. Port Stephens Council would also require the services of a Solicitor or similar profession to complete the statutory requirements if the Property Services – Property Officer's position was not retained.

Data Summary

Current salary costs for Property Services	\$59,882
Cost for external Solicitor or agent to provide the services	\$109,000 (excluding any lodgement costs at LPI if required)

Currently Statutory matters managed by the Property Section equate to 14 hours per week. To charge at the minimum rate of a paralegal would equate to \$109,000 (best case scenario). Should a Solicitor be required the approximate amount would be closer to \$250,000. This amount does not include:

- Historic Research using Council documentation or files;
- Update Council's Land Register and related internal programs;
- Internal staff relations;
- External relationships between Property Officer and Crown Lands staff.

It is clear from the research that the above responsibilities need to be managed by an internal Council staff member.

FINANCIAL/RESOURCE IMPLICATIONS

To continue with the current cost control and business improvement strategies in place will continue to provide services required. However, outsourcing the service delivery will result in significantly increased costs and loss or relationships between other Government Departments.

LEGAL, POLICY AND RISK IMPLICATIONS

Council is legally obligated to effectively manage statutory matters regarding land it owns or manages in accordance with the provisions of the Local Government Act, 1993, the Road Act 1993, Geographical Names Board Act 1966, Land Acquisition (Just Terms Compensation) Act 1991. Effective management of these statutory requirements along with updated Council data bases ensures ongoing compliance with the many legislative provisions and control over risks associated with liability.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Should Council not comply with its legislative obligations under the various Acts as defined in this report Council can be penalised. Penalties range from reprimands through to investigations, prosecution and monetary penalties	High	Adopt the recommendations contained in the Sustainability Review – Property Services	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

If Council adopts alternate options to the recommendations within the strategy there will be increased costs and a decrease in efficiencies across Council.

CONSULTATION

Consultation has been undertaken with seven representatives from Hunter Councils who are part of the Roads & Property Legislation Group. These include; Muswellbrook, Taree, Lake Macquarie, Maitland, Cessnock, Singleton and Newcastle. Two other Councils in the Sydney area were also consulted.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Service Strategy – Property Services.

ITEM NO. 18

FILE NO: PSC2011-04349

SUSTAINABILITY REVIEW – FLEET MANAGEMENT

REPORT OF: PETER MURRAY – OPERATIONS MANAGER

GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Fleet Management;
- 2) Endorse the implementation of Phase 1 Recommendations detailed in Service Strategy – Fleet Management in 2012/13;
- 3) Endorse the implementation of Phase 2 Recommendations detailed in Service Strategy – Fleet Management in 2013;
- 4) Reduce the fleet related charges in Councils' 2012/13 recurrent budget by \$600,800 and the associated draw on revenue as the result of savings from implementing the Phase 1 Recommendations.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	<p>Councillor Bob Westbury Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 24 JULY 2012

207	<p>Councillor Sally Dover Councillor Glenys Francis</p>
	<p>It was resolved that the recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to present to Council the outcomes of the sustainability review for Fleet Management and to seek endorsement to implement the recommendations detailed in the Fleet Management Service Strategy.

Fleet Management procures, manages and disposes of Councils' fleet of passenger vehicles, light commercials, trucks and earthmoving on behalf of the organisation as an "internal hire" business unit. The advantage of this approach is that these Council assets are managed consistently across the organisation with regard to transparent cost recovery and sustainable asset management practices. Further, this approach avoids the inefficient duplication of fleet management activities across all Sections of Council by having this work completed by one business unit.

The review of Councils' mechanical workshops, fabrication and store functions will be the subject of a separate report to Council.

FINANCIAL/RESOURCE IMPLICATIONS

Council's Fleet Management function is fully funded by hiring plant, vehicles and other equipment to other Sections of Council on a full cost recovery basis. The cost recovery includes provisions for depreciation, contribution for corporate overheads, repairs, insurance, registration and staff costs associated with the operation of this function.

A Fleet Reserve exists to permit the annual fleet depreciation that is recovered to be accumulated so that when items are scheduled for replacement, there are sufficient capital funds available to purchase replacement items.

For 2011/12, Fleet Managements' key financial indicators are:

Activity	Budget 2011/12
Replacement Value of Asset:	\$16,414,000
Depreciated Value of Asset:	\$14,791,000
Capital Expenditure – purchase of replacement fleet items	\$2,317,000
Operating Expenditure – expenditure on fuel, repairs and other fleet running costs.	\$2,883,000
Income - Internal Hire – generated from other sections of Council that use Fleets' plant, vehicles and other equipment.	\$5,080,500
Income - External – generated from profit on sale of used fleet items.	\$365,000
Overheads – Fleets' contribution to the organisations' corporate overheads such as Finance or Organisational Development.	\$95,000
Profit/Loss to reserve – The large fleet replacement program this year will result in the reserve being drawn down. Future years, where the replacement program is smaller will result in the reserve being replenished.	\$150,500

However the Sustainability Review has identified that the cost recovery model being used by Fleet Management is no longer appropriate and it is recommended that this financial model be changed as part of the review. The affect of eliminating the notional "Opportunity Cost" component from the cost recovery model in 2012/13 will significantly reduce hire rates for all Sections of Council.

The Opportunity Cost model was introduced in 2002 and it was intended that the opportunity cost recovery would be allocated to the Fleet Reserve until the reserve reached a sustainable level. This cost recovery model has since fallen out of favour in Local Government and this approach is not taken with any other Council asset. However this charge has successfully increased the reserve balance at a rate of approximately \$500,000 pa and has now served its intended purpose to the point where \$2,218,755 of accumulated over recovery was transferred to the Asset

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

Rehabilitation Reserve in June 2011 to reduce the Plant Restricted Fund to a more appropriate balance of \$3M (**ATTACHMENT 1**).

It is also evident that the cost recovery for Major Plant has not met budget forecasts for some years due to unrealistic utilisation hours and that the current fuel estimates for 2012/13 are likely to be exceeded by approximately \$100,000. Consequently, the revision of the costing model will require changes to the forecast utilisation hours for Major Plant and fuel estimates. Implementing these changes to the costing model is considered a priority.

The Sustainability Review has also identified other savings and recommends revisions to the passenger vehicle fleet and the retention period for these vehicles.

The net affect of the changes detailed above would result in a total operational saving in 2012/13 to Council's recurrent budget of \$600,800 if Phase 1 of the Review is implemented (**ATTACHMENT 2**). The Review also recommends further changes occur as Phase 2. However the scope of savings available cannot be estimated at this stage (**ATTACHMENT 3**).

LEGAL, POLICY AND RISK IMPLICATIONS

There is no legal obligation for Council to own and operate its own fleet of plant, vehicles and other equipment.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Financial imposition if Council's fleet is outsourced	Medium	Adopt the recommendation and continue to improve efficiencies through process improvement	Yes
Disrupted continuity of service provision risk if Council's fleet is outsourced. Particularly those plant items that are either specialised and/or uncommonly available in nature	Medium	Adopt the recommendation and continue to improve efficiencies through process improvement	Yes
Carbon Tax or other external influence affecting the cost of running fleet	Medium	Whilst details of the carbon Tax is currently unquantifiable, the possible impacts can be attenuated by the Fleet Reserve in the short term	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Benchmarking of major plant items such as motor graders, backhoe loaders and trucks as well as passenger vehicles clearly indicate that these Fleet items are provided at significantly cheaper hire rates than that of other alternative suppliers provided the changes detailed above occur to the costing model **(Tabled Document - Sustainability Review – Fleet Management)**.

Consequently there are no adverse sustainability implications in adopting the recommendations of this report.

CONSULTATION

- 1) Customers of Fleet Management;
- 2) Finance Manager;
- 3) Two Way Conversation with Councillors – 19 June 2012

OPTIONS

- 1) Adopt the recommendations contained in the Sustainability Review – Fleet Management;
- 2) Amend the recommendations contained in the Sustainability Review – Fleet Management;
- 3) Reject the recommendations contained in the Sustainability Review – Fleet Management.

ATTACHMENTS

- 1) Fleet Reserve – End of Year Balance Trend;
- 2) Fleet Management Sustainability Review Recommendations – Phase 1;
- 3) Fleet Management Sustainability Review Recommendations – Phase 2.

COUNCILLORS ROOM

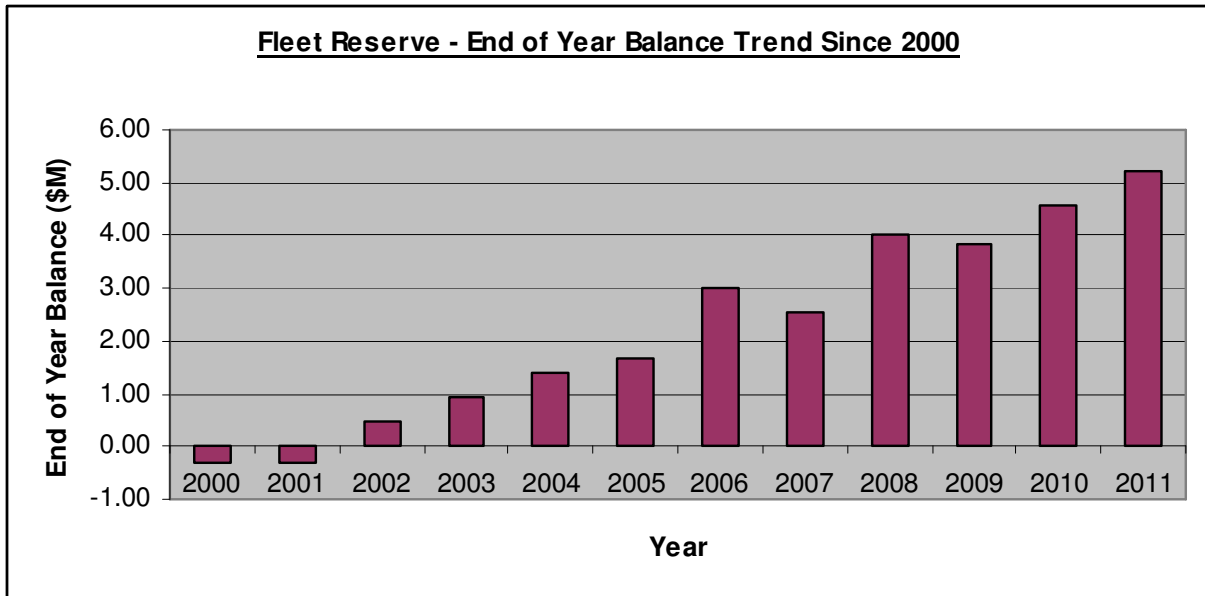
Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Fleet Management.

**ATTACHMENT 1
FLEET RESERVE – END OF YEAR BALANCE TREND**

\$2,218,755 of accumulated over recovery was transferred to the Asset Rehabilitation Reserve in June 2011 to reduce the Plant Restricted Fund to a more appropriate balance of \$3M at the commencement of 2011/12.



ATTACHMENT 2

FLEET MANAGEMENT SUSTAINABILITY REVIEW RECOMMENDATIONS – PHASE 1

Service	Details of Recommended Changes	Recurrent costs/ savings
Procure, manage and dispose of passenger motor vehicles.	<u>Extend Passenger Vehicle Retention Period</u> – from the current 80,000km to the maximum manufacturers warranty period or 5 years.	\$119,600
	<u>Improved Costing Process</u> - The elimination of the notional Opportunity Cost from the cost recovery model in 2012/13 will reduce recoverable costs by \$95,834. However this must be balanced by revised fuel estimates that will increase cost recovery by \$26,800	\$69,030
	<u>Introduce 5 Star Green Fleet Vehicles</u> – Increasing the choice in User Group 3 to include smaller vehicles such as Hyundai i20/ Kia Rio will reduce net operating costs to Council and employees. Estimated cost saving of \$10,000 in 2012/13	\$10,000
	<u>Major Plant Replacement Schedule</u> – Initiating process reviews 2 years ahead of scheduled replacement of all Major items to avoid replacement delays and exposure to uneconomic repair costs. These savings are significant but currently unquantifiable as an annual ongoing saving.	\$0
	<u>Infringement Processing Fee</u> - Introduce a fee of \$20 per infringement for repeat offenders to be levied on the employee's Section to cover the cost of administration and generation of a 'near miss' incident report for investigation by the user's supervisor. This initiative does not provide direct operational budget savings to Council as it is simply a redistribution of internal costs that spotlight potential "high risk" driver behaviour that requires active management. Note: Drivers who incur fines are required to pay these fines themselves.	\$0
Procure, manage and dispose of operational plant and equipment.	<u>Improved Costing Process</u> - The elimination of the notional Opportunity Cost from the cost recovery model in 2012/13 will reduce recoverable costs by \$675,375. However this must be balanced by revised fuel estimates that will increase cost recovery by \$73,200 and addressing the historically under-recovery of approximately \$200,000 pa.	\$402,180
Total Operational Savings Achievable in 2012/13:		\$600,800

ATTACHMENT 3

FLEET MANAGEMENT SUSTAINABILITY REVIEW RECOMMENDATIONS – PHASE 2

Service	Details of Recommended Changes	Recurrent costs/savings
Procure, manage and dispose of passenger motor vehicles.	<u>Develop and Implement Green Fleet Vehicles Strategy</u> – to respond to increasing fuel costs and carbon tax. To be completed in concert with the overhaul of the Motor Vehicle Management Directive	
	<u>Motor Vehicle Management Directive</u> - major overhaul of the Directive in concert with the development of a Green Vehicle Strategy to shape Council's vehicle fleet for the next decade. It is anticipated that the following will be the minimum changes to the current Directive: <ul style="list-style-type: none"> • Incorporate Green Fleet Strategy outcomes. • Revise User Groups to define current purpose. i.e Remuneration or operational need. • Strategy to reduce fleet size and capital value. • Investigate provisions to minimise FBT liabilities via car pooling. • Tighten control on "Fit for Purpose" special vehicle applications. • Align Directive and with the Enterprise Agreement provisions, including revision of the Vehicle Allowance provisions. • Adopt a standard minimum vehicle for operational need approach to leaseback charges. • Streamline the administration of User Group 1 and 2 passenger vehicles. • Establish standard approach to vehicle entitlements in recruitment. i.e novated lease vehicle allowance values. 	
	<u>Improved Costing Process</u> – Further refine the cost recovery process and bench mark against leading organisations through membership of the Australian Fleet Management Association.	
	<u>Integration of Fleetmex & Authority</u> – Currently these two computer programs do not transfer information automatically. Integration would considerably reduce administration costs.	
Procure, manage and dispose of operational plant and equipment.	<u>Develop Green Fleet Strategy for Operational Plant</u> – As above	
	<u>Improved Costing Process</u> – As above	
	<u>Integration of Fleetmex & Authority</u> – As above	
Total Operational Savings Achievable:		Unknown at this stage

ITEM NO. 19

FILE NO: PSC2011-04372

SUSTAINABILITY REVIEW – AQUATIC LEISURE CENTRES

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

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Aquatic Leisure Centres and endorse the findings of the review;
- 2) Continue to provide Aquatic Leisure Centres with a focus on continuous improvement of processes;
- 3) Close Tilligerry Aquatic Centre and Tomaree Aquatic Centre during the winter months (12 weeks) commencing July 2013 and save approximately \$45,000 per year;
- 4) Continue to provide, through the Aquatic Leisure Centre contract the no charge community bus for transport between Tomaree and Tilligerry pools and Lakeside Leisure Centre to enable users to travel affordably to Lakeside Leisure Centre during the winter shut down period;
- 5) Program the annual maintenance shut down for Lakeside Leisure Centre to not occur during the winter shut down period for Tomaree and Tilligerry pools;
- 6) Re-establish the Leisure Centre Advisory Panel to develop and plan for capital investment of the leisure centres to drive down operating costs and increase revenue potential through diversified programs and activities;
- 7) Undertake a latent demand survey to determine which groups of people in the community are not using the aquatic centres, and develop strategies to attract more users to the aquatic centres.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	<p>Councillor Geoff Dingle Councillor Peter Kafer</p>
	<p>That Council:</p> <ol style="list-style-type: none">1. Note the information contained in the Service Strategy – Aquatic Leisure Centres and endorse the findings of the review;2. Continue to provide Aquatic Leisure Centres with a focus on continuous improvement of processes;3. Close Tilligerry Aquatic Centre during the winter months (12 weeks) commencing July 2013 ;4. Continue to provide, through the Aquatic Leisure Centre contract the no charge community bus for transport between Tomaree and Tilligerry pools and Lakeside Leisure Centre to enable users to travel affordably to Lakeside Leisure Centre during the winter shut down period;

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

	<ol style="list-style-type: none">5. Program the annual maintenance shut down for Lakeside Leisure Centre to not occur during the winter shut down period for Tilligerry pool;6. Re-establish the Leisure Centre Advisory Panel to develop and plan for capital investment of the leisure centres to drive down operating costs and increase revenue potential through diversified programs and activities;7. Undertake a latent demand survey to determine which groups of people in the community are not using the aquatic centres, and develop strategies to attract more users to the aquatic centres;8. Investigate, cost and determine funding options to convert Lakeside and Tomaree Leisure Centres to 25 metres outdoor pools using insert barricades for winter months to reduce energy costs;9. Investigate cost and determine funding options for covered walkways between pool and amenities at Lakeside Leisure centre but notably at Tomaree Leisure Centre for winter months and/or all year round protection;10. Investigate 25 metre covering of pools at Tomaree and Lakeside facilities including cost and determine funding options.
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ORDINARY COUNCIL MEETING – 24 JULY 2012

Cr Ken Jordan returned to the meeting at 7.40pm prior to voting on Item 19.

208	<p>Councillor Geoff Dingle Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1. Note the information contained in the Service Strategy – Aquatic Leisure Centres and endorse the findings of the review;2. Continue to provide Aquatic Leisure Centres with a focus on continuous improvement of processes;3. Continue to provide, through the Aquatic Leisure Centre contract the no charge community bus for transport between Tomaree and Tilligerry pools and Lakeside Leisure Centre to enable users to travel affordably to Lakeside Leisure Centre during the winter shut down period;4. Program the annual maintenance shut down for Lakeside Leisure Centre to not occur during the winter shut down period for Tilligerry pool;5. Re-establish the Leisure Centre Advisory Panel to develop and plan for capital investment of the leisure centres to drive down operating costs and increase revenue potential through diversified programs and activities;6. Undertake a latent demand survey to determine which groups of people in the community are not using the aquatic centres, and develop strategies to attract more users to the aquatic centres;7. Investigate, cost and determine funding options to convert
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	<p>Lakeside and Tomaree Leisure Centres to 25 metres outdoor pools using insert barricades for winter months to reduce energy costs;</p> <ol style="list-style-type: none">8. Investigate cost and determine funding options for covered walkways between pool and amenities at Lakeside Leisure centre but notably at Tomaree Leisure Centre for winter months and/or all year round protection;9. Investigate 25 metre covering of pools at Tomaree and Lakeside facilities including cost and determine funding options.
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BACKGROUND

The purpose of this report is to present to Council the outcomes of the sustainability review for Aquatic Leisure Centres and seek endorsement of the recommendations contained in the Aquatic Leisure Centres Service Strategy

The service links to the Community Strategic Plan specifically:

Delivery Plan 2.1 Provide passive and active lifestyle opportunities;

Operational Plan 2.1.3 Maintain the performance, standard and appearance of leisure facilities across the LGA.

Council contracts the direct delivery of aquatic leisure centres to the YMCA. The YMCA has been operating all of Council's aquatic centres under the one contract since July 2010. The tender process for this service occurred in 2009/10 and is seen as the most effective way to determine the best value approach to managing aquatic leisure centres.

The recommendations made in this report are designed to (1) reduce annual operating costs based on user demand and (2) develop the business potential for aquatic leisure centres through a strategic review of capital investment.

Detailed analysis and the findings of all stages of the review are documented into a comprehensive Service Strategy (Tabled Document 1) and Service Annexure (Tabled Document 2).

FINANCIAL/RESOURCE IMPLICATIONS

During 2011/12 the combined result for all three aquatic centres will be an operating subsidy by ratepayers of 26%.

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

2011/12 data	Lakeside	Tomaree	Tilligerry	Total
Operating Expenditure	\$1,294,634	\$799,931	\$261,708	\$2,356,274
Income	(\$1,083,079)	(\$571,165)	(\$89,545)	(\$1,743,790)
Asset Management Expenditure	Combined	Combined	Combined	\$245,612
Service subsidy from ratepayers	\$218,149	\$222,172	\$172,166	\$612,484
Operating subsidy from ratepayers (%)	17%	28%	66%	26%
Total subsidy from ratepayer (includes Asset Management)	n/a	n/a	n/a	\$858,096
Staffing (EFT)	By contract	By contract	By contract	By contract

2010/11 data	Lakeside	Tomaree	Tilligerry	Total
Operating Expenditure	\$1,259,622	\$655,595	\$235,321	\$2,150,538
Income	(\$1,035,523)	(\$464,898)	(\$79,753)	(\$1,580,174)
Asset Management Expenditure	Combined	Combined	Combined	\$308,000
Service subsidy from ratepayers	\$224,099	\$190,697	\$155,568	\$570,364
Operating subsidy from ratepayers (%)	18%	29%	66%	27%
Total subsidy from ratepayer (includes Asset Management)	n/a	n/a	n/a	\$878,364
Staffing (EFT)	By contract	By contract	By contract	By contract

Based on the recommendations of this report there are no one off savings identified as part of this review. However there will be ongoing efficiencies and future cost savings by:

- Having the leisure centres continue to be contract managed under the auspice of Port Stephens Council for the term of the contract concluding in 2015;
- Reviewing, prioritising and implementing recommendations from the "Aquatic Performance Review – February 2012". No identifiable costs or savings will be realised until the review is completed in context of contract amendments;
- Closing the outdoor pools at Tomaree and Tilligerry for twelve (12) weeks per year commencing from the start of the contract extension period in July 2013. Annual saving of around \$45,000 upon amendments to the current contract;
- Through the Aquatic Leisure Centre Advisory Panel, develop business cases for the capital investment in aquatic leisure centres to increase revenue generating potential from diversifying the services provided from aquatic leisure centres;
- Continuing to provide learn to swim programs through the aquatic centre contract as these programs help to off set the running costs and other aspects of the public pools.

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy impediments from adopting the recommendation.

The risk profile from adopting the recommendations is largely based on financial risks with some reputation and social risks present. These risks are shown in the table below:

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Reputation risk of closing the Tomaree and Tilligerry pools for 12 weeks	High	Liaise with customers to ensure clear communication on why pools are recommended for winter shut down Program the maintenance work for Lakeside Leisure Centre so that there is always a pool in the area available for use	Yes Yes
Financial risk if the current contract is cancelled and Council decided to run it's pools in house	High	Continue to provide aquatic leisure centre services through competitive tendering process	Yes
Reputational risk if Council ceased providing a public swimming pool service	High	The aquatic leisure centres continue to be contract managed by the YMCA under the auspice of Port Stephens Council for the term of the contract concluding in 2015	Yes
Financial risk if Council decided not to close Tomaree and Tilligerry Pools 12 weeks per annum through the Winter	High	Close Tilligerry and Tomaree pools for 12 weeks through the winter to help off set the running costs of its public pools and to potentially reduce the rate payer subsidy. Annual saving of around \$45,000 upon amendments to current contract	Yes
Social risk of competitive athletes having training regimen interrupted for an extended time	Medium	1. Provide the no charge community bus from Tomaree and Tilligerry pools to Lakeside 2. Schedule programmed maintenance for Lakeside Leisure Centre to occur outside of the extended shut down period for Tomaree and Tilligerry Aquatic Centres	Yes
Financial risk of not progressing with	Medium	Re start the Leisure Centre Advisory Panel with a focus on developing	Yes

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

leisure centre master planning and capitalising on business growth from a diversified approach to leisure centres		business cases for capital development and diversification of aquatic leisure centres	
Financial risk if Council does not review, prioritise and implement recommendations from "Aquatic Performance Review – February 2012"	High	Review the report recommendations to improve internal efficiencies and overall service delivery in line with current best practice. No identifiable costs or savings until review is completed in context	Yes

SUSTAINABILITY IMPLICATIONS

Adopting the recommendations will reduce convenience to those customers who use Tilligerry and Tomaree pools all year round. In particular, alternative arrangements will need to be made for year round swimming squad training at Tomaree to swim elsewhere. This will be managed by scheduling the planned Winter maintenance closure of Lakeside Leisure Centre to not conflict with a general Winter shutdown for Tomaree and Tilligerry pools, thereby keeping one pool available for squad training in the LGA.

There is a potential for increased vandalism on site as there will be less public attendances at Tilligerry and Tomaree pools and therefore fewer eyes to maintain regular surveillance. There could be cost implications from this but these are reactive and cannot be forecast.

There are social benefits for Council to be actively involved in ensuring children and adults learn to swim. These range from better health and capacity to participate in a great lifestyle as well as the more basic benefits of fewer deaths from drowning. This last point is especially relevant given the Australian Water Safety Strategy 2008-2011's target of "reducing drowning deaths by 50% by 2020" (reference: Royal Life Saving Society Australia, 2011, "National Drowning Report 2011")

There is a potential for local swimmers to bypass the local alternative heated pool at Raymond Terrace in favour of heated pools at Newcastle and Maitland LGA's. Whilst a small risk, this would result in a reduction of local spend in the Port Stephens LGA. The recommendation to review the capital investment strategy for all pools has the potential to reduce the operating subsidy for ratepayers as well as the potential to stimulate small business in the local area through greater opportunity to provide personal aquatic training programs all year round.

Adopting the recommendation to close the Tilligerry and Tomaree pools during winter will not only reduce operating costs but also the carbon footprint from reductions in use of fossil fuel energy. By closing the Tomaree and Tilligerry Aquatic Centre for the period June – August it is estimated that approximately (246.9 tonnes)

of CO₂e would be prevented from entering the atmosphere per year. This equates to a combined saving from avoided carbon price pass through of \$5,679.

CONSULTATION

Two way conversations with Councillors were held (December 2011 and May 2012)

Sustainability Review Team – Contracts & Services Coordinator, Group Manager Facilities & Services, YMCA contract partners, Civil Assets Coordinator, Pool users and stakeholders through customer surveys.

OPTIONS

- 1) Adopt the recommendations;
- 2) Amend the recommendations and:
 - a. reduce the winter shut down time for Tomaree Aquatic Centre from 12 weeks to 6 weeks and
 - b. increase the winter shut down period of Tilligerry Aquatic Centre from 12 weeks to 16 weeks thereby
 - c. make a potential operational saving of approximately \$39,000;
- 3) Reject the recommendations.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Leisure Centres - Service Strategy;
- 2) Sustainability Review – Leisure Centres - Service Strategy Annexure.

Cr Geoff Dingle left the meeting at 7.44pm following voting on Item 19.

ITEM NO. 20

FILE NO: A2004-0212

PROPOSED AMENDMENTS TO CONSTITUTION SCHEDULE OF PORT STEPHENS STRATEGIC ARTS & CULTURAL COMMITTEE

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the amended Constitution Schedule for the Port Stephens Strategic Arts and Culture Committee as shown in **Attachment 1** of this report.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

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

ORDINARY COUNCIL MEETING – 24 JULY 2012

209	Councillor John Nell Councillor Steve Tucker
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to recommend to Council the adoption of the amended Constitution Schedule of Council's S355(c) Port Stephens Strategic Arts and Culture Committee as per Attachment 1.

Council at its Ordinary Meeting of Council 14 December 2010 endorsed the establishment of the Port Stephens Strategic Arts & Cultural Committee and adopted the Constitution Schedule.

Since its inception the Strategic Arts and Cultural Committee's has met on several occasions. Discussions with the Committee over the last 8 months have highlighted that its role is too broad. Consequently the Committee has been supportive of its role being reviewed and have actively participated in discussions to redefine its role. The intent of these discussions is to ensure the Committee has a clear purpose which

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

is aligned with the strategic cultural directions specified in Council's Community Strategic Plan 2011 – 2021 such as: -

Provide cultural consultation forums to strengthen the development and Delivery of cultural services and infrastructure

As a result of these discussions the Constitution Schedule of the Port Stephens Strategic Arts and Culture Committee has been amended. The proposed amended Constitution Schedule is shown in **Attachment 1** of this report.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications. Any activities of the Strategic Arts and Cultural Committee requiring financial and/or in-kind resources shall where appropriate be resourced from within available resources of Council's Social Planning Team. Any additional requirements for resources shall be pursued through external sources such as government grants where deemed necessary.

LEGAL, POLICY AND RISK IMPLICATIONS

Under Section 355(c) of the Local Government Act, 1993, Council may exercise its functions itself or by delegation to another person or persons. Council must approve the constitution of such delegated committees.

The constitution of the Port Stephens Strategic Arts and Culture Committee consists of the Standard 355(b) Committee Constitution adopted by Council, 24 June 2003, Minute No 251, and a customised schedule of the committee's individual activities. The constitution contains the delegation from Council to undertake specified activities and the framework of how the committee will operate.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Injury to volunteers while undertaking work on Council land, facilities or services	Medium	<ul style="list-style-type: none"> • Work Health and Safety requirements documented in committee constitution, Volunteer Strategy, WHS Volunteer Induction Handbook and 355(c) Committee Information Handbook. • Compulsory Work Health and Safety volunteer Induction prior to commencing duties • Safe Work Method Statements and Specific worksite Assessment & Toolbox forms to be developed prior to work • Ongoing supervision and auditing of committee projects 	Yes
Non compliance by	Medium	<ul style="list-style-type: none"> • Requirements documented in 	Yes

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volunteers with Council requirements for a 355(c) committee with potential legal, financial and reputation risk		committee constitution, Volunteer Strategy, 355(c) Committee information Handbook. <ul style="list-style-type: none">• Code of Conduct training prior to commencing duties.• Annual Works Plan developed	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council establishes community committees to undertake agreed works and to provide a link between Council and the community. This is part of Council's commitment to community partnerships.

Council's support of the Port Stephens Strategic Arts and Culture Committee provides this link with the community.

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

The Port Stephens Strategic Arts and Culture Committee operates under direction from Council staff to ensure their activities are performed in accordance with recognised practices that provide long term benefits. The focus of the Committee is to primarily: -

- Provide strategic advice to Council on planning, policy, resource allocation and relevant issues and/or opportunities pertaining specifically to arts and culture in Port Stephens
- Build and maintain relationships between Council and local cultural organisations, peak bodies, government agencies on arts and cultural matters in Port Stephens

CONSULTATION

The amendments proposed to the Constitution Schedule have been developed in consultation with the members of Council's Strategic Arts and Cultural Committee. Initial discussions commenced at the Committee's meeting on 13 October 2011. Subsequent discussions around the role of the Committee have occurred at the Committee's meetings on 6 December 2011 and 22 February 2012.

Council's Volunteer Strategy Co-ordinator attended the Committee's meeting on 1 May 2012 to help the Committee in amending the Constitution Schedule to reflect the Committee's desired role and purpose. The proposed amendments once drafted were circulated to Committee for final comment. This reiterated support for the proposed changes and resulted in only minor modifications to the wording which have been incorporated into the amended Constitution Schedule as shown in **Attachment 1** of this report.

OPTIONS

- 1) To adopt the recommendation;
- 2) To reject the recommendation; or
- 3) To reject the recommendation calling for more information to support the report.

ATTACHMENTS

- 1) Amended Constitution Schedule of Council's S355(c) Port Stephens Strategic Arts and Culture Committee.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

ATTACHMENT 1

Amended Constitution Schedule of Council's 5355(c) Port Stephens Strategic Arts and Culture Committee

AMENDED SCHEDULE TO CONSTITUTION

To be read in conjunction with 355(c) Committee Standard Constitution

Item 1	Name of Committee	<u>Strategic Arts and Culture Committee</u>	<p>Delete: Sustainable Planning Group</p> <p>Insert: Development Services</p> <p>Advisory</p> <p>Delete: but not limited to</p> <p>Delete:</p> <ul style="list-style-type: none"> a. Delivery of cultural priorities identified in the Community Strategic Plan within available financial and in-kind resources b. Recommendations to Council on the annual allocation of Cultural Projects Funding c. Development of policies and procedures, programs and projects to enrich the cultural life of Port Stephens. d. Identifying the existing and future requirements for arts and cultural facilities across Port Stephens. e. Requests from the Port Stephens Council or by officers of Port Stephens Council as to the suitability of specific projects. These requests may be a result of arts applications or suggestions from various sectors of the community.
Item 2	Name of Council Group/Team	Sustainable Planning Group Development Services Group, Social Planning Team	
Item 3	Functions delegated by Council to committee (Objectives)	<p>1. Advisory - the Committee will fulfil the functions of an advisory body to Port Stephens Council on matters related to culture and the arts, including but not limited to:</p> <ul style="list-style-type: none"> a. Delivery of cultural priorities identified in the Community Strategic Plan within available financial and in-kind resources b. Recommendations to Council on the annual allocation of Cultural Projects Funding. c. Development of policies and procedures, programs and projects to enrich the cultural life of Port Stephens. d. Identifying the existing and future requirements for arts and cultural facilities across Port Stephens. e. Requests from the Port Stephens Council or by officers of Port Stephens Council as to the suitability of specific projects. These requests may be a result of arts applications or suggestions from various sectors of the community. 	

- f. ~~Sub-committees, working groups or task forces of the Committee, should be formed to advise or consult with the Committee on specific matters or to take responsibility for putting into action the Committee's agenda. Membership can draw on expertise outside the committee membership.~~
 - a) To provide input into Port Stephens Council strategic policy, plans and programs relating to culture and the arts.
 - b) To assist Council identify the existing and future requirements for arts and cultural facilities across Port Stephens.
2. ~~The Committee will operate as a community partnership in the delivery of cultural priorities identified in the Community Strategic Plan, including:~~
- 2. Communication and Relationship Building
 - a. ~~Facilitate the 'Culture Port Stephens Network', linking those active in the arts, culture and lifestyle of Port Stephens.~~
 - b. ~~Facilitate communications between cultural organisations and the broader community~~
 - c. ~~Form strategy based working groups on an as-needs basis to assist in the planning for the delivery of cultural priorities. Membership can draw on expertise outside the committee membership.~~
 - d. ~~Form project/working groups on an as-needs basis to assist in the delivery of cultural projects and programs. Membership can draw on expertise outside the committee membership.~~

Delete:
 f) Sub-committees, working groups or task forces of the Committee, should be formed to advise or consult with the Committee on specific matters or to take responsibility for putting into action the Committee's agenda. Membership can draw on expertise outside the committee membership

Insert:

- a) To provide input into Port Stephens Council strategic policy, plans and programs relating to culture and the arts.
- b) To assist Council identify the existing and future requirements for arts and cultural facilities across Port Stephens.

Delete:
 2. The Committee will operate as a community partnership in the delivery of cultural priorities identified in the Community Strategic Plan, including:

Insert:
 Communication and Relationship Building

Delete:

- a. Facilitate the 'Culture Port Stephens Network', linking those active in the arts, culture and lifestyle of Port Stephens.
- b. Facilitate communications between cultural organisations and the broader community
- c. Form strategy based working groups on an as-needs basis to assist in the planning for the delivery of cultural priorities. Membership can draw on expertise outside the committee membership.
- d. Form project/working groups on an as-needs basis to assist in the delivery of cultural projects and programs. Membership can draw on expertise outside the committee membership.

~~e. Oversee networks which link organisations with common interests, including but not limited to Event Organisers Network and Galleries Network.~~

~~f. Assist with the promotion of arts and culture.~~

~~g. Provide cultural development opportunities, including training and programs~~

~~h. Maintain relationships with peak and regional cultural organisations~~

~~i. Advocate to other levels of Government on cultural matters~~

a) To assist with the promotion of arts and culture in the broader community

b) To assist Council develop and maintain relationships with local, relevant peak and regional organisations.

c) To advocate to other levels of government on arts and cultural matters where appropriate

d) To build capacity through cultural development

e) Communicate and develop relationships with organisations with common interests, for example, local cultural network

f) To provide a resource for groups seeking external funding

g) To provide assistance to Council in developing and monitoring a process for the Mezzanine Gallery

Delete:

e. Oversee networks which link organisations with common interests, including but not limited to: Event Organisers Network and Galleries Network.

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g) To provide assistance to Council in developing and monitoring a process for the Mezzanine Gallery

- ~~3. That the sub-committees serve as Networks to:~~
- ~~a. Advise Council on cultural matters relating to their area of interest/expertise~~
- ~~b. Build the capacity of those active in the cultural fields, through provision of workshops, briefings, training and resources~~
- ~~c. Broker relationships between external groups where there is common ground~~

3. Funding

- a) To assist Council manage Cultural Projects Funding by developing procedures that ensure the process is clearly defined and transparent
- b) To make recommendations on the allocation of Council cultural funds

Delete:

3. That the sub-committees serve as Networks to:

- a. Advise Council on cultural matters relating to their area of interest/expertise
- b. Build the capacity of those active in the cultural fields, through provision of workshops, briefings, training and resources
- c. Broker relationships between external groups where there is common ground

Insert:

3. Funding

- a) To assist Council manage Cultural Projects Funding by developing procedures that ensure the process is clearly defined and transparent
- b) To make recommendations on the allocation of Council cultural funds

		<p>4.—Any funds raised by the Strategic Arts and Culture Committee and its networks shall be used to either:</p> <p>a.—develop projects/programmes which it undertakes in its own right subject to the approval of Council, or</p> <p>b.—transfer to Council to be used by that body on cultural facilities and programs in the area.</p> <p>Those participating in the committee structure are operating as representatives of organisations, separate from Council. The operations of the organisations are not covered by Council through association with the committee.</p>	<p>Delete:</p> <p>4. Any funds raised by the Strategic Arts and Culture Committee and its networks shall be used to either:</p> <p>a. develop projects/programmes which it undertakes in its own right subject to the approval of Council, or</p> <p>b. transfer to Council to be used by that body on cultural facilities and programs in the area.</p> <p>Those participating in the committee structure are operating as representatives of organisations, separate from Council. The operations of the organisations are not covered by Council through association with the committee.</p>
Item 4	Restrictions on functions delegated	All works undertaken will be with the knowledge and approval of Community Planner for Cultural Development/Social Planning Co-ordinator or delegate	<p>Delete:</p> <p>Community Planner for Cultural Development</p> <p>Insert:</p> <p>Social Planning Co-ordinator or delegate</p>
Item 5	Policies, legislation the committee is required to comply with	<p>Principle policies & legislation including but not limited to:</p> <ul style="list-style-type: none"> • OH&S 2000 • OH&S Regulations 2001 • Work, Health and Safety Act 2011 • LGA & Regulations 1993 (amendments) • PPIPA 1998 • Privacy and Person Information Act 1998 • State Records Act, 1998 • Code of Conduct • Code of Meeting Practice • Accessing Information Policy • Child Protection Policy 	<p>Delete:</p> <ul style="list-style-type: none"> • OH&S 2000 • OH&S Regulations 2001 <p>Insert:</p> <ul style="list-style-type: none"> • Work, Health and Safety Act 2011 <p>Delete:</p> <ul style="list-style-type: none"> • (amendments) • PPIPA 1998 <p>Insert:</p> <ul style="list-style-type: none"> • Privacy and Person Information Act 1998

- Volunteers Policy Strategy

 - Government Information (Public Access) Act 2009 (GIPAA)
- Item 6 Date on which constitution concludes September of Council Election each four years. Council to re adopt constitution within three months following election.
- Item 7 Maximum number and make up of committee members **Strategic Committee Membership**
The Committee consists of delegates from:
1. Council, being three Councillors, one representing each Ward
 2. Delegates from Ward-based Local Lifestyle Networks (operating as sub-committees under the Committee). Each Lifestyle Network has two delegates each from a different community/district.
 - a. Central Ward Lifestyle Network (two delegates)
 - b. West Ward Lifestyle Network (two delegates)
 - c. East Ward Lifestyle Network (two delegates)
 3. Existing council committees/ relating to culture, including but not limited to:
 - a. Aboriginal Strategic Committee (one delegate from each Local Aboriginal Land Council)
 - b. Heritage Advisory Committee (one delegate)
 - c. Halls Forum (representing Hall 355(b) Committees) (one delegate)
 - d. Youth Interagency (two delegates, one service provider and one youth representative)
 - e. Port Stephens Sister Cities Committee (one delegate)

- Delete:
- Policy
- Insert:
- Strategy
- Delete:
- (Public Access)
- Insert:
- 2009 (GIPAA)
-
- Delete:
- delegates from:
1. Council, being three Councillors, one representing each Ward
 2. Delegates from Ward-based Local Lifestyle Networks (operating as sub-committees under the Committee). Each Lifestyle Network has two delegates each from a different community/district.
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 - e. Port Stephens Sister Cities Committee (one delegate)

- 4—Networks to link organisations with common interests (operating as sub-committees under the Committee). Including but not limited to:
- a—Events Network (one delegate)
 - b—Visual Arts Network—covering galleries, art shows & groups (two delegates)
 - c—Performing Arts Network, covering music, dance & theatre groups & venues (two delegates)
 - d—Cultural Economy Team (one delegate)
- 5—Peak and Regional Cultural Representatives as invited/nominated (up to 5 delegates)

Network/Sub Committee Membership

Each network/sub committee shall consist of a minimum of three (3) general committee members and five (5) executive members (Chair, Deputy Chair, Committee Delegate, Secretary and Treasurer).

The Committee consists of up to ten (10) persons who have interests in the broad range art and cultural issues, particularly in strategic and policy direction areas.

Item 8 Councillors

One Councillor per ward, as resolved by Council.
As resolved by Council

Item 9 Council employees

Minimum of two Council staff to attend Committee meetings.

Delete:

4. Networks to link organisations with common interests (operating as sub-committees under the Committee). Including but not limited to:
- a. Events Network (one delegate)
 - b. Visual Arts Network – covering galleries, art shows & groups (two delegates)
 - c. Performing Arts Network, covering music, dance & theatre groups & venues (two delegates)
 - d. Cultural Economy Team (one delegate)
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Insert:

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Delete:

One Councillor per ward, as resolved by Council.

Insert:

As resolved by Council

Delete:

Minimum of two Council staff to attend Committee meetings

Council Officer:

Community Planner—Cultural Development

Other related staff, attending on an as-needed / advisory basis:

- Social Planning Coordinator—Community Cultural Development, Aboriginal culture
- Community Development Officer—Community Cultural Development
- Community Planner Youth—Community Cultural Development, participation of young people in cultural life, liaison with schools
- Volunteer Strategy Coordinator—Halls, committee governance
- Strategic (land use) Planning—heritage, place-making;
- Heritage Advisor—heritage
- Library Services Coordinator—library services and facilities
- Civil Assets Engineer—art in public space (public art, busking, design of public space)
- Economic Development—creative industries, cultural tourism, events
- Marketing and Communications Coordinator—promotion, media relationships, civic events
- Others as required

- Social Planning Co-ordinator or delegate and other related staff, attending on an as needed/advisory basis.

Item 10	Name of financial institution and type of account	N/A
Item 11	Name of any account operated by the committee	N/A
Item 12	Area assigned to committee and/or map	N/A

Delete:

Council Officer:

Community Planner – Cultural Development

Other related staff, attending on an as-needed / advisory basis:

- Social Planning Coordinator - Community Cultural Development, Aboriginal culture
- Community Development Officer - Community Cultural Development
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- Marketing and Communications Coordinator – promotion, media relationships, civic events
- Others as required

Insert:

Social Planning Co-ordinator or delegate and other related staff, attending on an as needed/advisory basis.

<p>Item 13 Additional clauses or amendments to Standard Constitution or Schedule.</p>	<p>Clause 10 Finances – not applicable as Council staff manage finances.</p>	
<p>To be listed in full - body of constitution not to be altered.</p>	<p>Clause 17 Strategic Arts and Culture Committee Specific Requirements</p>	<p>Delete: Clause 17 Strategic Arts and Culture Committee Specific Requirements</p>
	<p>Additional clause which does not replace or amend existing constitution.</p>	<p>Additional clause which does not replace or amend existing constitution.</p>
	<p>17.1 Roles of Committee Delegates</p>	<p>17.1 Roles of Committee Delegates</p>
	<p>a) Participate in the meetings of the committee / sub-committee they are representing, to:</p>	<p>a) Participate in the meetings of the committee / sub-committee they are representing, to:</p>
	<p>a. Keep the committee informed and engaged in the opportunities and outcomes of the Committee meetings</p>	<p>a. Keep the committee informed and engaged in the opportunities and outcomes of the Committee meetings</p>
	<p>b. Tabling and speaking to the Committee meeting minutes</p>	<p>b. Tabling and speaking to the Committee meeting minutes</p>
	<p>c. Tabling and speaking to the Committee meeting recommendations</p>	<p>c. Tabling and speaking to the Committee meeting recommendations</p>
	<p>d. Seek input from the committee / sub-committee on matters being considered by the Committee</p>	<p>d. Seek input from the committee / sub-committee on matters being considered by the Committee</p>
	<p>b) Participate as a member of the Culture Port Stephens Committee, and:</p>	<p>b) Participate as a member of the Culture Port Stephens Committee, and:</p>
	<p>e. Represent the interests and activities of the committee / sub-committee they represent, when participating in Committee discussion / decision making</p>	<p>e. Represent the interests and activities of the committee / sub-committee they represent, when participating in Committee discussion / decision making</p>

~~f—Tabling Minutes of the network/sub-committee one week prior the Committee Meeting, with matters/recommendations for consideration by the Committee to be identified for addition to the agenda~~

~~g—Speaking to the committee / sub-committee meeting minutes and recommendations~~

~~17.2 Role of Council Officer~~

~~a) The Council Officer supporting the Committee shall be the Port Stephens Council's Community Planner, Cultural Development, or other officer as determined by the General Manager.~~

~~b) The Council Officer will be there in an advisory capacity and is not entitled to vote.~~

~~c) The Council Officer shall fulfil an advisory and administrative role and be authorised to implement and execute policy recommendations made by the Strategic Arts and Culture Committee.~~

~~d) Elections for Office Bearers shall be conducted by the Council Officer.~~

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17.3 Committee Meetings

- a) ~~The Committee shall meet no less than four (4) times per annum to consider policy matters concerning cultural development and promotion for Port Stephens. The Committee will set the times and places of the meetings, however they should be held on a regular basis wherever possible. The Committee shall determine its own meeting procedures.~~
- b) ~~At a meeting of the Committee, a quorum shall constitute half the membership plus one.~~
- c) ~~The Executive shall consist of a Chairperson, Two (2) Deputy Chairpersons, who shall be members of the Culture Port Stephens Committee and be elected from the members present at the Annual Meeting. Elections for Office Bearers shall be conducted by the Council Officer. The Treasurer and Secretary functions will be managed by Council staff.~~
- d) ~~Committees, Networks, Sub-committees and Peak organisations will advise the Secretary in writing within fourteen (14) clear days from the participating organisation Annual General Meeting of the name and address of their appointed delegates, plus two (2) alternates for the ensuing year. Any alteration to such representative must be given in writing to the Secretary of the Committee.~~
- e) ~~Only One (1) appointed delegate has at any one meeting the power to ————speak and vote.~~

Delete:

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e) Only One (1) appointed delegate has at any one meeting the power to speak and vote.

- ~~f) In the event of the absence of a delegate, an alternate delegate may attend on behalf of that committee/sub-committee/organisation, and have the power to vote. On the absence of no delegate attending for three consecutive weeks, that committee/sub-committee/organisation be requested to nominate a new delegate to attend.~~
- ~~g) Each Committee member may vote only once regardless of the number of organisations they represent.~~
- ~~h) The Committee meetings are open to the public and all Councillors are may attend.~~
- ~~i) The Committee shall hold a minimum of one (1) public forum per year. All members of the local community, who have expressed an interest in arts and culture, shall be invited to the forum.~~

17.4 Networks/Sub-Committees

- ~~a) The objective of the networks/sub-committees shall be to deliver cultural development projects and programs in partnership.~~
- ~~b) Membership/Executive of networks / sub-committees shall consist of the Executive, being a Chair, Deputy Chair, Committee Delegate, Secretary and Treasurer, who are duly elected at an annual general meeting. A minimum of three (3) general committee members make the balance of the committee.~~

Delete:

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17.5 Networks/Sub-Committee Meetings

- a) ~~At a meeting of the network/sub-committees, half plus one shall constitute a quorum.~~
- b) ~~Should any member of the network/sub-committee not attend three (3) consecutive meetings without leave of absence their position shall be declared vacant.~~
- c) ~~Any vacancy in the network/sub-committee shall be filled at the next meeting.~~
- d) ~~The Office Bearers shall be elected at the Annual General Meeting of the network/sub-committee.~~
- e) ~~A representative from Port Stephens Council shall attend meetings as necessary, but shall have no voting rights.~~
- f) ~~The meetings are open to the public and all Councillors are entitled to attend.~~
- g) ~~Minutes of the network/sub-committee are to be tabled one week prior the Committee Meeting, with matters/recommendations for consideration by the Committee to be identified for addition to the agenda.~~
- h)

Constitution Adopted Council Meeting:

Item 14 Changes to constitution or Schedule –
 Adopted by Council:
 Meeting Date:
 Minute No:
 Resolution:

Delete:

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- b) Should any member of the network/sub-committee not attend three (3) consecutive meetings without leave of absence their position shall be declared vacant.
- c) Any vacancy in the network/sub-committee shall be filled at the next meeting.
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- e) A representative from Port Stephens Council shall attend meetings as necessary, but shall have no voting rights.
- f) The meetings are open to the public and all Councillors are entitled to attend.

Minutes of the network/sub-committee are to be tabled one week prior the Committee Meeting, with matters/recommendations for consideration by the Committee to be identified for addition to the agenda.

Delete:

Constitution Adopted Council Meeting

ITEM NO. 21

FILE NO: PSC2008-4044

CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

REPORT OF: PETER GESLING - GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the current position;
- 2) Authorise the development of a local communication plan (CP) to support the ALGA proposition;
- 3) Actively participate in the National media campaign as required.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

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

ORDINARY COUNCIL MEETING – 24 JULY 2012

210	Councillor Glenys Francis Councillor Ken Jordan
	It was resolved that the recommendation be adopted.

BACKGROUND

Port Stephens Council has previously resolved to support the proposal to seek recognition of local government in the Australian Constitution. This was first attempted in 1974 and 1988 where referendum questions were lost. The current proposal was considered in a National Congress of Local Government in 2008.

Since that time considerable research and lobbying has been undertaken with the result that the Australian Government, Opposition and Green Parties have committed support for an appropriate form of recognition. The Australian Government established an Expert Panel chaired by the Hon James Spigelman AC QC to report and make recommendations regarding:

- "a) The level of support for constitutional recognition among stakeholders and in the general community; and***

b) options for that recognition." (p24 Expert Panel on Constitutional Recognition of Local Government – Final Report December 2011)

The Panel has recommended to the Australian Government to proceed with financial recognition by amending Section 96 of the Constitution as follows:

"The Parliament may grant financial assistance to any State or to any local government body formed by State or Territory Legislation on such terms and conditions as the Parliament see fits." (p8 Expert Panel on Constitutional Recognition of Local Government – Final Report December 2011)

The Panel also recommend that the Australian Government undertake consultation with State Governments seeking their support.

The 2012 National General Assembly of Local Government included a panel session involving Dr Keith Suter, Mr Jim Soorley AM, Professor George Williams, and Mayor Genia McCaffrey who canvassed the approach necessary to be successful. These included:

- The necessity for the Australian Government to be able to directly contribute to local government eg Road to Recovery (R2R) program.
- The fact that the context of our community continues to change and the Australian Constitution should be updated to reflect that context.
- That fact that local government deals directly with people in communities and the State and Federal Government could not operate effectively without an effective local government.
- The need for individual local government organisations to promote local acknowledgement that local government provides or facilitates the services and facilities that make a local community.

A levy on local government has been raised to finance a National campaign supporting the proposed changes to the Constitution. Assurance has been given that this will not be committed until the Australian Government formally commits to the Referendum. The ALGA Executive is in continual contact with the Australian Government to progress these issues.

A very recent factor that was considered at the 2012 Congress was the decision in the High Court on 20th June that the Australian Government's direct funding of activities without legislative backing may be unconstitutional. Specifically chaplaincy programs in schools were found to be unconstitutional funding; other programs such as Roads to Recovery (R2R) may be unconstitutional.

The Hon Simon Crean MP, Minister for Regional Australia, Regional Development & Local Government advised that the Government was waiting for this High Court decision prior to determining how to proceed with any constitutional amendment.

The "Expert Panel on Constitutional Recognition of Local Government Final Report December 2011" is available on <http://www.localgovrecognition.gov.au/content/final-report>.

FINANCIAL/RESOURCE IMPLICATIONS

Council's contribution to the proposed levy is \$26,783.24 over three years. An allowance for \$9000 per annum has been included in budgets.

LEGAL, POLICY AND RISK IMPLICATIONS

Great concern is expressed at the proposed increased likelihood of direct payments to local government being unconstitutional. The Roads to Recovery (R2R) program is acknowledged as one of the most effective grant programs in delivering local priorities for essential infrastructure.

The Government has only very recently announced the extension of this program to 2019.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Australian Government does not progress the Constitutional Referendum	Medium	ALGA advocacy	Yes
Councils not successful in local support	Medium	Local Communication Plan National Media Campaign	Yes Budgeted

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Loss of direct funding from the Australian Government would have impacts on the future financial sustainability of Local Government. The Australian Government has successfully passed legislation that aims to address the recent High Court decision. Any adverse consequences will be reassessed and raised through the State and National Local Government Associations.

CONSULTATION

Internal consultation will be held to develop a communications plan.

OPTIONS

- 1) Adopt the recommendation.
- 2) Amend the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 22

FILE NO: PSC2010-04382

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 – Mayor Bob Westbury – Mayoral Funds – Nelson Bay and District Business Chamber - Donation to cover costs for bins at produce and arts market in town, bins for Sail Port Stephens and foreshore use for the Regatta and Whalefest - \$294.00;
 - b) Rapid Response – Cr Geoff Dingle – Central Ward – Medowie Tidy Towns – Donation to part cover cost of materials of signage on the NE & NW corners of Campvale roundabout - \$500.00;
 - c) Rapid Response – Cr Steve Tucker - Mallabula Anglican Church Dog Obedience Group – Rapid Response – Reimbursement of the cost of free standing bollards for use as course markers for dog obedience training - \$145.00;
 - d) Rapid Response – Mayor Bob Westbury – Mayoral Funds – Port Stephens Historical Society – Donation to cover costs of room use for Feb and April. - \$72.00;
 - e) Rapid Response – Cr Steve Tucker – Central Ward Funds – Medowie Public School P&C Association – Winter Ball Donation - \$200.00;
 - f) Rapid Response – Cr Glenys Francis – West Ward Funds – Raymond Terrace Men's Shed – Donation towards the cost of installation of telephone and contribution towards the costs of the official opening - \$350.00.

COUNCIL COMMITTEE MEETING – 10 JULY 2012
RECOMMENDATION:

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

MINUTES FOR ORDINARY MEETING – 24 JULY 2012**ORDINARY COUNCIL MEETING – 24 JULY 2012**

211	Councillor Steve Tucker Councillor Glenys Francis
	It was resolved that the recommendation be adopted.

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

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:

MAYORAL FUNDS

Nelson Bay and District Chamber	Donation to cover costs for bins at produce and arts market in town, bins for Sail Port Stephens and foreshore use for the Regatta and Whalefest	\$294.00
Port Stephens Historical Society	Donation to cover costs of room use for Feb and April	\$72.00

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

Medowie Tidy Towns	Donation to part cover cost of materials of signage on the NE & NW corners of Campvale roundabout	\$500.00
Mallabula Anglican Church Dog Obedience Group	Reimbursement of the cost of free standing bollards for use as course markers for dog obedience training	\$145.00
Medowie Public School P&C Association	Winter Ball Donation	\$200.00

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

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

Raymond Terrace Men's Shed	Donation towards the cost of installation of telephone and contribution towards the costs of the official opening	\$350.00
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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. 23

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 10 July 2012.

No:	Report Title	Page:
1	NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT CANBERRA 17-20 JUNE 2012 "NATIONAL VOICE, LOCAL CHOICE: INFRASTRUCTURE, PLANNING, SERVICES"	
2	PACRIM 2012	
3	ABORIGINAL STRATEGIC COMMITTEE	
4	REVISED CULTURAL FRAMEWORK	
5	PETITION FOR THE SEALING OF LILLEYS ROAD, SWAN BAY	

COUNCIL COMMITTEE MEETING – 10 JULY 2012
RECOMMENDATION:

	<p>Councillor Bob Westbury Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 24 JULY 2012

212	<p>Councillor Ken Jordan Councillor Bruce MacKenzie</p>
	<p>It was resolved that the recommendation be adopted.</p>

Cr Geoff Dingle returned to the meeting at 7.46pm.

COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

**NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT
CANBERRA 17-20 JUNE 2012
"NATIONAL VOICE, LOCAL CHOICE:
INFRASTRUCTURE, PLANNING, SERVICES"**

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

FILE: PSC2012-01061

BACKGROUND

The National General Assembly of Local Government Conference held in Canberra between 17-20 June 2012 was attended by the Mayor, Cr Bob Westbury and General Manager, Peter Gesling with over 800 delegates from across Australia.

Attached are the programs for the Regional Cooperation and Development Forum: Regional Development: Addressing Diverse Challenges or Place Based Approaches - Sunday 17 June 2012 (**Attachment 1**) and the National General Assembly Program 17-20 June. (**Attachment 2**)

Regional Cooperation Development Forum

- The updated State of the Regions Report was released by National Economics. This is commissioned annually by the Australian Local Government Association (ALGA). The 2012 Report focussed on "Rethinking Regional Development". (**Attachment 3**). A copy of the report will be located in Council's Economic Development Unit, should Councillors wish more information.
- Presentations were provided as shown on the attached program. (**Attachment 1**).
- An insight into the assessment process for regional development funding was useful.
- Council will follow up links with the new Regional Australia Institute. The CEO, Sue McCluskie advised that the Institute is an independent policy and research think tank recently established to identify solutions to regional issues, promote research and encourage community debate. Five themes of work have been identified:

- 1) Position & Potential
 - i. Regional & information systems
 - ii. Population mobility
- 2) Realising Opportunities
 - iii. Overcoming landuse conflicts eg CSG
- 3) Successful Transition
 - iv. Natural disaster, recovery to renewal
- 4) Better Services & Engagement
 - v. Local infrastructure
- 5) Cross Themes
 - vi. Developing a competitive index to prioritise research

It is proposed to engage with LGA's, RDA's, and ROC's through regional forums.

- A keynote address from Dr Marcus Spiller of SGS Economics & Planning offered the view that country and city need each other to survive. A copy of his paper "Regional Australia; drivers, prospects and policy directions" (SGS Economics & Planning – June 2012) is available from the General Manager's Office.
- The Regional Development Australia (RDA) Showcase and panel session provided two examples of regional cooperation involving some of the 55 RDA organisations across Australia.

National General Assembly (NGA)

A series of sessions were presented as detailed in the program (**Attachment 2**). National President Mayor Genia McCaffrey outlined the current status of ALGA activities in particular Road to Roads (R2R) funding and Constitutional Recognition.

- Mr Phillip Adams, AO presented his view of the role of local government in the Australian context from his own perspective as a national broadcaster and media identity that now lives in the Upper Hunter. Phillip argued that local government is the only really relevant level of government for most citizens.
- Laurie Wilson provided a perspective on national politics viewed through the lens of the National Press Club.
- **Constitutional Recognition:** A separate status report on this topic has been provided to Council.

- **Infrastructure Theme:** Gladys Beauchamp, the Departmental Secretary introduced the author of a new report, commissioned by the Australian Government on National Infrastructure, "Strong Foundation for Sustainable Local Infrastructure", (Ernst Young). The report is available at www.ey.com/AU/en/Home.
- The National Awards for Local Government in 16 categories were presented through the conference with the winners announced by The Hon Simon Crean MP, Minister for Regional Australia, Regional Development & Local Government at Parliament House. **Attachment 4** lists the categories and national winner.
- Michael D'Asenca presented on the Australian Business Register and its benefit and significant use to local government. He provided examples of how local government authorities are using this data. His paper "Free ABR Data that Helps Local Government" will be provided to relevant staff for their consideration.
- **Planning Theme:** Maxine Mckew provided a considered paper on the current and continued need for broad based planning at the local level.
- Senator Christine Milne as the new Leader of the Australian Green Party emphasised their approach on national issues including support for constitutional recognition of local government.
- The Hon Mark Dreyfus QC MP promoted the pending commencement of the carbon tax and asserted that refunds to householders will cover average costs. He was challenged on the impacts to local government of both waste and electricity charging.
- **Services Theme:** The Hon Gary Johns used data from Brisbane City Council to argue that local government "has taken on more than it can afford and will need to choose "what it does not do!"
- Senator Barnaby Joyce presented the Coalition perspective on National issues and was both frank and forthright. He advised that the Coalition position was to support constitutional recognition but was up to local government to prosecute the case in their own areas.
- Minister for Health, the Hon Tanya Plibersek MP presented by video due to commitments in Parliament. She thanked local government for its ongoing support of health issues.
- A video conference with Constitutional Lawyer, George Williams explored the High Court Decision on direct Federal funding, and argued that the case was more important than ever to seek the Australian communities support for constitutional recognition. This will now be followed up by the ALGA Executive.

ATTACHMENTS

- 1) Regional Cooperation and Development Forum: Regional Development: Addressing Diverse Challenges or Place Based Approaches - 17 June 2012.
- 2) National General Assembly Program: 17-20 June 2012.
- 3) Rethinking Regional Development.
- 4) National Awards for Local Government.

ATTACHMENT 1

National Association of Local Government
 NGA 2012

REGIONAL COOPERATION AND DEVELOPMENT FORUM

REGIONAL DEVELOPMENT: ADDRESSING DIVERSE CHALLENGES OR PLACE-BASED APPROACHES

SUNDAY 17 JUNE 2012
 NATIONAL CONVENTION CENTRE CANBERRA

→ *Includes the launch of the 2012-13 State of the Regions Report*

The Regional Cooperation and Development Forum will continue to build on examining the regional development opportunities and challenges in Australia through the lens of regional typologies. Importantly, in the lead up to next year's federal election, it will also investigate what alternative regional investment systems could exist in the future.

The Forum will allow the sharing of ideas and opportunities through both a mix of practitioner insights, as well as hearing the latest positions from relevant Commonwealth senior officials and the newly created Regional Australia Institute.

PROGRAM

9.30 am	Open and Welcome, Cr Rob Pollock
9.35 am	Mayor Genia McCaffery, ALGA President
9.45 am	Launch of the State of the Regions Report, National Economics, Dr Peter Brain and Dr Ian Manning
10.30 am	MORNING TEA
11.00 am	Department of Regional Australia, Local Government, Arts and Sport, Glensy Beauchamp PSM, Secretary
11.30 am	Chair of the Regional Development Australia Fund Advisory Panel, Christian Zahra
12 noon	Regional Australia Institute Su McCluskey, CEO
12.30 pm	LUNCH
1.30 pm	Keynote Address: Place Based theme Dr Marcus Spiller, SGS Economics and Planning
2.00 pm	RDA Showcase South Australia: The Hon Rob Kerin, Chairman of Regional Development South Australia Loddon Mallee RDA: Mr Craig Niemann, CEO of the City of Greater Bendigo
2.45 pm	AFTERNOON TEA
3.15 pm	Panel Session • Ms Stephanie Foster, Deputy Secretary, Department of Regional Australia • Dr Peter Brain and Dr Ian Manning, National Economics • The Hon Rob Kerin, Chairman of Regional Development South Australia • Mr Craig Niemann, Loddon Mallee RDA
4.15 pm	WRAP UP AND CLOSE

ATTACHMENT 2

<i>National Voice, Local Choice</i> INFRASTRUCTURE • PLANNING • SERVICES	
Program	NGA 2012 17-20 JUNE 2012
SUNDAY 17 JUNE	
5.00-7.00 pm	Welcme Reception
MONDAY 18 JUNE	
9.00 am	Opening Ceremony
9.15 am	ALGA President's Opening Address
9.30 am	OPENING ADDRESS Minister for Regional Australia, Regional Development and Local Government; Minister for the Arts The Hon Simon Crean MP
10.00 am	Keynote Address: Mr Phillip Adams AO
10.30 am	MORNING TEA
11.00 am	Observations from the Gallery: Mr Laurie Wilson, President, National Press Club
11.30 am	PANEL SESSION Constitutional Recognition <ul style="list-style-type: none"> • Dr Keith Suter • Mr Jim Soorley AM • Professor George Williams • ALGA President, Mayor Genia McCaffery
12.30 pm	LUNCH
1.30 pm	INFRASTRUCTURE ADDRESS Secretary, Department of Regional Australia, Local Government, Arts and Sport, Ms Glenys Beauchamp PSM, and Ernst & Young Partner, Mr Darrin Grimsey
2.00 pm	National Awards for Local Government
2.30 pm	The Registrar of the Australian Business Register, Mr Michael D'Ascenzo
3.00 pm	AFTERNOON TEA
3.30 pm	Debate on Motions
5.00 pm	Close
7.00 pm	DINNER (NATIONAL CONVENTION CENTRE)
TUESDAY 19 JUNE	
9.00 am	PLANNING ADDRESS Ms Maxine McKew
9.30 am	Debate on Motions
10.00 am	National Awards for Local Government
10.30 am	MORNING TEA
11.00 am	Leader of the Greens, Senator Christine Milne
11.30 am	National Awards for Local Government
12 noon	Parliamentary Secretary for Climate Change and Energy Efficiency, The Hon Mark Dreyfus QC MP
12.30 pm	LUNCH
1.30 pm	Concurrent Symposia Sessions
3.00 pm	AFTERNOON TEA
3.30 pm	Debate on Motions
5.00 pm	Close
7.00 pm	DINNER (PARLIAMENT HOUSE)
WEDNESDAY 20 JUNE	
9.00 am	SERVICES ADDRESS The Hon Dr Gary Johns, Associate Professor, Public Policy Institute, Australian Catholic University
9.30 am	Debate on Motions
10.30 am	MORNING TEA
11.00 am	Shadow Minister for Local Government, Senator Barnaby Joyce
11.30 am	Creative Director of the Canberra Centenary, Ms Robyn Archer AO
12 noon	National Director of Get-Up! Mr Simon Sheikh
12.30 pm	ALGA President's Closing Address
1.00 pm	LUNCH

ATTACHMENT 3



**REGIONAL DEVELOPMENT:
ADDRESSING DIVERSE CHALLENGES
OR PLACE-BASED APPROACHES**

SUNDAY 17 JUNE 2012
NATIONAL CONVENTION CENTRE CANBERRA

→ *Includes the launch of the 2012–13
State of the Regions Report*

A 'patchwork economy', tightening fiscal budgets, dark clouds in the United States of America and Europe, and ongoing climate change concerns. These are just some of the current challenges facing Australia's diverse regional economies. What are the projected impacts going to mean for specific regions? What role can local councils play in addressing the subsequent challenges and opportunities that may arise? Could Governments address regional disparity through place based policies?

The Gillard Government continues to recognise the value of Australia's regions. Regional development policy continues to enjoy a greater emphasis and prominence in the national political agenda. The Forum will allow the sharing of ideas and opportunities through both a mix of academic and practitioner insights, as well as hearing the latest positions from relevant Commonwealth politicians and senior officials.

The Regional Cooperation and Development Forum will continue to build on examining the regional development opportunities and challenges in Australia through the lens of regional typologies—core metro, dispersed metro, producer, resource, rural and lifestyle.

ATTACHMENT 4



**2012
NATIONAL
AWARDS
FOR LOCAL
GOVERNMENT**



Australian Government
Department of Regional Australia,
Local Government, Arts and Sport

The 2012 Awards support significant projects that add value to local government and their regions. Stand-out ideas and innovation deserve celebration and national recognition beyond the local community.

From the Category Winners, two recipients of the National Award for Excellence in Local Government (including one Small Council) have been selected and will be announced during this evening's dinner.

CATEGORY WINNERS

Sunshine Coast Regional Council, QLD • Green Art
The Hills Shire Council, NSW • Electronic Work Order System and Portal
Shire of Peppermint Grove, Town of Cottesloe and Town of Mosman Park, WA • The Grove
Clarence Valley Council, NSW • Fresh Start
Stonnington City Council, VIC • Reducing Alcohol Related Harm in Chapel Street
Lismore City Council, NSW • Drive to Conditions
Cardinia Shire Council, VIC • Portable Playgrounds the PlayStart Way
Great Lakes Council, NSW • Great Lakes Water Quality Improvement Plan and Implementation
Frankston City Council, VIC • FrankstonTV - Australia's 1st Community Driven YouTube Network
Lockyer Valley Regional Council, QLD • Strengthening Grantham Project
Wellington Shire Council, VIC • Deadly in Gippsland Conference 2011 - Promoting Reconciliation through Deep Listening in Action
Clarence Valley Council, NSW • Clarence Valley Industry Education Forum
Gladstone Regional Council, QLD • Discovery Coast Community Health Service
W 3 Moreland City Council, VIC • CALDCOM Storyboards
Shire of Denmark, WA • Retention and Attraction of Women in Local Government
Gympie Regional Council, QLD • The Noise Magazine

CATEGORY WINNERS • SMALL COUNCILS
(UNDER 15 000 RATEABLE PROPERTIES)

Meander Valley Council, TAS • STUDIO BE
Towong Shire Council, VIC • Insight 360 - Performance through Measurement
Kempsey Shire Council, NSW • Integrated Alcohol Management Strategy
Barkly Shire Council, NT • Animal Health Program
Shire of Serpentine Jarrahdale, WA • Healthy Habitats
W 3 Golden Plains Shire Council, VIC • Visit Golden Plains Tourism Smartphone/Tablet App and Website Digital Infrastructure Project
Northern Grampians Shire Council, VIC • Landslide Planning for Halls Gap Township
East Arnhem Shire Council, NT • Many Voices, One Journey
Indigo Shire Council, VIC • North East Regional Development Scheme (NERDS)
Cooma-Monaro Shire Council, NSW • Check it Out Program
Mid Murrumbidgee Council, SA • Fun 4 Youth

INFORMATION ITEM NO. 2

PACRIM 2012

REPORT OF: MAYOR BOB WESTBURY
GROUP: GENERAL MANAGERS OFFICE

FILE: PSC2005-3556

BACKGROUND

The purpose of this report is to give Council an overview of the PACRIM Event held in March 2012 in Port Stephens LGA.

The PACRIM is held every two years and involves six cities and countries around the Pacific Ocean. That is Nahodka Russia, Tateyama Japan, Bellingham USA, Victoria Canada, Tauranga New Zealand and Port Stephens Australia.

Port Stephens was the host city for the 2012 event which was conducted in conjunction with Port Stephens Sister Cities (PSSC) and the Soldiers Point Yacht Club from 19 – 24 March 2012.

A committee was formed in 2011 to organize and plan the event.

The participants were welcomed on Sunday 18 March at Soldiers Point Bowling Club with a traditional aboriginal dance group.

The visitors were welcomed and home hosted by 43 families throughout the Port Stephens LGA and many tales of culture communications were enjoyed. The famous aussie bbq was greatly appreciated by the visitors.

The PACRIM was supported by 9 local sponsors plus Port Stephens Council as the major sponsor and supported by Port Stephens Coaches, Soldiers Point Marina, Salamander Village Butchery, The Deck Cafe & restaurant, Port Stephens Toyota, Salamander Shores Hotel, Kerry's Sign Co., Rhumblin Marketing and Sails at the Point Café.

Port Stephens Sister Cities Committee's budget was \$28,000 for the event, with one hundred competitors and as many supporters, visiting the area it was a culture success as well as a financial benefit for the local businesses and families of Port Stephens.

The winning team from Tauranga New Zealand was congratulated and feasted at the farewell dinner on Saturday 24 March at Salamander Shores.

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

The event was a huge success, language was not a barrier and the cultures of the countries were enjoyed at the presentation night where each group gave a presentation of their country which united the sailors and visitors as one.

A large contingent of volunteers from the Peninsula were co-opted to carry out the various duties from arranging transport, providing morning tea and lunches and manning the BBQ each afternoon. Events like these would not be possible without the help of volunteers.

ATTACHMENTS

Nil.

INFORMATION ITEM NO. 3

ABORIGINAL STRATEGIC COMMITTEE

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER
GROUP: DEVELOPMENT SERVICES
FILE: PSC2005-0629

BACKGROUND

The purpose of this report is present to Council the minutes of the Aboriginal Strategic Committee meeting held with Worimi Local Aboriginal Land Council on 22 May 2012.

The role of Council's Aboriginal Strategic Committee is:

1. To advise Council in relation to issues of concern between Council and the Aboriginal community,
2. To promote a positive public image with respect to issues for Aboriginal people in Port Stephens,
3. To provide a consultative mechanism with respect to development issues,
4. To improve relations between the Aboriginal and non Aboriginal community of Port Stephens,
5. To exchange information between the Aboriginal community and Council on issues affecting Aboriginal people,
6. To promote mutual awareness and respect for the cultures of both Aboriginal and non Aboriginal communities, and
7. To promote an increased awareness of the needs of Aboriginal communities and to assist with the development of programs to address those needs where possible and appropriate.

The role and functions of Council's Aboriginal Strategic Committee is aligned with Council's Community Strategic Plan 2011 – 2021 as follows: -

Community Planning & Partnerships: *Collaborate with the community of Port Stephens to plan for its facilities and appropriate services.*

1.5 Build partnerships to plan, provide for and promote the future wellbeing of our residents.

MINUTES FOR ORDINARY MEETING – 24 JULY 2012

Recreation, Leisure, Arts and Culture: *Port Stephens has a diverse range of passive and active lifestyle opportunities that are considered by users to be safe, convenient, reliable and affordable.*

2.4 Preserve and promote multiculturalism and Port Stephens' heritage, arts and culture.

2.4.4 Provide cultural consultation forums to strengthen the development and delivery of cultural services and infrastructure

ATTACHMENTS

1) Minutes of Aboriginal Strategic Committee meeting held 22 May 2012.

ATTACHMENT 1



**Aboriginal Strategic Committee
Meeting with Worimi Local
Aboriginal Land Council**



MINUTES

Minutes of meeting held on 22 May 2012 at Murrook Cultural & Leisure Centre

Chair: Cr Dover

Minute taker: Michelle Page

Present:

Cr O'Brien	Port Stephens Council
Cr Dover	Port Stephens Council
Andrew Smith	Worimi Local Aboriginal Land Council
Val Merrick	Worimi Local Aboriginal Land Council
Jacqueline Henderson	Worimi Local Aboriginal Land Council
Steve Bernasconi	Port Stephens Council
Cliff Johnson	Port Stephens Council
Michelle Page	Port Stephens Council

Apologies:

Cr Westbury	Port Stephens Council
Cr Kafer	Port Stephens Council
Jason Linnane	Port Stephens Council
Paul Procter	Port Stephens Council

1. WELCOME TO COUNTRY

Worimi Elder Val Merrick on behalf of Elders past and present welcomed everyone.

2. BUSINESS ARISING FROM PREVIOUS MINUTES

The following items of business arising from the previous meeting held on 2 August 2011 were discussed:

Item 1: Birbui Point Surf Club Update:

Council's Manager Community and Recreation indicated that the floor plan had been completed. A two-way conversation will be now be held with Council prior to their consideration of a Council report on this project.

Actions:	<ol style="list-style-type: none"> 1. Council's Manager Community and Recreation Services to report outcome of two way conversation and report to Council. 2. Council's Manager Community and Recreation Services to be Council's contact person for any media enquiries concerning this project in collaboration with Council's Business and Communications Section.
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MINUTES FOR ORDINARY MEETING - 24 JULY 2012

Item 2: Soldiers Point Midden:

Council's Manager Community and Recreation indicated that Council had access to some funding towards the Midden work which is anticipated to commence in 2013. They indicated the funds will not cover the full costs of the proposed works, but will allow initial works to be undertaken.

Cr Dover requested that Council's Manager Community & Recreation provide for consideration at next meeting a report on the associated issues and proposed plans in relation to the Midden. WLALC CEO supported the contribution of funding by Council to assist with the Midden. They also emphasised need for further consultation with all stakeholders concerning this project.

Action:	1. Council's Manager Community and Recreation to provide for consideration at next meeting a report on the associated issues and proposed plans in relation to the Midden.
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Item 3: NAIDOC Week 2012:

The Committee discussed plans for this year's NAIDOC Week celebrations which will take place between 1 – 8 July 2012 which will be the same as previous years comprising: -

- Smoking Ceremony in forecourt of Council's Administration Building, Raymond Terrace to commence the week of celebrations
- Traditional celebration walk down William St, Raymond Terrace culminating at Riverside Park
- Family Fun Day at Murrook

There are also plans for a NAIDOC Art Exhibition to be displayed in the community art display area on the mezzanine level of Council's Administration Building. This display will feature art contributions from local schools.

Council's Community Development & Planning Officer indicated that Council has a NAIDOC budget of \$2000 which can contribute towards the costs of the proposed NAIDOC Week celebrations with funds normally \$1,000 being allocated to Worimi and Karuah Local Aboriginal Land Councils respectively. The Committee supported the allocation of this contribution towards the planned NAIDOC Week activities being organised by Worimi and Karuah Local Aboriginal Land Councils.

Actions:	1. A member of Council's Social Planning Team will liaise with relevant parties concerning the organisation of the planned NAIDOC Week art exhibition. 2. Council's Social Planning Co-ordinator will organise for financial contribution to be made from within available NAIDOC Week funds to the activities planned by Worimi and Karuah Local Aboriginal Land Councils.
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Item 4: Joint 2012 Meeting of Aboriginal Strategic Committee:

Council's Community Development & Planning Officer indicated that 3 July 2012 has been tentatively set as date for meeting. WLALC CEO indicated that given a number of WLALC members are attending the Elders Olympics on 1 and 2 July 2012 as part of NAIDOC Week celebrations, that the tentative date for joint meeting is unsuitable for WLALC members, suggesting 5 July 2012 as a preferred alternative.

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

WLALC CEO suggested that joint meeting could include: -

- arrival at 5.30pm with time allocated to view the NAIDOC Art Exhibit at Council
- joint meeting commencing at 6pm with the viewing of the Worimi Conservation Lands DVD
- Council's Social Planning Coordinator showcase two projects funded by the last round of the Aboriginal Project Fund

It was suggested that given size of meeting program that a guest speaker would not be required.

Actions:	<p>Council's Social Planning Co-ordinator to liaise with relevant Council Officers and Karuah Local Aboriginal Land Council CEO concerning feasibility of having this year's joint meeting on 5 July 2012.</p> <ol style="list-style-type: none">1. Council's Social Planning Co-ordinator to inform Committee members of outcomes of (1) and associated arrangements for this year's joint meeting once confirmed.2. Council's Social Planning Co-ordinator to organise the showcase of two projects funded under Council's Aboriginal Projects Fund, preferably LALC funded projects.
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Item 5: Review of Aboriginal Project Fund

Council's Community Development & Planning Officer indicated that one of the outcomes of Council's sustainability review of its Social Planning Service Package was that a review be undertaken of grant programs funded by Council (eg; Cultural Projects Fund and Aboriginal Projects Fund). This review will commence shortly and will include consultation with key stakeholders such as LALCs.

Item 6: Review of Council's Traditional Welcome

Following a request from Council, WLALC are reviewing the wording of Council's traditional welcome to ensure the wording and its use continues to be an appropriate recognition of our traditional owners, the Worimi Nation. WLALC are currently reviewing the wording and will advise Council of the outcomes by mid June 2012.

Action:	1. WLALC CEO to provide Council's Social Planning Co-ordinator with feedback and advice on any changes to the wording of Council's Traditional Welcomes by mid June 2012.
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Item 7: Council's Family Day Care Services

Council's Manager Community and Recreation discussed with WLALC their need/requirements for accessing family day care assistance. WLALC CEO agreed that there was a need for respite for grandparents who are providing childcare for their grandchildren to be considered. Culturally however caring for families and their children / grandchildren is very much a part of Aboriginal culture which family members do. Council's Manager Community and Recreation also briefly discussed mutual benefit models of daycare.

Item 8: NSW Local Govt Aboriginal Network Conference

Local Government Aboriginal Network Conference will be held in August 2012 at Grafton. Council's Community Development & Planning Officer indicated that Council has some limited funds available in budget for the activities of the Aboriginal Strategic Committee. In the past some of these funds have been used to assist in funding the conference attendance of a representative from Worimi and Karuah Local Aboriginal Land Councils (ie; conference registration / dinner only) within available budget of approximately \$1500. The Aboriginal Strategic Committee discussed this and supported some of their available funds being used for this purpose.

Action:	1. Council's Social Planning Co-ordinator to organise financial contribution towards conference attendance of designated representatives from Worimi and Karuah LALCS.
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4. GENERAL BUSINESS**a. Management of Tourist Bus Transfers at Anna Bay**

Cr Dover provided details of conceptual plans she has been provided with which have been developed independent of Council. The conceptual plans present a potential option for consideration by Council, WLALC and other relevant key stakeholders pertaining to the possible future establishment of a transfer (ie; pick up/drop-off collection point) for 4WD tourist bus operators on Gan Gan Rd, Anna Bay. The concept is based on a similar model used at Byron Bay which reportedly has worked well.

b. WLALC MOU with Council

WLALC CEO suggested and discussed idea of consideration being given to development of a potential MOU between WLALC and Council regarding Development Applications, media responsibilities, planning etc. They suggested MOU could include processes and the roles, responsibilities and constraints of all stakeholders. WLALC CEO indicated that they are currently reviewing MOUs between other Council and LALCs.

Action:	1. WLALC CEO to provide examples of other MOUs with other Councils at next meeting.
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c. Annual Koori Knockout Football Tournament

WLALC CEO informed the Committee that this year's annual Koori Football Knockout Tournament will be held in October over the long weekend in Port Stephens at Lakeside, Raymond Terrace. It is envisaged that there will be in the vicinity of 40 to 60 teams plus family and friends attending.

5. DETAILS OF NEXT MEETING

Joint meeting. Details to be confirmed.

INFORMATION ITEM NO. 4

REVISED CULTURAL FRAMEWORK

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER

GROUP: DEVELOPMENT SERVICES

FILE: A2004-0212

BACKGROUND

The purpose of this report is to inform Council of improvements introduced to Council's cultural framework.

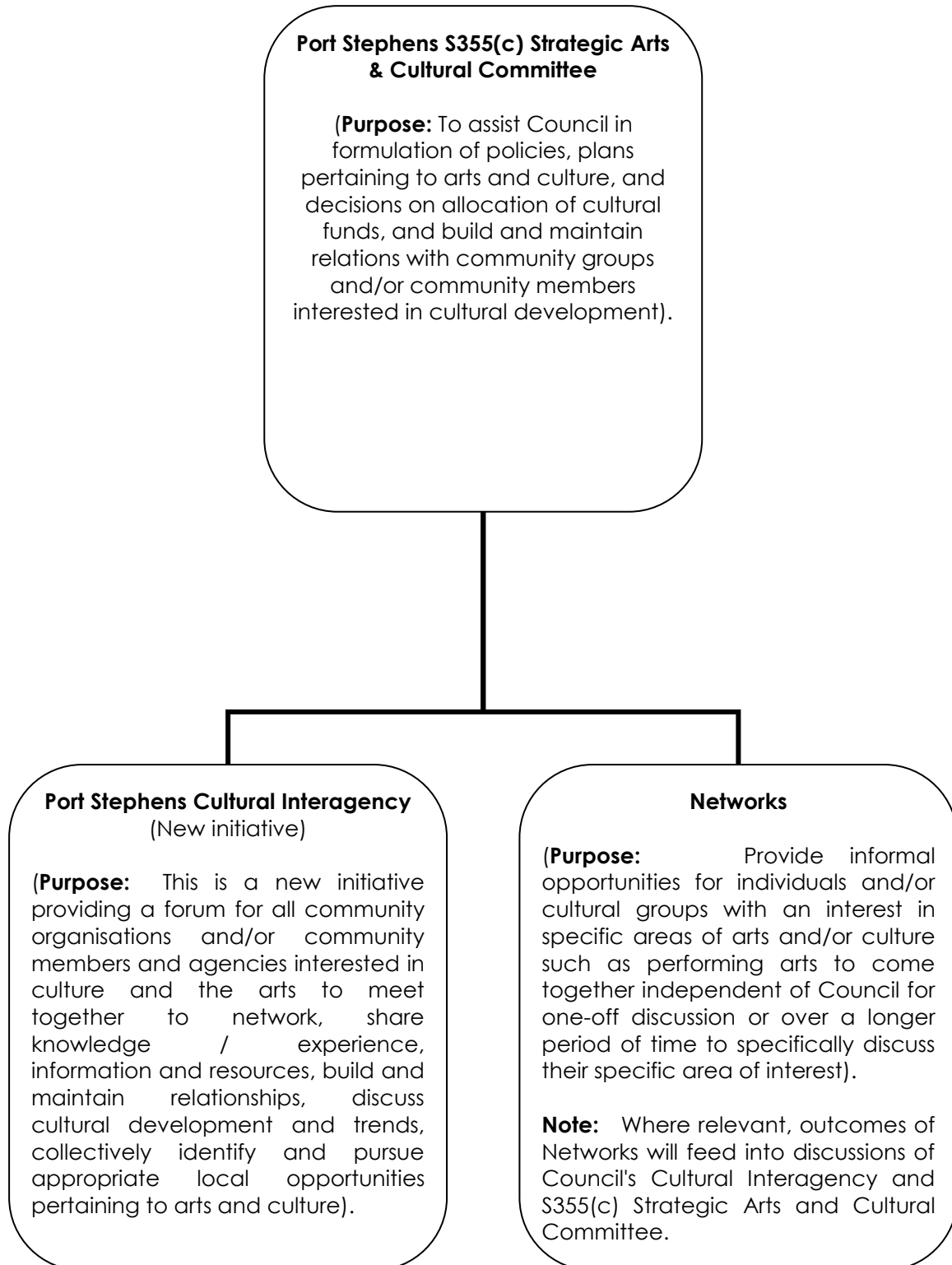
Council's Social Planning Service Package which was endorsed at the Ordinary Meeting of Council on 18 October 2011 (Item 9, Minute 376) included a number of reforms to Council's cultural framework. Council's cultural framework which was in place at the commencement of the sustainability review of Council's Social Planning Service Package is shown in **Attachment 2** of this report. The framework was characterised by a number of specialised cultural networks, committees, forums, programs, initiatives and activities. Key stakeholders found Council's cultural processes and procedures associated with Council's cultural framework to be complex, prescriptive, exclusionary and onerous.

The endorsed Social Planning Service Package specified that Council reduce its cultural program in line with desired community service levels for Council's involvement in cultural development and activity. Secondly, future service levels would need to be delivered within the endorsed reduction of staffing of Council's Social Planning Team and be fully aligned with Council's cultural objectives specified in Port Stephens Community Strategic Plan 2011 – 2021 (as per **Attachment 1**) of this report.

Council's cultural framework has since been revised by Council's Social Planning Team with reference to the outcomes of the sustainability review and following further consultation with Council's S355(c) Strategic Arts and Cultural Committee and other key stakeholders. The intent of the revised cultural framework as shown on the next page is to create a user friendly, resource efficient and streamlined framework for advancing Council's cultural objectives. It is significantly less complex than the previous framework (as shown in **Attachment 2** of this report).

To date the recently introduced revised cultural framework has been extremely well received by Council's S355(c) Strategic Arts and Cultural Committee and local cultural groups throughout Port Stephens.

Revised Cultural Framework:



Key Changes to Council's revised cultural framework include: -

- The role of the Strategic Arts and Cultural Committee has been simplified and redefined with reference to Council's strategic cultural objectives as specified in Port Stephens Community Strategic Plan 2011 – 2021
- Establishment of a new Cultural Interagency. This is in recognition of preference voiced by individuals and groups involved in cultural programs and activities in Port Stephens to meet as a collective resulting in greater value to Council and community stakeholders. This Interagency has formed an email group created by Council's Social Planning Team.
- The cultural email group has now taken the place of the Cultural Newsletter. The emails allow greater efficiency, quicker dissemination of updates and information.
- The previous cultural framework comprised of 7 networks with a network created to cater for specific aspects of cultural planning and development along with Ward based networks. They comprised: -
 - Events Network
 - Visual Arts Network
 - Performing Arts Network
 - Cultural Economy Network
 - Central Ward Lifestyle Network
 - East Ward Lifestyle Network
 - West Ward Lifestyle Network.

The number of cultural networks under the revised cultural framework has been reduced from 7 down to 1 with the Performing Arts Network being the only one still operating. The reduction in the number of networks has occurred naturally without any Council intervention. In many cases the members of these networks have simply had a preference to meet informally without the need for a formal network structure. Another contributing factor has been a preference from former network members to participate in Council's newly established Cultural Interagency. They see it as providing the opportunity for them to meet and network not only with people working in similar areas of the arts and culture, but in other cultural areas as well.

- The ward based Lifestyle Networks have been discontinued. They lacked clear purpose thus providing little/or no value to Council or the community. The review identified instances in the past where the focus of these 'Lifestyle Networks' went beyond focusing specifically on cultural matters to broader community issues. This was never the intent or role of these Lifestyle Networks, it conflicted and/or duplicated Council's normal processes for engaging the community on broader issues.

Future Changes:

At the Ordinary Meeting of Council on 18 October 2011 (Item 9, Minute 376) pertaining to the Sustainability Review of Council's Social Planning Service Package it was also resolved that: -

- 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.

The review of these grant programs is currently being undertaken and outcomes will be reported to Council shortly.

For further information on Council's cultural program contact Council's Social Planning Team on 4980 0323.

ATTACHMENTS

- 1) Council's key cultural objectives;
- 2) Council's previous cultural framework.

ATTACHMENT 1

Council's key cultural objectives

OUR LIFESTYLE

STRATEGIC DIRECTION: Recreation, Leisure, Arts and Culture

Port Stephens has a diverse range of passive and active lifestyle opportunities that are considered by users to be safe, convenient, reliable and affordable.

Delivery Program:

2.1 Provide passive and active lifestyle opportunities.

Operational Plan 2012 – 2013:

2.1.4 Review Council's Cultural Program

Delivery Program:

2.3 Plan to ensure appropriate infrastructure and spaces for participation in lifestyle activities

Operational Plan 2012 – 2013:

2.3.2 Develop a strategy to accommodate public art, events and entertainment that reflects local character

Delivery Program:

2.4 Preserve and promote multiculturalism and Port Stephens heritage, arts and culture

(Source: Port Stephens Council Community Strategic Plan 2011 – 2021)

INFORMATION ITEM NO. 5

PETITION FOR THE SEALING OF LILLEYS ROAD, SWAN BAY

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

FILE: PSC2012-01997

BACKGROUND

The purpose of this report is to advise Councillors that a Petition has been received by the General Manager from Lilleys Road, Swan Bay residents as follows:

"We the undersigned, users of Lilleys Road Swan Bay, are requesting that Port Stephens Council seal this road for the following key reasons:

Reduction of both dust and noise and to achieve overall OH&S improvement for pedestrian and vehicle use including the school bus
Elimination of continuous pot holes currently causing excessive vehicle wear and tear and ongoing safety issues
Mitigation of water puddles minimising potential mosquito transmitted diseases
General amenity and improvement
Long term cost savings to Council and Ratepayers

Since Lilleys Road was re routed approximately 17 years ago no further substantial work has been carried out on this road, apart from undertaking routine maintenance, and it felt by the undersigned that Council should now treat the sealing as a top priority and arrange to have this work carried out forthwith.

Should Council's current forward roads work funding program not permit all of the sealing to be carried out at once we the undersigned would be agreeable to these works being carried out in stages."

The petition contains 65 signatures.

ATTACHMENTS

- 1) Letter and Petition,
- 2) Map of Location.

ATTACHMENT 1

30 May 2012

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324



Dear Peter

PETITION FOR THE SEALING OF LILLEYS ROAD, SWAN BAY

Please find enclosed a Petition, with 65 signatures, requesting that Port Stephens Council seal Lilleys Road at Swan Bay.

The following are the key reasons for this road to be sealed:

- Reduction of both dust and noise and to achieve overall OH&S improvement for vehicle and pedestrian use, including the school bus
- Elimination of continuous pot holes causing excessive vehicle wear and tear and ongoing safety issues
- Mitigation of large water puddles, minimising potential mosquito transmitted diseases
- General amenity improvement
- Long term cost savings to Council and Ratepayers

Since Lilleys Road was rerouted, approximately 17 years ago, no further substantial work has been carried out on this road, apart from routine maintenance. It is felt by the Petitioners that Council should now treat the sealing as a top priority and arrange to have this work carried out as soon as practicable.

Should Council's current forward road works funding program not permit all of the sealing to be carried out at once, we would be agreeable to these works being carried out in stages. We have also included a copy of the correspondence sent to you, dated 20/12/11, together with some photos highlighting how bad the road can actually deteriorate.

We can appreciate the limited funds that Port Stephens Council has to undertake the upgrading of roads but Council must also appreciate the patience that users of Lilleys Road have exercised over the past 17 years!

This letter is also being copied to the West Ward Councillors in the expectation that something can be done to expedite the upgrading of this road in the very near future.

On behalf of Lilleys Rd Residents and users looking forward to hearing from you.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'P. Gesling', written over the 'Yours sincerely,' text.

**PETITION
TO
PORT STEPHENS COUNCIL
FOR
THE SEALING OF LILLEYS ROAD SWAN BAY**

We the undersigned, users of Lilleys Road Swan Bay, are requesting that Port Stephens Council seal this road for the following key reasons:

- Reduction of both dust and noise and to achieve overall OH&S improvement for pedestrian and vehicle use including the school bus
- Elimination of continuous pot holes currently causing excessive vehicle wear and tear and ongoing safety issues
- Mitigation of water puddles minimising potential mosquito transmitted diseases
- General amenity improvement
- Long term cost savings to Council and Ratepayers

Since Lilleys Road was re routed approximately 17 years ago no further substantial work has been carried out on this road, apart from undertaking routine maintenance, and it is felt by the undersigned that Council should now treat the sealing as a top priority and arrange to have this work carried out forthwith.

Should Council's current forward road works funding program not permit all of the sealing to be carried out at once we the undersigned would be agreeable to these works being carried out in stages.

NAME	ADDRESS	SIGNATURE
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27 November 2011

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Dear Peter

CONDITION OF LILLEYS ROAD, SWAN BAY NSW

You may recall during our discussions late last year I raised with Bruce MacKenzie and yourself the bad condition of Lilleys Road and the need to have it sealed at the earliest opportunity. As it currently stands now, it is in the worst condition it has ever been in for the 16 years I have lived here. This appalling and unsafe condition existed well before the current bad weather started and now is deteriorating even further.

Whilst Council has previously responded to a number of letters and phone calls from various Lilleys Road residents regarding the state of this road, it has now become more important than ever that some positive action is taken by Council to overcome the safety issues that currently exist and in a way that is more enduring. Even the school bus now has problems safely navigating the abundant pot holes.

Since the 2.56km section of unsealed road was re-routed and constructed by Port Stephens Council around 1996, and despite ongoing maintenance work being carried out since then, the current condition of this road is unacceptable and unsafe.

At our request a few years ago Council imported additional road base filling to raise the levels of the low areas, particularly opposite the properties from No.196 through to the end of the road. Large puddles were constantly present on the road surface and the verges, sometimes weeks after rainfall, accelerating the rate of deterioration to the road surface and, in particular, causing corrugation. This unfortunately still continues to occur within days of it being maintained.

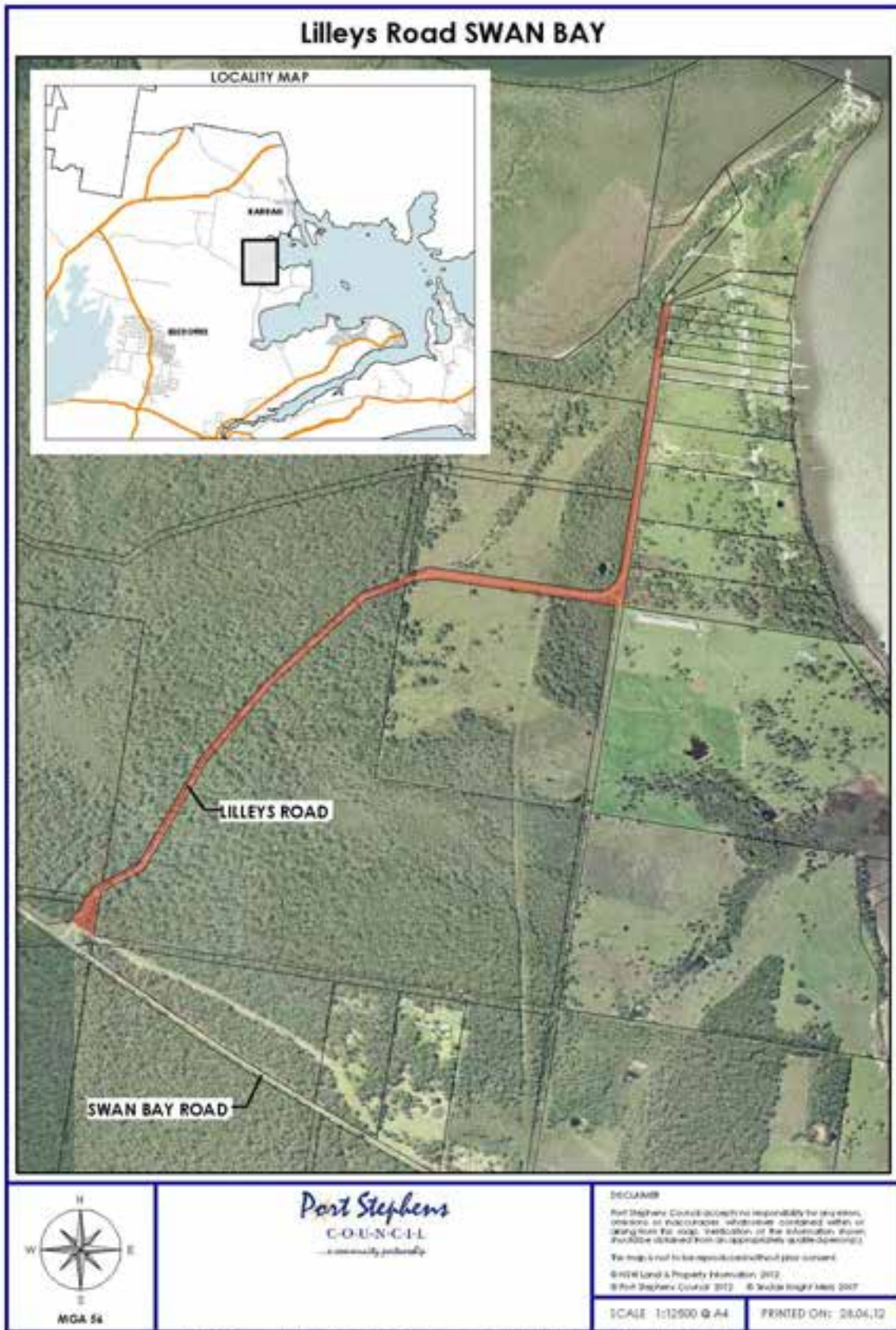
Whilst we understand that Council has limited funds to carry out road maintenance, the residents of Lilleys Road have been extremely patient for the past 16 years in putting up with the ongoing bad condition of this road. It would now be appreciated if you could do whatever is possible to bring forward your road maintenance program to have it sealed and provide the residents with a quality road that, as ratepayers, they truly deserve.

We understand that Lilleys Road was listed as a low priority i.e. Item 26 on the Council's Forward Works program back in December 2004, but given the safety issues, we believe this should now be brought forward as a high priority item.

Please find enclosed some photos that show the current condition of the road and I look forward to hearing from you regarding this matter.



ATTACHMENT 2



GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1

FILE NO: PSC2007-1061

SABRE JET RELOCATION TENDER T13-2012

REPORT OF: JOHN MARETICH - CIVIL ASSETS MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss the report namely **Sabre Jet Relocation Tender T13-2012**.
- 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 **Sabre Jet Relocation Tender T13-2012**.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) That the Bettles Park Sabre Jet be relocated to Fighter World for restoration and display;
- 6) That Council enters into an agreement with Fighter World to ensure the Sabre Jet remains in Port Stephens Local Government Area;
- 7) Accept the tender of Goldsprings Earthmoving and Heavy Haulage for the relocation of the Sabre Jet from Bettles Park to Fighter World.

ORDINARY COUNCIL MEETING – 24 JULY 2012

Cr Shirley O'Brien left the meeting at 7.48pm prior to voting on Item 1.
Cr Shirley O'Brien returned to the meeting at 7.53pm prior to voting on Item 1.

213	Councillor Bruce MacKenzie Councillor Glenys Francis
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That the Bettles Park Sabre Jet be relocated to Fighter World for restoration and display;2) That Council enters into an agreement with Fighter World to ensure the Sabre Jet remains in Port Stephens Local Government Area;3) Accept the tender of Goldsprings Earthmoving and Heavy Haulage for the relocation of the Sabre Jet from Bettles Park to Fighter World.

BACKGROUND

The purpose of this report is to seek Councils endorsement for the relocation of the Bettles Park Sabre Jet to Fighter World and to accept the tender of Goldsprings Earthmoving and Heavy Haulage Pty Ltd

The report is linked to Section 5.4 (Infrastructure) of the Community Strategic Plan and Councils Charter under the Local Government Act.

Following on from an Expression of Interest for the upgrade of the Bettles Park Sabre Jet a report was presented to Council recommending the actions to be taken. At the Ordinary Council Meeting on the 22nd February 2011, Minute No. 049, it was resolved that Council:

- 1) Reject all Expressions of Interest that have been received.
- 2) Negotiate with volunteer groups based within the Port Stephens Local Government Area to undertake an upgrade of the Sabre Jet and keep it within the Port Stephens Local Government Area.
- 3) Negotiate with the two companies that have provided an Expression of Interest to seek further detail.

Two volunteer groups have subsequently expressed an interest to upgrade the Jet. Only one has been interested in keeping the Jet in the Port Stephens Local Government Area. This volunteer group is Fighter World at Williamtown. Fighter World is now in a position to restore the Jet if Council can organise, manage, and pay for the Jet to be relocated to Fighter World. It is Fighter World's intention to restore the Jet so it can withstand the elements and be displayed for all to see at the front of the property.

Fighter World has agreed that the Jet is not to be sold, given away or any other form of transfer and is to be kept in the Port Stephens Local Government Area. Should

Fighter World dissolve, Council will have the first call for the Jet to be returned to Port Stephens Council. A legal agreement will be signed by representatives of Council and Fighter World prior to the Jet being relocated.

Tenders were called for the relocation in May 2012 and two tenderers responded, Goldsprings Earthmoving and Heavy Haulage and Paul Harrison Transport Pty Ltd. Both tenders were compliant and there was a broad range in the prices received. A summary of the tenders received on 5/6/2012 is shown in Attachment 1.

- Goldsprings have noted that there are variables that cannot be assessed until Roads and Maritime Services have approved the route and requirements for permits and escorts are finalised.
- Goldsprings tender does not allow for:
 - replacement of any signs or other objects in the road reserve removed during the work;
 - disconnection of overhead powerlines that could obstruct the route;
 - a \$15,000 contingency is allowed for the variables and the additional work.
- Goldsprings have indicated that their interest is also associated with company exposure and are not seeking to profit from the work. As such negotiating the variables will be at cost price only and will be finalised before Council commits to the move and the work is undertaken.
- Paul Harrison Transport's tender does not allow for:
 - removal of the concrete plinth;
 - replacement of any signs or other objects in the road reserve removed during the work;
 - a \$15,000 contingency is allowed for this work.

The assessment of the proposals using the Value Selection Methodology is shown in **Attachment 2**.

FINANCIAL/RESOURCE IMPLICATIONS

While there is no allocation in the 2012/2013 budget, it is proposed that this project takes precedence and a project with a lower priority is postponed in 2012/2013. Council staff will need to liaise with Councillors on this matter and necessary reports will need to be undertaken

Contract Cost	\$29,000
Contingency	\$15,000
Project Management	\$5,000
Total Cost	\$49,000

Should the recommendation not be accepted and the Sabre Jet remains in Bettles Park, the large cost to repair the Jet would result in the Jet not being maintained in the near foreseeable future unless Council was to allocate the required funds. The

cost of the relocation is significantly less than the estimated cost to repair the Jet in its current location (\$160,000) or for removal and full restoration (\$400,000).

LEGAL, POLICY AND RISK IMPLICATIONS

The tendering process complied with Council's procurement guidelines and the Local Government (General) Regulations 2005 for procurement and the Local Government Act 1993.

All factors of the work have been considered and the risk of unforeseen variations is considered low. The variables that have been identified will be negotiated and finalised before Council commits to the move and the work is undertaken.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Fighter World sell the Sabre Jet once it is restored.	Low	Fighter World have already agreed to keep the Jet and if Fighter World dissolves, Council will have the first call on the Jet. This is to be managed through a legal agreement between representatives of Council and Fighter World.	Yes
Logistic of the movement of the Sabre Jet.	Medium	Councils Project Management Plan and Risk Management Plan	Yes
Unforeseen variations	Low	A contingency is allowed for in the budget	Yes
Fighter World do not undertake the restoration of Sabre Jet	Low	Fighter World has already agreed to restore the Sabre Jet. The Jet will still be stored in a safer and more accessible location than its current position, making it more likely to be restored in the near future.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

To ensure that the Sabre Jet is still part of the Port Stephens Local Government Community, Fighter World is proposing that the Jet is to be mounted in a location at the front of the property so it can be viewed for free. Given the Jet is to be restored once at Fighter World, its appearance and condition will be greatly improved. A visually appealing Jet would gain a greater social appreciation than a deteriorating one.

CONSULTATION

The Sabre Jet has been a well discussed topic in Council Papers, the local community and the Media for a significant period of time. Anecdotal evidence has shown that the best location of the Sabre Jet is Fighter World where the Jet will be restored and available for the community and visitors to appreciate.

OPTIONS

- 1) Adopt the recommendations;
- 2) Leave the Sabre Jet in place at Bettles Park and allocate funds for repairs.

ATTACHMENTS – all listed below are provided under separate cover.

- 1) Sabre Jet Relocation Tender – Selection Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2

FILE NO: T10-2012

SUPPLY, DELIVERY AND INSTALLATION ENSUITE BUILDINGS AT SHOAL BAY HOLIDAY PARK T10-2012

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss the report namely **Supply, Delivery and Installation ensuite building at Shoal Bay Holiday Park T10-2012.**
 - 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 **Supply, Delivery and Installation ensuite building at Shoal Bay Holiday Park T10-2012.**
 - 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.
 - a. Accept the tender received from Wendgold Pty Ltd, trading as East Coast Homes & Park Cabins for the supply, delivery and installation of two ensuite buildings at Shoal Bay Holiday Park.
-

ORDINARY COUNCIL MEETING – 24 JULY 2012

214	Councillor John Nell Councillor Sally Dover
	It was resolved that Council accept the tender received from Wendgold Pty Ltd, trading as East Coast Homes & Park Cabins for the supply, delivery and installation of two ensuite buildings at Shoal Bay Holiday Park.

BACKGROUND

The purpose of this report is to recommend the preferred tender for the installation of two ensuite buildings located on the Council owned portion of Shoal Bay Holiday Park.

The tender called for two ensuite buildings to be constructed and installed to service the changing needs of the caravanning and camping public. Research shows that current customers of Holiday Parks require and are willing to pay for their own private ensuite bathrooms. Ensuites also take pressure off the communal facilities within the holiday park. The ensuities are to be located in the same island precinct that currently has two ensuite buildings on the eastern side of the Shoal Bay Holiday Park between Imperador Place and Bonito Place. Upon completion of the construction the total amount of premium caravan sites with ensuities in the park will be 16. The buildings are to be located on two current standard caravan sites. The loss of income from these two standard sites is compensated by the generation of additional income from these premium sites that command 30% higher site fees and have average 80% occupancy.

One building will have five bathrooms and will be suitable to be used by able bodied persons. The building will have minimal stairs and is to be of modern design. The second building will have 3 bathrooms and will be constructed to suit disabled persons access with a wheelchair ramp, suitable facilities and handrails. Both buildings will be constructed to current Australian standards.

The Shoal Bay Holiday Park ensuite project is approved in the 2011/2012 capital budget plans however in accordance with Council's Procurement policy a tender process has been undertaken.

This Ensuite project has its origins in the previous Holiday Parks Masterplan that was used to guide the development of the current Plans of Management (PoM). The project is listed in the current Shoal Bay Plan of Management as stage 1 of the capital projects identified in the Plans of Management. The project has no impacts to Holiday Van owners or any other park users. The project is required to maintain a 4 star rating as well as generating improved income and occupancy.

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

In March 2012 tender submissions were invited through public advertisement for the supply, delivery and installation of two ensuite buildings ,a 5 bathroom model and a 3 bathroom disabled persons access model at Shoal Bay Holiday Park.

As a result four tenders were received from:

- 1) Wengold Pty Ltd, trading as, East Coast Homes & Park Cabins;
- 2) Uniplan Group Pty Ltd;
- 3) Hi -Tech Homes Pty Ltd;
- 4) Builden Industries Pty Ltd.

In accordance with Council's Procurement Guidelines a staff panel was established to conduct a review of all tenders received and assessed each tender in accordance with the agreed weightings. The evaluation criteria examined each tenders response to the areas of: Cost (including supply and installation on site), Capabilities (Delivery Times, Previous Experience, Ecologically Sustainable Development, Quality Assurance, WHS and Risk Management).

Criteria	% Weighting
Cost	50
Delivery Time	10
Previous Experience	15
Quality Assurance	15
Ecologically Sustainable Development	10

FINANCIAL/RESOURCE IMPLICATIONS

The resources and costs associated with this tender will be funded from the Property Reserve. A business case for this project was supported using a net present value analysis and the payback period for the ensuites will be three years. Shoal Bay Holiday Park has the resources to manage the project's implementation.

LEGAL, POLICY AND RISK IMPLICATIONS

The tender process has been conducted in accordance with the Local Government (General) Regulations and is to be awarded under the Conditions of Contract prescribed in the Hunter Councils Conditions of Contract.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is high demand for the ensuite sites due to the changing requirements of the	Low	Adopt the recommendation	Yes

holiday customer and it provides a point of difference for Shoal Bay Holiday Park. As One Mile Beach has ensuites Shoal Bay could potentially lose customers to One Mile Beach. Additionally due to the higher tariff charges there will be a negative revenue impact in 2015			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Tourism in Port Stephens contributes to the economic sustainability of the local Government area. The standard of accommodation products provided in our holiday parks contribute to positive guest experiences and increases the likelihood that guests will return.

CONSULTATION

The Tender panel consisted of three staff including the Shoal Bay Holiday Park Manager, Property Services Manager and the Contacts and Procurement Coordinator. Other consultation included staff at Shoal Bay Holiday Park, Council Trade Services, Marketing Manager and the Group Manager Commercial Services.

OPTIONS

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

ATTACHMENTS – all listed below are provided under separate cover.

- 1) Supply, delivery and installation ensuite buildings at Shoal Bay Holiday Park – Selection Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

FILE NO: PSC T07-2012

T07-2012 – TENDER - BUSH REGENERATION SERVICES

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss the report namely **T07-2012 Tender – Bush Regeneration Services**.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **T07-2012 Tender – Bush Regeneration Services**.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) Accept both BARRC & TIN Services as the preferred tender based on the value selection process.

ORDINARY COUNCIL MEETING – 24 JULY 2012

215	<p>Councillor John Nell Councillor Geoff Dingle</p>
	<p>It was resolved that Council accept both BARRC & TIN Services as the preferred tender based on the value selection process.</p>

BACKGROUND

The purpose of this report is to gain approval to appoint both Bushland & Rainforest Restoration & Consulting (BARRC) and Trees in Newcastle (TIN) as the preferred tender for Bush Regeneration Services for Port Stephens Councils Bushland and Foreshore Reserves, for a period of two years with an option for Council to extend for an additional maximum period of 12 months.

Council has legislative requirements to maintain and manage the bushland and foreshores on land that it owns or manages.

The bushland regeneration program meets the core objectives for management of community land categorised as a natural area, bushland, wetland and foreshore, under Sections 36E, J,K, and N of the Local Government Act 1993. The program also includes remediation in areas of high conservation significance that has been identified within the Port Stephens Foreshore Management Plan.

Council currently has numerous land parcels that need to be maintained as part of this requirement, only sixteen of the key reserves are covered by this tender. The tender requested a price based on supply of a team of trained professional regenerators on a daily basis and a final figure for the allocated days per site.

Previously Bush Regeneration Tenders have been for a 12 month period using a recurrent budget allocation. This approach was not sustainable for co-ordination and in complementing works undertaken by community groups as there is normally a few months delay in awarding annual tenders that often occurs during the optimal weed control period and when community groups want to undertake work. This tender format will allow for two years of continual work with the option of an extension into the third year.

Five (5) tenders were received for this work. All tenders were evaluated using councils Value Selection Methodology system. The attributes, which are weighted according to importance, assessed were tender price, previous experience, staff experience, WH&S documentation, insurances and a referee check.

All submissions have been subjected to Port Stephens Councils Value Selection Process which is shown in the confidential attachment;

FINANCIAL/RESOURCE IMPLICATIONS

The supervision of bush regeneration contractors will involve staff time and resources to administer the tender and co-ordination of works to complement community groups and council works plans. Funding for the program is covered primarily by the environmental levy allocation and other various grant funding.

LEGAL, POLICY AND RISK IMPLICATIONS

By contracting out the maintenance of Port Stephens Councils Bushland and Foreshore Reserves, Council will meet its duty of care obligations to the Local Government Act 1993, Rural Fires Act 1997, Threatened Species Conservation Act 1995, Environment Protection and Biodiversity Conservation Act 1999 and will fulfil the land management requirements of Port Stephens Councils – Natural Area Generic Plan of Management 2003.

Providing a maintenance program will manage the threat of noxious weed spread, wildfires escaping from Council land and also provide open and safe site access for fire fighting personnel.

As per Councils Procurement Guidelines, that link to the Local Government (Tendering) Regulations 1999, a procurement contract in excess of \$150,000 per annum and/or two or more years in duration must be endorsed by Council.

Each bid was assessed using a value selection method using a weighted selection criteria.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
If program not supported community groups will be laboured with task of hand removing weeds from councils reserves	High	Council appoint contractors to assist community groups	Proposed Yes
Increased weed densities with councils reserves add to fuel load posing a greater fire risk to neighbouring properties	High	Council appoint contractors to undertake measures to reduce risk	Proposed Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

All land management agencies have a responsibility to the community for efficient and effective natural area management. Port Stephens Council's contribution to this responsibility will assist in the maintenance of a safe community.

Effective bushland management on Council land will clearly contribute to improved biodiversity, noxious weed control and potential bushfire management throughout the Local Government Area and minimise impact on properties and fire fighting resources.

Whilst large natural areas of the LGA are not under direct Council control, Council is responsible for the management of 554.1Ha of Natural Areas and 295.1 Ha of Foreshore. These bushland areas contain plant communities regarded as being of

special conservation significance to the region. In addition some sites are habitat for a number of endangered fauna and flora species.

CONSULTATION

Consultation has been undertaken with the following people and groups:

- 1) Contracts and Procurement Co-ordinator;
- 2) PSC Weeds Unit;
- 3) PSC Parks Team Leader East/West;
- 4) OEH Parks & Wildlife Group (NPWS) Pest Management Officer; and
- 5) PSC Bushfire Mitigation Officer.

OPTIONS

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

ATTACHMENTS

- 1) Confidential - Value selection Matrix.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

FILE NO: PSC2005-3699

SUB LEASE OF FINGAL BAY SURF LIFE SAVING CLUB

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

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Subject to the approval of the Minister for Crown Lands, issue a sub lease for the management and operation of Fingal Bay Surf Life Saving Club buildings to Fingal Bay Surf Club Inc.
- 2) Authorise the Mayor and General Manager to sign and affix the Seal of the Council to the sub lease documentation.
- 3) Authorise the Mayor and General Manager to sign and affix the Seal of the Council to the sub-sub lease for the commercial operations of the functions and restaurant areas of the new Fingal Bay Surf Life Saving Club building.

ORDINARY COUNCIL MEETING – 24 JULY 2012

216	Councillor Bruce MacKenzie Councillor John Nell
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to confirm procedures for the signing and affixing of the Seal of the Council to a lease document for the management and operation of the Fingal Bay Surf Club buildings.

Council has a Special Lease in perpetuity with the Crown Lands for Lot 371 DP 753204 being 3 Marine Drive Fingal Bay, known as Fingal Bay Surf Life Saving Club. The site includes two premises (1) the café/caretaker/life guard building and (2) the construction site for the new surf club building that will hold spaces for volunteer life saving services and equipment, training areas, meeting rooms, club gymnasium and restaurant and function centre spaces. This new building is scheduled for completion at the end of September 2012.

Council and the Fingal Bay Surf Club Inc agreed to the terms and conditions of a Memorandum of Understanding (see Tabled Document 1) which has as its first objective to adopt a partnership approach to the management and operation of the site. An important partnership principle of the MOU is to invest all proceeds from the buildings to cover the operational and asset management costs for the site. The

net effect of this will be the reduction in ratepayer costs to provide paid life guard services to the beach, equipment support for the volunteer Surf Life Saving Club and building repairs and maintenance costs.

Council has historically and successfully operated this site through a licence with the Fingal Bay Surf Club Inc. The design of the new club house will include a viable commercial space for functions and a restaurant, which will be sub leased by the Club to commercial operators on completion. Council needs to renew this operational agreement in the form of a sub lease arrangement.

Whilst Council holds the Special Lease in perpetuity from the Crown Lands, the length of the sub lease (i.e. ten years) will require consent from the Minister for Crown Lands for the execution of the sub lease.

Prior to completion of the building the Club will seek a sub-sub lease for the commercial operations of the building which will include functions and restaurant areas. This sub-sub lease will also require affixing of the Seal of the Council and execution by the General Manager and the Mayor. Whilst not confirmed the term of the sub-sub lease is likely to be five (5) years.

FINANCIAL/RESOURCE IMPLICATIONS

The provisions of the sub lease ensure that there are no changes to the terms and obligations of the two parties and thus no financial impacts on Council from variations mid term.

In having a valid and enforceable lease the Crown and Council are protected and Council is able to reinvest proceeds from the agreement to the provision of community services that are otherwise funded from general revenue.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's Property Services Section is preparing the sub lease documentation in consultation with Harris Wheeler Lawyers. There are no legal impediments for proceeding with a sub lease on this site.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
With no formal lease in place the Fingal Bay Surf Club Inc will not be able to attract suitable commercial interests which may result in the new building not functioning optimally.	High	Adopt the recommendation	Yes
Delaying the issuing of a lease until the next term	Medium	Adopt the recommendation	Yes

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

of Council will delay the start of commercial aspects to the new building and thus potentially miss the high season of summer holidays.			
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SUSTAINABILITY IMPLICATIONS

The health, safety and traditions that surf life saving brings to the community will be preserved under this sub lease arrangement.

Adopting the recommendation will enable Council and the Fingal Bay Surf Club Inc to commence and complete marketing of the commercial aspects to the new building to maximise on the summer holiday customers.

CONSULTATION

Consultation has been held with the following people and organisations:
Fingal Bay Surf Club Inc
Environmental Property Services Pty Ltd (acting for Fingal Bay Surf Club Inc)
Crown Lands Department
Harris Wheeler Lawyers
Port Stephens Council Property Services Section
Port Stephens Council Group Manager Facilities and Services

OPTIONS

Nil.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Memorandum of Understanding – Fingal Bay Surf Club Inc AND Port Stephens Council.

ITEM NO. 5

FILE NO: PSC2012-00457; T15-2012

**LEMON TREE PASSAGE MANGROVE BOARDWALK RECONSTRUCTION
T15-2012**

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

GROUP: **FACILITIES AND SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss the report namely **Lemon Tree Passage Mangrove Boardwalk Reconstruction T15-2012**.
 - 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 **Lemon Tree Passage Mangrove Boardwalk Reconstruction T15-2012**.
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
 - 5) Reject all Tenders.
 - 6) Enter into negotiation with Port Stephens Council's Building Trades to undertake the works.
-

ORDINARY COUNCIL MEETING – 24 JULY 2012

217	Councillor Steve Tucker Councillor Geoff Dingle
	It was resolved that Council: 1) Reject all Tenders. 2) Enter into negotiation with Port Stephens Council's Building Trades to undertake the works.

BACKGROUND

The purpose of this report is to seek Council's endorsement to reject all tenders received for the Mangrove Boardwalk at Lemon Tree Passage and enter into negotiation with the preferred tenderer being Port Stephens Council's Building Trades to construct boardwalk within the allocated budget.

The report is linked to Section 5.4 (Infrastructure) of the Community Strategic Plan and Council's Charter under the Local Government Act.

Initially the project was to repair the existing structure of the boardwalk through replacement of the bearers, joists and decking on the assumption that the foundation piers were suitable as per initial investigations. As such an \$80,000 Regional and Local Community Infrastructure Program (RLCIP) grant was successfully awarded to Port Stephens Council to complete the works.

In early 2011 expressions of interest were advertised for the replacement of the bearers, joists, and decking of the boardwalk. Nil respondents were received. Anecdotal evidence had suggested that the scope of works were limiting and repairing a structure without examining the foundations may cause problems on the decks.

On further investigation it was found that the foundation piers were not suitable and a full design/reconstruction of the boardwalk would be required. A full reconstruction required additional investigations to be undertaken and special attention to;

- protection of threatened species such as mangroves;
- harsh marine environment;
- meeting the safety standards of a boardwalk; and
- protection of potential aboriginal artefacts.

The full redesign and investigation reports to address these issues were completed and a new scope of works presented for tender.

Following the Council tender process eight (8) submissions were received (*summary listed below*):

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

- 1) Port Stephens Council Building Trades
- 2) SteelWorks Engineering Pty Ltd
- 3) Marijan Constructions Pty Ltd
- 4) Fleetwood Urban Pty Ltd
- 5) Designer Decks Pty Ltd
- 6) Corroseal Coatings Pty Ltd and Specialised Marine Services
- 7) Carfax Commercial Constructions Pty Ltd
- 8) B&K Revegetation

Of the 8 submissions only 2 complied with the design brief submitted with the tender advertisement. These were;

- 1) Port Stephens Council Building Trades
- 2) SteelWorks Engineering Pty Ltd

The winning tender through the Tender Value Selection Methodology is Port Stephens Council, though the asking price is greater than the allowable budget. Increasing the budget would not be possible at this point in time with other competing higher priority works programmed for 2012/2013 financial year.

So works are still undertaken on the ageing boardwalk and to utilise the \$80,000 grant, alternative options with project works were examined. Options such as, reducing the cost of the overall project through the removal of scheduled items from each submitting Tenderer. This exercise still found Port Stephens Council Building Trades as the preferred Tenderer through the Tender Value Selection Methodology.

FINANCIAL/RESOURCE IMPLICATIONS

Funding currently allocated to the project;

- \$66,500 Section 94 Funds
- \$80,000 RLCIP Grant
- \$43,000 repealed Section 94 funds from Tilligerry

Should the boardwalk not be reconstructed in the near future the existing boardwalk will continue to degrade until it is no longer structurally sound and become a danger to the public.

Given the time it has taken to complete the works the funding source RLCIP is requesting the works to commence within the next 3 months or they may recall the \$80,000 funding promised.

LEGAL, POLICY AND RISK IMPLICATIONS

The tendering process complied with Council's procurement guidelines and the Local Government (General) Regulations 2005 for procurement and the Local Government Act 1993.

All factors of the work have been considered and the risk of unforeseen variations is considered low. The variables that have been identified will be negotiated and finalised before Council commits to the move and the work is undertaken

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Environmental or anthological harm is done as a result of the construction process	High	Appropriate environmental, anthological and ecological assessments have taken place. Mitigation measures have been recommended and will be implemented on site. Fisheries Permits have also been acquired.	Yes
Community members not having ownership of the project	Low	Consultation with Lemon Tree Passage Parks and Reserves community group have taken place. The community wish to have a functioning boardwalk and are happy to see the existing one removed. Continued communication with groups is necessary until project completion. This will enable the group to feel a sense of ownership with the project. There support and assistance so far have been essential to the progression of the project.	Yes
Unforeseen variations in foundation works	Low	A contingency is allowed for in the budget and geotechnical investigations have already been examined.	Yes
The proposed negotiated works be more than the allocated budget.	Med	Reduce the scope of works or limit the length of works in any one financial year.	Yes
Council do not proceeded with the replacement of the boardwalk	High	Maintenance works will continue until the structure is to far beyond repair. Boardwalk is in need of repair now.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Lemon Tree Passage Community was informed in 2010 that Council would repair the asset. As such, this action would result in a significant reputation loss for Council also.

The existing boardwalk provides visual and pedestrian amenity to the residents and guests to the Tilligerry Peninsula and connects Koala Reserve to Nyrang Reserve.

Anecdotal evidence suggests the boardwalk is a tourist attraction. It is within a short walk of Lemon Tree Passage CBD with cafés, the Marina, and Council's public facilities, such as the boat ramp and associated infrastructure.

CONSULTATION

The Lemon Tree Passage mangrove boardwalk has been a well discussed topic between Council and the Lemon Tree Passage Parks and Reserves group. Additionally an article has appeared in the Port Stephens Examiner recently informing the public that council was to advertise for tender to upgrade the boardwalk.

OPTIONS

- 1) Adopt the recommendations.
- 2) Do nothing and allow the boardwalk to decay until it is no longer safe for public access.
- 3) Allocate additional funds to the project and award the tender Council's Building Trades.

ATTACHMENTS - listed below are provided under separate cover.

- 1) Lemon Tree Passage Mangrove Boardwalk Reconstruction – Value Selection Methodology

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: A2004-0028

NEWCASTLE AIRPORT CORPORATE RESTRUCTURE**REPORT OF: WAYNE WALLIS – GROUP MANAGER CORPORATE SERVICES****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) That the Shareholder councils (being Newcastle City Council and Port Stephens Council) implement the restructure of Newcastle Airport as outlined in Attachment 1 (the Restructure);
- 2) Authorise the General Manager of Port Stephens Council to enter into the documents set out in Attachment 2 on behalf of Port Stephens Council and do anything which in the opinion of the General Manager and with the concurrence of the Mayor, is necessary, expedient or desirable to give effect to the Restructure or any of the documents referred to in Attachment 2;
- 3) Grants authority to affix Council's seal where necessary to any of the documents referred to in Attachment 2; and
- 4) That the Shareholder councils and Newcastle Airport Ltd continue, as a matter of urgency, the negotiations regarding an extension of the Newcastle Airport Head Lease with the Department of Defence.

ORDINARY COUNCIL MEETING – 24 JULY 2012

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

BACKGROUND

The purpose of this report is to finalise the corporate restructure of Newcastle Airport.

At meetings held on 20 December 2010, Newcastle City Council and Port Stephens Council adopted recommendations of the Newcastle Airport Joint Council Sub Committee to progress the implementation of the corporate restructure of Newcastle Airport, based on a co-investment ready partnership structure.

Since that time, significant work has been undertaken to finalise the necessary operating and partnership agreements between Newcastle City Council, Port Stephens Council and Newcastle Airport Ltd, as well as to obtain approvals for the restructure from the Division of Local Government and the Department of Defence.

The benefits to Council of moving to the new corporate structure include:

- Newcastle Airport no longer relying on borrowings solely from the shareholder councils. Newcastle Airport would be free to borrow funds directly from banks which, over time, will reduce Council's outstanding debts;
- Newcastle Airport will be able to pay dividends to its shareholders. Financial modelling has indicated that an annual dividend of between 8% and 10% of Newcastle Airport's net asset value is sustainable. Factoring in projected growth and based on a 8% dividend and Council retaining its 50% shareholding, Port Stephens Council is forecast to receive some \$36M in Newcastle Airport dividends over the next 14 years;
- The new structure would also facilitate the introduction of third party equity into Newcastle Airport at some point in the future if the existing shareholder councils so desired;
- The new structure would also significantly simplify the accounting treatment of Newcastle Airport in Council's financial statements.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with the Restructure have to date been borne by Newcastle Airport and it is proposed that future costs will also be borne by Newcastle Airport.

Extensive cash flow modelling has been undertaken and the financial implications of the Restructure are quite positive with projected dividends to Council over the next 14 years of some \$36M and the removal of any future requirement for Council to borrow money for Newcastle Airport. This will see a reduction over time in Council's outstanding borrowings.

LEGAL, POLICY AND RISK IMPLICATIONS

Section 358 of the Local Government Act 1993 (NSW) states that 'A Council must not form or participate in the formation of a corporation or other entity, or acquire a controlling interest in a corporation or other entity, except ... with the consent of the Minister and subject to such conditions, if any, as the Minister may specify'.

The Shareholder councils applied to the Minister for Local Government for approval of the Restructure. On 21 June 2012, the Hon Don Page, Minister for Local Government, approved the application under section 358 to implement the Restructure.

Newcastle Airport Ltd has entered into an operating agreement with the Department of Defence which delineates the operational aspects of the airport between commercial activities and those of the Royal Australian Air Force.

The Shareholder councils hold a 40 year head lease with the Department of Defence over the airport which concludes on 31 March 2045. The Department of Defence by letter dated 28 June 2012 has indicated its 'in-principle' support to the Restructure subject to its review and approval of the final Restructure documents.

The Department of Defence is yet to finalise its concurrence to the granting of the concurrent lease between the Shareholder councils and the Newcastle Airport

Partnership. Accordingly, entry into the concurrent lease will be conditional upon concurrence being granted by the Department of Defence.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Restructure of Newcastle Airport	Medium	Formalise operating and partnership agreements. Obtain all necessary approvals. Revise governance arrangements for restructure. Ernst & Young stamp duty exemption opinion. ATO tax ruling obtained. Department of Defence concurrence to lease with partnership to be obtained. S358 approval from Minister for Local Government obtained. Newcastle Airport Ltd re-established as a limited liability company with exposure limited to \$100 share capital.	Yes – NAL funding external legal costs

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The growth of Newcastle Airport has resulted in a significant boost to the local economy. The Airport's recent economic analysis confirmed its role as one of the region's key economic and employment hubs, contributing \$633M annually to the Hunter economy and supporting an estimated 4,123 jobs. The proposed restructure would position the Airport to be able to capitalise on future opportunities for growth that would further build on its contribution to the Port Stephens and Hunter economy.

RESTRUCTURE DOCUMENTS

The documents required to implement the Restructure are referred to in Attachment 2.

Each document has been reviewed by Councils' respective legal adviser and is required to effect the Restructure. The Minister for Local Government has approved the Restructure and accordingly it is now recommended that the councils enter into each such document to effect the Restructure.

The Department of Defence is yet to finalise its concurrence to the granting of the concurrent lease between the Shareholder councils and the Newcastle Airport

Partnership. Accordingly, entry into the concurrent lease will be conditional upon concurrence being granted by the Department of Defence.

The following documents will be required to be entered into to effect the Restructure:

- 1) Incorporation Documents for the Newcastle Airport Partnership Companies
Partnership Company 1 (P₁Co), Partnership Company 2 (P₂Co), Partnership Company 3 (P₃Co) and Partnership Company 4 (P₄Co) will be incorporated. P₁Co and P₂Co will be wholly owned by Newcastle City Council (NCC). P₃Co and P₄Co will be wholly owned by Port Stephens Council (PSC). The four partnership companies will act as trustees for each respective Partnership Trust. P₂Co and P₄Co will be held by NCC and PSC ready for the introduction of third party investors.
- 2) Constitutions of the Newcastle Airport Partnership Companies
The constitutions of each of the Partnership Companies (P₁Co, P₂Co, P₃Co and P₄Co) will be relatively standard in form and will allow each such company to act as trustee of the respective Partnership Trust.
- 3) Trust Deeds of the Newcastle Airport Partnership Trusts
The trust deeds of each Partnership Trust (P₁T, P₂T, P₃T and P₄T) will establish the trust, appoint the relevant Partnership Company as trustee and issue units in the trust to the relevant Council.
- 4) Unit Subscription Deeds for the Newcastle Airport Partnership Trusts
The unit subscription deeds allow each Council to subscribe for units in the relevant Partnership Trust.
- 5) Partnership Deed between the Newcastle Airport Partnership Trusts
The Partnership Deed sets out the rules governing the relationship between each partner, how the partners make decisions with respect to Newcastle Airport and how partnership interests are calculated.
- 6) Deed of Assignment between Newcastle Airport Ltd (NAL) and NCC and PSC
This deed assigns certain dutiable assets from NAL to each Council in a stamp duty effective manner.
- 7) Deed of Assignment between NCC and PSC and the Newcastle Airport Partnership
This deed assigns those dutiable assets from the Councils to the Newcastle Airport Partnership in a stamp duty effective manner.

- 8) Deed of Agency and Trust between NAL and the Newcastle Airport Partnership
This deed appoints NAL to act as agent and trustee of the Newcastle Airport Partnership to deal with the assets of the Newcastle Airport Partnership in its role of operating the Newcastle Airport on behalf of the partnership.
- 9) Concurrent Lease between NCC and PSC and the Newcastle Airport Partnership
In this sublease, NCC and PSC grants to the Newcastle Airport Partnership an interest in the Real Estate Assets for the remaining term of the Head Lease with Department of Defence.
- 10) Change to Status of NAL
NAL currently exists as a company limited by guarantee. In order to ensure the tax effectiveness of the Restructure, the status of this company will be changed to a company limited by shares. This is not expected to increase any exposure to the Councils given the company's liability will be limited to \$100 share capital (previously this was limited to \$100 cash).

HEAD LEASE EXTENSION

The Shareholder councils are also continuing their negotiations with the Department of Defence to extend the existing Newcastle Airport Head Lease beyond 2045.

At the request of Port Stephens Council through the Parliamentary Secretary for Defence Support in 2010, the Department of Defence agreed to accept a business case for the purpose of negotiating an extension of the existing lease or a new lease with a longer term.

A lease term of 99 years is being sought to provide the required certainty for continued capital investment in the airport and to ensure that the benefits that flow to the community it serves are maintained.

CONSULTATION

- 1) Newcastle Airport Board and Management;
- 2) Newcastle Airport Joint Council Sub Committee;
- 3) Newcastle City Council management;
- 4) Ernst & Young;
- 5) Freehills Lawyers;
- 6) PricewaterhouseCoopers;
- 7) Harris Wheeler Lawyers;
- 8) Department of Defence;
- 9) Division of Local Government.

OPTIONS

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

ATTACHMENTS

- 1) A: Proposed Structure – Co-Investment Ready Partnership; B: Current Structure – Joint Venture Operation;
- 2) Transaction Documents – Restructure.

COUNCILLORS ROOM

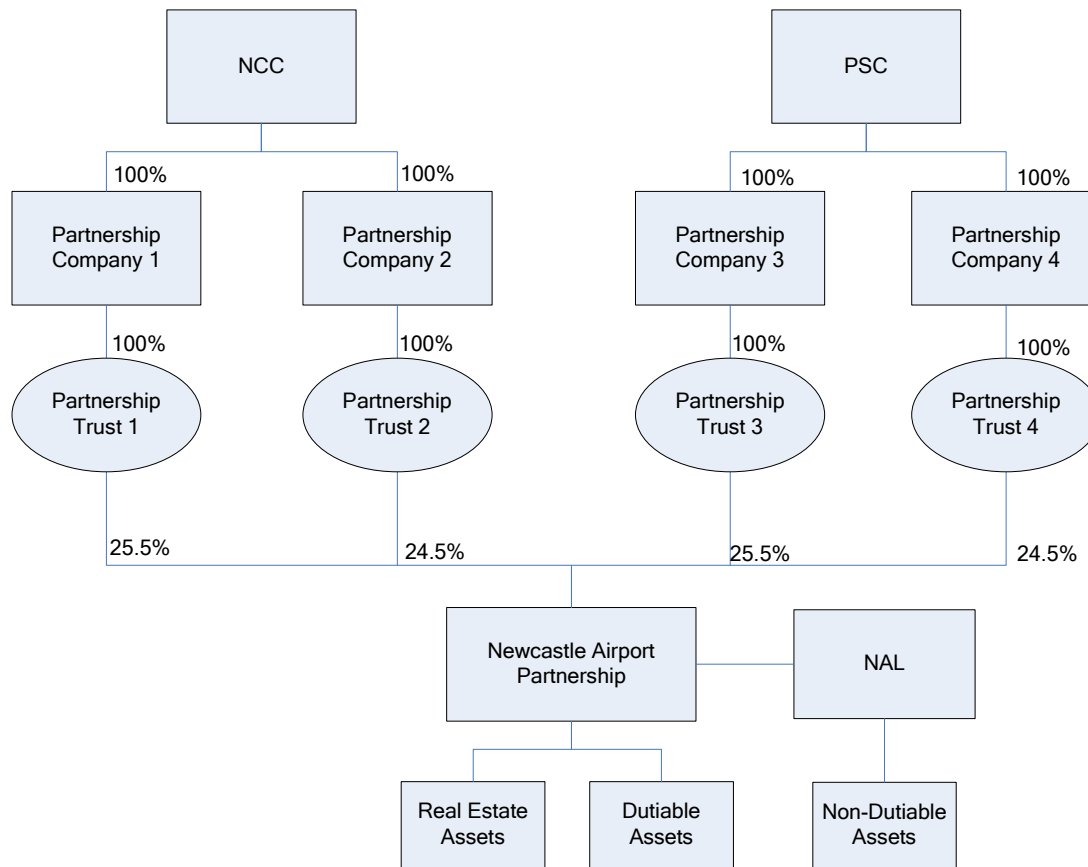
Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

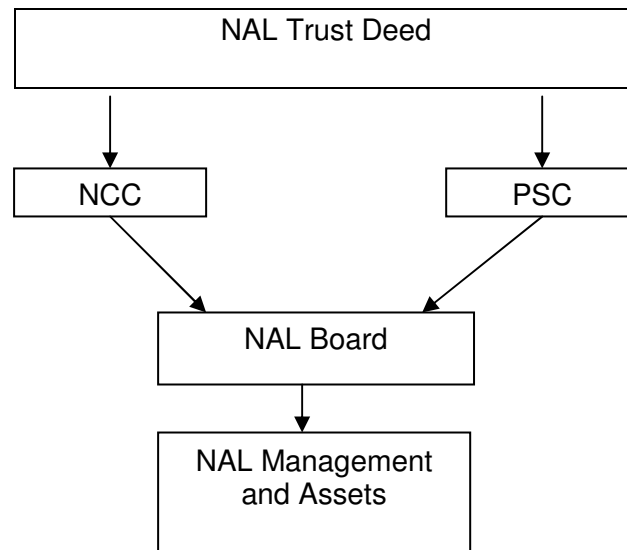
A: Co-investment Ready Partnership Structure



Notes:

- Partnership Trust 1 and Partnership Trust 3 are partnership trusts, which hold the Councils (Newcastle City Council and Port Stephens Council) 'enduring' interests in the Airport.
- Partnership Trust 2 and Partnership Trust 4 are Partnership Trusts, which are held by the Councils ready for the introduction of third party equity investors.
- Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4 each act as trustees of partnership trusts and will be wholly owned by the Councils.
- Structure maintains full ownership by Councils with facility for flexible and progressive introduction of new investors without tax leakage for Councils.
- Structure allows for effective introduction of external capital to Newcastle Airport without income tax cost for Councils.
- Structure allows for payment of dividends to the Councils (as unitholders).
- Exposure of Councils to legal liabilities of Newcastle Airport managed through use of limited liability company partners and partnership trusts.

B: Current Structure: Joint Venture Operation



ATTACHMENT 2

Transaction Documents – Restructure

- 1) Incorporation documents for Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 2) Constitutions of Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 3) Trust Deeds for Partnership Trust 1, Partnership Trust 2, Partnership Trust 3 and Partnership Trust 4 each acting as trustee for the respective partnership trusts.
- 4) Unit Subscription Deeds for Partnership Trust 1, Partnership Trust 2, Partnership Trust 3 and Partnership Trust 4.
- 5) Partnership Deed between Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 6) Deed of Assignment between Newcastle Airport Limited (NAL) and Newcastle City Council (NCC) and Port Stephens Council (PSC).
- 7) Deed of Assignment between PSC, NCC and Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 8) Deed of Agency and Trust between Partnership Company 1, Partnership Company 2, Partnership Company 3, Partnership Company 4 and NAL.
- 9) Concurrent Lease between PSC, NCC and Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 10) Change of Status for NAL from company limited by guarantee to company limited by shares.

ITEM NO. 7

FILE NO: PSC2010-00134

JOINT REGIONAL PLANNING PANELS – NOMINATIONS**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Nominate two (2) delegates and three (3) alternate delegates for membership on the Joint Regional Planning Panel.

ORDINARY COUNCIL MEETING – 24 JULY 2012

219	<p>Councillor John Nell Councillor Peter Kafer</p> <p>It was resolved that Councillors Westbury and Mackenzie be nominated as Council's delegates and Councillors Dover, Nell and Dingle be nominated as alternate delegates for the period outlined in the report.</p>
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BACKGROUND

The purpose of this report is to seek nominations from Council for membership to the Joint Regional Planning Panel (JRPP). The request has been received from the Minister for Planning & Infrastructure for Council to confirm its nominees.

Membership on the JRPP is for a period of three (3) years which expires at the end of July 2012. The membership of the JRPP consists of three (3) members appointed by the State Government and two (2) Council members.

Current delegates are Councillors Westbury and MacKenzie with alternate delegates being Councillors Dover, Nell and Dingle. Whilst Councillors Dover, Nell and Dingle have not reached the end of their term, Council is requested to reconfirm these nominations as well should the respective Councillors wish to continue as delegates.

The nominations will be effective from the end of July 2012 until the election of the new Council, at which time fresh nominations will be sought.

Council should note that the "caretaker" provisions which come into force from 8 August 2012, due to the Local Government election will not apply to matter before the JRPP.

FINANCIAL/RESOURCE IMPLICATIONS

There are no budgetary implications for Council from this recommendation.

LEGAL, POLICY AND RISK IMPLICATIONS

The Joint Regional Planning Panel is established under the Environmental Planning & Assessment Act 1979. Delegates are governed by the Act and the Code of Conduct for Joint Regional Planning Panels.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is minimal risk associated with this recommendation. Delegates are required to act in accordance with the Act and the Code of Conduct for Joint Regional Planning Panels	Low	That delegates clearly understand their obligations as Council delegates	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Community ultimately will benefit from Council representation on the JRPP. The membership provides the Panel with local knowledge and expertise of the area, together with many years of experience from the elected Councillors.

CONSULTATION

- 1) General Manager

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 8**FILE NO: PSC2011-00718****PROMOTING BETTER PRACTICE REVIEW****REPORT OF: PETER GESLING – GENERAL MANAGER****GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Receive and note the Promoting Better Practice Review – Action Plan.

ORDINARY COUNCIL MEETING – 24 JULY 2012

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

BACKGROUND

The purpose of this report is to provide Council with the progress on the Action Plan associated with the Promoting Better Practice Review.

Council will recall that the Division of Local Government (DLG) conducted a Promoting Better Practice Review in February 2011. The Review included a number of interviews including the Mayor, Councillors, the General Manager and staff. It also included the review of a number of operational aspects of Council.

The final Report was tabled at the December 2011 Ordinary Council meeting which included 36 Recommendations.

The Chief Executive Local Government of the DLG requested that Council provide the DLG with a progress report on the implementation of the Action Plan within six months of it being tabled at Council. Given a number of the Recommendations were due by 30 June 2012 an extension was sought to the end of July 2012. This extension was granted by the DLG.

Of the 36 Recommendations, the following is a status report on the progress.

Total completed &/or ongoing	- 22
Partially completed	- 3
In progress	- 6
For action with new Council	- 5

The Action Plan will now be provided to the DLG.

FINANCIAL/RESOURCE IMPLICATIONS

All financial and resource implications have been provided for within existing budgets to date.

LEGAL, POLICY AND RISK IMPLICATIONS

Council has an obligation to respond to the Recommendations made in the Promoting Better Practice Review.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Further action may be taken by the DLG should Council not respond to the Recommendations	Medium	All operational matters raised from the Review have either been completed or are in progress at different levels. A number of matters relate to the elected Council which a response has been sought and provided in the Action Plan	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A number of the Recommendations in the Report have implications for Council and the community. An active response to these matters will provide improved governance and contribute to sustainability of Council.

CONSULTATION

- 1) Councillors;
- 2) General Manager;
- 3) Executive Team.

OPTIONS

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

ATTACHMENTS

- 1) Promoting Better Practice Review – Action Plan.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

PART 1: ACTION PLAN

The Action Plan is to be completed and adopted by Council to guide the implementation and monitoring of the recommendations in this report. The reviewers have allocated notional priority rankings using the risk rating analysis in the previous section. Council is encouraged to review and revise these, if necessary.

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
1 <i>Council should ensure that the organisation restructure aligns with Council's strategic direction.</i>	H	Council's structure aligns with the Integrated Strategic Plan. This will adjust overtime in response to the Council's ongoing continuous improvement program and the current service delivery review.	Ongoing	General Manager	<p>The Sustainable Planning Group was restructured (effective 8 Nov 2010) and this aligns with the Integrated Strategic Plan and integrates with the policy preparation and implementation in one section and assessment and compliance in another section.</p> <p>Council further restructured the organisation in February 2012 following the resignation of a Group Manager. This further aligned the structure with the strategic direction.</p> <p>Completed.</p>

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RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>2 <i>Council should engage a person with the relevant qualifications to facilitate a process whereby councillors can reconcile their differences and develop agreement on how they will work together.</i></p>	<p><i>H</i></p>	<p>Some Councillors are of the belief that individual differences are part of the political process and do not see the need to engage a facilitator. That the matter be conducted in the next term of Council.</p>	<p>2012-13</p>	<p>Mayor, Councillors and General Manager.</p>	<p>Council have further considered Recommendation 2 and believe that councillor behaviour has improved since the drafting of this report and that training is not justified before the 2012 Local Government elections.</p>
<p>3 <i>Council should review its Payment of Expenses and Provision of Facilities to Councillors Policy to ensure the Policy is consistent with the Division's Guidelines.</i></p>	<p><i>M</i></p>	<p>The annual review of this policy is currently underway with consultation with the Councillors. The review will be conducted within the legislative timeframe.</p>	<p>30/11/2011</p>	<p>Executive Officer</p>	<p>Adopted by Council on 18.10.11. Completed.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>4 <i>Council should review its Complaints Handling Policy to:</i></p> <ul style="list-style-type: none"> • <i>provide timeframes for handling of complaints,</i> • <i>ensure that the language used is consistent with the NSW Ombudsman's Guidelines on 'Managing Unreasonable Complainant Conduct', and</i> • <i>develop a procedure for managing unreasonable complainant conduct.</i> 	<p><i>M</i></p>	<p>In reviewing the policy in 2010 a deployment flowchart was produced for use by staff responsible for this function. The flowchart provides timeframes to respond to complaints and a procedure for managing unreasonable complainant conduct as referred to in 4a and 4c.</p> <p>Council will conduct a review of the policy with respect to 4b. Also the deployment flowchart will be added to the policy as supporting information for the community.</p>	<p>30/11/2011</p> <p>Revised timeframe 2012/13.</p>	<p>Executive Officer</p>	<p>Item 4a and 4c are complete.</p> <p>Item 4b is currently being reviewed and will be presented to the new Council.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
5 <i>Council should consider providing regular reports to the community on its complaints statistics.</i>	M	Council will review the reporting of complaints with a view to including statistics in the quarter report which is available to the community.	February 2012	Corporate Services Group Manager	This is reported to Council in the six monthly report, which replaces the previous quarterly reports.
6 <i>Council should review its delegations to ensure they are up to date, appropriate and accurate.</i>	M	<p>Prior to the DLG's review Council had commenced a comprehensive review of all delegations. This review is ongoing.</p> <p>As part of the review Council will address the issues raised in the report in respect to particular delegations.</p>	<p>Ongoing</p> <p>30/09/2011</p>	Executive Officer	<p>Completed and Ongoing.</p> <p>Mayor and General Manager's delegations were reviewed and adopted by Council on 23.8.11.</p> <p>Completed.</p>
7 <i>Council should include an audit of the exercise of delegations in its internal audit program.</i>	H	This will be included in the 2012/13 Audit program.	2012/13	Executive Officer	Listed in the 2012/13 Audit program.

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>8 <i>Council should adopt the disclosure of interests form of return required under the Local Government (General) Regulation 2005.</i></p>	<p><i>H</i></p>	<p>Council has updated the disclosure of interest form required under the Local Government (General) Regulation 2005, which was downloaded from the DLG's website.</p>	<p>29/07/2011</p>	<p>Executive Officer</p>	<p>Completed.</p>
<p>9 <i>Council should submit the councillor return of interest forms for the 2010/2011 period to the Division following their completion.</i></p>	<p><i>H</i></p>	<p>Council will submit the completed councillor returns for the period 2010/11 as requested in Item 9. This will be completed once the returns have been lodged. The legislative deadline is 30 September 2011.</p>	<p>30/10/2011</p>	<p>Executive Officer</p>	<p>Completed 14.11.11.</p>
<p>10 <i>Council should provide training for staff on tendering processes, assessment and reporting.</i></p>	<p><i>H</i></p>	<p>Council's new Procurement & Contracts Coordinator has commenced one-on-one training with all staff initiating tenders at Council</p>	<p>Completed but Ongoing</p>	<p>Corporate Services Group Manager</p>	<p>Completed and ongoing.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>11 <i>Council should undertake an internal audit of its tendering practices as a priority.</i></p>	<p>H</p>	<p>Council's internal auditors conducted an initial review of the purchasing and procurement system in July 2011, with a detailed audit scheduled for completion in January/February 2012</p>	<p>May 2012</p>	<p>Audit Committee</p>	<p>Internal Audit report presented to Internal Audit Committee on 24 May 2012.</p> <p>Completed.</p>
<p>12 <i>Council should ensure that all its requests for tender documents indicate the criteria to be used to make an assessment of the tender and any weightings to be applied.</i></p>	<p>H</p>	<p>Council is currently reviewing its Procurement Policy and Processes to ensure this requirement is clearly documented. It is also a focus of the training program identified in Recommendation 10</p>	<p>30/06/2012</p>	<p>Corporate Services Group Manager</p>	<p>Council now uses Tenderlink for all tenders.</p> <p>Completed.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>13 <i>Council should ensure that all reports on tenders provide detail on the assessment criteria used to make a determination on the tender, including any weightings, report against these criteria and the processes underlying any recommendation.</i></p>	<p><i>H</i></p>	<p>This is already identified in Council's current Procurement Policy and Process however this will be reviewed to determine whether improvements can be made and is a focus of the training program identified in Recommendation 10</p>	<p>30/06/2012</p>	<p>Corporate Services Group Manager</p>	<p>Completed and ongoing.</p>
<p>14 <i>Council should implement an electronic document management system for its procurement, tendering and contract management activities.</i></p>	<p><i>M</i></p>	<p>This recommendation has already been implemented</p>	<p>Completed but Ongoing</p>	<p>Corporate Services Group Manager</p>	<p>Completed</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>15 <i>Council should review its code of meeting practice to:</i></p> <ul style="list-style-type: none"> a. <i>ensure it is consistent with the requirements of the Act and Regulation,</i> b. <i>clarify pecuniary and non-pecuniary conflict of interests information,</i> c. <i>ensure that the summary sheet provides accurate information.</i> 	M	<p>Council will undertake a review of the code of meeting practice to address the issues raised and also include a general review as well following consideration of the Council meeting cycles in September 2011.</p>	30/10/2011	Executive Officer	<p>Completed and adopted by Council on 28.2.12.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>16 <i>Council should examine the meeting practices of other councils with a view to reviewing the efficiency and effectiveness of its own practices.</i></p>	<p><i>H</i></p>	<p>Council will review its meeting practices in September 2011 when conducting a review of its meeting cycles which is conducted annually.</p>	<p>30/09/2011</p>	<p>Executive Officer</p>	<p>Completed.</p>
		<p>Review of other Councils' meeting practices.</p>	<p>30/03/2012</p>		<p>Completed.</p>
		<p>Council's website has been updated to reflect the role of the Council Committee as outlined in the report.</p>	<p>3/8/2011</p>		<p>Completed.</p>
		<p>Council has addressed the matter raised concerning the use of Mayoral Minutes. Mayoral Minutes are now lodged with Council in line with DLG Practice Note No. 16.</p>	<p>Late 2010</p>		<p>Completed.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>17 <i>Councillors should undertake further training on meeting procedures and the conduct required for effective meetings.</i></p>	H	<p>Some Councillors have completed training in relation to recommendation 17 and do not believe there is a need for further training.</p> <p>That this training be provided for the next term of Council.</p>	2012-13	Mayor & Councillors	<p>Council have further considered Recommendation 17 and believe that meeting effectiveness has improved since the drafting of this report and that training is not justified before the 2012 Local Government elections</p>
<p>18 <i>Council should organise a further councillor information session with specific reference to the code of conduct and the management of conflict of interests.</i></p>	H	<p>Training was conducted in 2008 and 2010 and some Councillors believe there is no need for further training.</p> <p>That further training be provided for the next term of Council.</p>	2012-13	Mayor & Councillors	<p>Council have further considered Recommendation 18 and believe no further training is required at this time.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>19 <i>Council should report quarterly to the Division of Local Government, until August 2012, on the status of code of conduct complaints relating to Port Stephens councillors.</i></p>	<p>H</p>	<p>Council will provide the DLG with reports on a quarterly basis in relation Councillors.</p>	<p>Nov 2011 Feb 2012 May 2012 Aug 2012</p>	<p>Executive Officer</p>	<p>Final PBP report adopted on 13 December 2011. November 2011 timeframe therefore reported after that date on 4 January 2012, 29 February 2012, 1 June 2012.</p> <p>The next report due August 2012.</p>
<p>20 <i>Council should be provided with a report regarding code of conduct complaints relating to councillors on a quarterly basis rather than annually for the next twelve months after the release of this report.</i></p>	<p>H</p>	<p>Council will be provided with quarterly reports relating to Councillor code of conduct complaints following the release of this report. At the conclusion of the investigation.</p>	<p>To be confirmed following release of report.</p> <p>March 2012 June 2012 Sept 2012 Dec 2012</p>	<p>Executive Officer</p>	<p>Quarterly report have been provided to Council as follows; 27 March 2012, 26 June 2012.</p> <p>Next report is due in September 2012.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>21 <i>Council should implement an electronic document management system for its development application activities.</i></p>	<p>M</p>	<p>This has been substantially reviewed but has been constrained by limited resources to implement. Recommendations in the Internal Auditors Report and the review of the NSW Legislation reinforces the need to revisit this and lead to a submission for higher priority in the Organisation.</p>	<p>TBA</p>	<p>Development Services Group Manager</p>	<p>In progress.</p>
<p>22 <i>Council should consider implementing a system for the electronic lodgement of development applications.</i></p>	<p>M</p>	<p>The electronic lodgement of development applications is an integral part of the electronic document management system for development applications as explained above.</p>	<p>TBA</p>	<p>Development Services Group Manager</p>	<p>In progress.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>23 <i>Council should develop a policy relating to the call up of development applications.</i></p>	<p><i>H</i></p>	<p>A policy review for the 'calling up' of development applications is underway. The previous recommendation to Council was for two Councillors to have to sign off the call up of a DA with explicit reasons. Council resolved, as part of Code of Meeting Practice, to only require one Councillor to trigger a 'call up'.</p>	<p>TBA</p>	<p>Development Services Group Manager</p>	<p>Currently be considered.</p>
<p>24 <i>Councillors must complete the call up form for development applications and provide all the required information until the policy relating to this is adopted.</i></p>	<p><i>H</i></p>	<p>This is now implemented – albeit Councillors probably need to enhance the stated reasons for calling up a DA.</p>	<p>Completed and ongoing until policy is adopted.</p>	<p>Development Services Group Manager</p>	<p>Completed and ongoing.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>25 <i>Council should develop a program for the regular and ongoing review of its planning and development policies.</i></p>	<p>H</p>	<p>There has been a clear program for the work programming and ongoing review of planning and development policies for well over 2 years. This has been enhanced with the appointment of the new Manager in November 2010.</p>	<p>Ongoing</p>	<p>Development Services Group Manager</p>	<p>Ongoing.</p>
<p>26 <i>Council should update its Long Term Financial Plan and review this on an annual basis.</i></p>	<p>H</p>	<p>Council's Long Term Financial Plan (LTFP) was in the midst of review during the Promoting Better Practice visit and has subsequently been publicly exhibited and adopted by Council. The LTFP will also be reviewed on an annual basis in accordance with Council's Integrated Planning & Reporting process</p>	<p>Completed but Ongoing</p>	<p>Corporate Services Group Manager</p>	<p>Completed and ongoing.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>27 <i>Council should ensure that linkages exist between the Asset Management Strategy and the Long Term Financial Plan for a minimum timeframe of 10 years.</i></p>	<p><i>H</i></p>	<p>Council's recently exhibited and adopted Asset Management Strategy and Long Term Financial Plan have strong linkages which will be reviewed and updated on an annual basis in accordance with Council's Integrated Planning & Reporting process</p>	<p>Completed but Ongoing</p>	<p>Executive Leadership Team</p>	<p>Completed and ongoing.</p>
<p>28 <i>Council should complete and provide to councillors a quarterly statement that specifies its cash position and reconciliation with cash reserves and investments.</i></p>	<p><i>H</i></p>	<p>Council will commence quarterly reporting in accordance with the new Quarterly Budget Review Statement Guidelines from the 1st quarter of the 2011/12 financial year.</p>	<p>30/11/2011</p>	<p>Corporate Services Group Manager</p>	<p>Completed and ongoing.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>29 <i>The total and restricted amount of assets (the use of which is restricted by regulation or other externally imposed requirements) must be disclosed on a quarterly basis together with details of the nature, extent and movement of the external restrictions.</i></p>	<p><i>H</i></p>	<p>Council has historically reported information regarding restricted assets as part of the quarterly budget review. This information will now be reported in accordance with the new Quarterly Budget Review Statement Guidelines from the 1st quarter of the 2011/12 financial year.</p>	<p>30/11/2011</p>	<p>Corporate Services Group Manager</p>	<p>Completed and ongoing.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>30 <i>Council should provide separate financial reporting on the Newcastle Airport.</i></p>	<p><i>H</i></p>	<p>Council currently provides separate reporting on the Newcastle Airport in accordance with Australian Accounting Standards and the Local Government Code of Accounting Practice and Financial Reporting via Note 19 of the Financial Statements as well as Council's Special Purpose Financial Reports. Consideration of financial reporting of Newcastle Airport for Port Stephens and Newcastle City Councils is a component of the current review of Newcastle Airport's corporate structure</p>	<p>30/06/2012</p>	<p>Corporate Services Group Manager</p>	<p>Review is in progress.</p> <p>Division of Local Government recently endorsed the proposed restructure of the Newcastle Airport.</p> <p>This new arrangement will be developed to comply with legislation and governance practices.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>31 <i>Council should, as a priority, review its Investment Policy.</i></p>	<p><i>H</i></p>	<p>Council agrees that whilst a Property Investment & Development Policy and a Cash Investment Policy have been in place for many years there would be value in an overarching Investment Policy that incorporated all asset classes</p>	<p>30/06/2012</p>	<p>Corporate Services Group Manager</p>	<p>Completed with policy adopted by Council on 27 March 2012.</p>
<p>32 <i>Council should develop a stand alone policy on borrowing/use of loans.</i></p>	<p><i>H</i></p>	<p>Council agrees that whilst its long term borrowing strategy is included in the Long Term Financial Plan there would be benefits of having a stand-alone policy on borrowing/use of loans. Development of this policy had already been identified in the Financial Services work program for the 2011/12 financial year</p>	<p>30/06/2012</p>	<p>Corporate Services Group Manager</p>	<p>In progress.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>33 <i>Council should update, and where appropriate develop, business plans for all of its business activities.</i></p>	<p><i>M</i></p>	<p>The update and, where appropriate, development of business plans for Council's business activities is a component of the current Sustainability Review</p>	<p>31/12/2012</p>	<p>Corporate Services Group Manager/Facilities & Services Group Manager</p>	<p>Completed and ongoing.</p>
<p>34 <i>Council should either remove or significantly limit the allocation of ward funds.</i></p>	<p><i>H</i></p>			<p>Mayor & Councillors</p>	<p>Council considered this Recommendation 34 and believe that the current funding available is managed and distributed in an appropriate manner. The funds are distributed through consultation with the whole elected body, through the Integrated Planning framework.</p> <p>Council believes that this should continue.</p>

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p>35 <i>Council should review its ward funding policy so that it is integrated into its strategic planning.</i></p>	<p>H</p>			<p>Mayor & Councillors</p>	<p>Council considered this Recommendation 35 and believe that the current funding available is managed and distributed in an appropriate manner. The funds are distributed through consultation with the whole elected body, through the Integrated Planning framework.</p> <p>Council believes that this should continue.</p>
<p>36 <i>Council should work on closely linking its Workforce Strategy with the development and review of the Long Term Financial Plan and Asset Management Strategy.</i></p>	<p>H</p>	<p>Council's recently exhibited and adopted Workforce Strategy, Asset Management Strategy and Long Term Financial Plan have strong linkages which will be reviewed and updated on an annual basis in accordance with Council's Integrated Planning & Reporting process</p>	<p>Completed but Ongoing</p>	<p>Executive Leadership Team</p>	<p>Completed and ongoing.</p>

ITEM NO. 9

FILE NO: PSC2005-3572

355(C) COMMITTEES ANNUAL FINANCIAL STATEMENTS

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

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive the 355(c) Committees Annual Financial Statement for the period 1 January 2011 to 31 December 2011 consisting of annual financial returns which have been received from committees as at 11 July 2012;
- 2) That the annual \$1,000 subsidy be paid to eligible committees listed in this Statement;
- 3) That the remaining two committees with outstanding Annual Financial Returns be subject to a further report on receipt of their annual returns for the period 1 January 2011 to 31 December 2011;
- 4) That a further report be prepared for Council containing the complete 355(c) Committees Annual Statement for the period 1 January 2011 to 31 December 2011;
- 5) That a review of 355(c) committee funds and annual subsidies be included in the Volunteer Sustainability Review.

ORDINARY COUNCIL MEETING – 24 JULY 2012

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

BACKGROUND

The purpose of this report is to recommend to Council the receipt of the 355(c) Committees Annual Financial Statement for 2011 allowing \$1,000 subsidies to be paid to eligible committees.

Two committees, Fern Bay Hall Committee and Tomaree Education Multi Purpose Centre Committee have not submitted their annual financial returns within the timeframe to be included in the 355(c) Committees Annual Financial Statement for the period 1 January 2011 to 31 December 2011.

When these returns are received an amended 355(c) Committees Annual Financial Statement for the period 1 January 2011 to 31 December 2011 will be prepared for Council.

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

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

The 355(c) Committees Annual Financial Statement for the period 1 January 2011 to 31 December 2011 (TABLED DOCUMENT) (ATTACHMENT 1) is a summary of committee annual financial returns received by 10 July 2012.

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

FINANCIAL/RESOURCE IMPLICATIONS

The total amount of funds held by committees at 30 December 2011 was \$777,282.21.

Out of this total amount:

Eleven committees hold more than \$20,000 each and a total of \$498,786.87 (64.17% of total).

The remaining 45 committees hold less than \$20,000 each and a total of \$278,495.34 (35.83% of total).

There has been an increase of \$108,764.25 in total funds held between December 2010 and December 2011.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

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

Funds administered by 355(c) committees must meet Council's standards of compliance, management and transparency and committees are required to

comply with standard record keeping practices, including submission of reports by due dates.

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

The system was developed in line with recommendations/requirements of Council's auditors to provide a uniform format and transparent auditing of committee financial transactions, which meet the requirements for accountability and GST reporting. The system provides committees with a simplified financial process and staff support through the Facilities & Services Finance Co-ordinator.

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Non compliance by volunteers with Council requirements for a 355(c) committee with potential legal, financial and reputation risk	High	<ul style="list-style-type: none"> • Requirements documented in committee constitution, Volunteer Strategy, 355(c) Committee information Handbook. • Code of Conduct training prior to commencing duties. • 355(c) committees use a cash book style financial record keeping system. • The system provides committees with a simplified financial process and staff support through the Facilities & Services Finance Co-ordinator. • The Cash Book System provides a process that minimises risk to both Council and committees 	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

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

Committee activities operate under direction from Council staff to ensure their activities are preformed in accordance with recognised practices that may provide long term benefits to the environment. The focus of committees is on achievable and sustainable projects.

CONSULTATION

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

OPTIONS

- 1) Accept the recommendations;
- 2) Amend/reject the recommendations.

ATTACHMENTS

- 1) Summary of Funds held by 355(c) Committees as at 11 July 2012.

COUNCILLORS ROOM

- 1) 355(c) Committees Annual Financial Statement Spreadsheet for 2011.

TABLED DOCUMENTS

- 1) 355(c) Committees Annual Financial Statement Spreadsheet for 2011.

ATTACHMENT 1

Summary of Funds held by 355(c) Committees

355(c) Committee	Opening Balance incl Investments 1/1/2011	Closing Balance incl Investments 31/12/2011
Anna Bay , Birubi Point Reserves, Hall and Tidy Town Committee	4,161.49	4,488.16
Boat Harbour Parks & Reserves Committee	7,443.90	7,962.54
Bobs Farm Public Hall Committee	7,348.68	6,173.50
Corlette Headland Committee	4,193.27	3,442.57
Corlette Reserves & Hall 355(b) Committee	8,333.45	7,988.27
*Fern Bay Public Hall, Reserves and Tidy Towns Committee	5,934.29	5,717.91
Fingal Bay Parks & Reserves Committee	2,471.47	2,860.38
Hinton School of Arts Committee	13,304.44	16,289.88
Karuah Community Centre Committee	-	15,001.01
Karuah Tidy Towns / Parks / Reserves and Wetlands Committee	8,545.93	6,203.93
LTP Parks & Reserves Committee	6,459.14	2,712.38
Mallabula Community Centre Committee	11,389.59	16,864.54
Mallabula Parks & Reserves Committee	5,165.62	5,729.75
Mambo Wanda Wetlands, Reserves & Landcare 355(b) Committee	4,185.75	6,609.07
Medowie Community Centre Committee	19,641.04	29,091.26
Medowie Sports Council	61,110.93	75,595.19
Medowie Tidy Town & Cycleway Committee	3,955.97	3,133.45
Nelson Bay Senior Citizens Hall Committee	22,290.19	27,251.58
Nelson Bay West Parkcare Committee	4,236.72	5,661.44
Ngioka Centre Committee	50,608.16	39,876.10
Port Stephens Adult Choir Committee	4,279.45	7,231.28
Port Stephens Community Bands Committee	5,940.16	6,225.53
Port Stephens Native Flora Garden Committee	667.86	678.89
Port Stephens Sister Cities Committee	24,817.99	22,564.30
Raymond Terrace Parks, Reserves & Tidy Towns Committee	13,156.65	14,400.25
Raymond Terrace Senior Citizens Hall Management Committee	60,051.04	54,867.29
Raymond Terrace Sports Council	17,820.45	31,154.54
Rural West Sports Council	16,009.47	13,588.59
Salamander Ecology Group	1,883.83	Committee Closed
Salt Ash Community Hall, Reserves and Tennis Courts Committee	7,548.52	5,656.91
Salt Ash Sports Ground Committee	40,016.65	50,994.47
Seaham Park and Wetlands Committee	7,100.80	5,896.32
Seaham School of Arts and Community Hall Committee	2,737.85	5,842.60
Shoal Bay Beach Preservation Committee	12,800.21	11,784.97
Soldiers Point - Salamander Bay Parks, Reserves and Hall Committee	10,906.28	Committee Closed
Soldiers Point / Salamander Bay Tidy Towns	3,423.98	3,393.57

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

355(c) Committee	Opening Balance incl Investments 1/1/2011	Closing Balance incl Investments 31/12/2011
and Landcare Committee		
Tanilba Bay Parks, Reserves and Hall Committee	6,855.74	8,657.54
Taylors Beach Reserves, Tidy Town and Landcare Committee	10,327.64	11,299.21
*Tomaree Education Complex Multi-Purpose Centre Committee	18,722.94	21,864.24
Tilligerry Aquatic Centre Advisory Committee	16,115.90	17,990.76
Lemon Tree Passage Old School Centre (was Tilligerry Community Centre Committee)	21,087.79	18,980.90
Tilligerry Sports Council	16,395.30	26,404.72
Tomaree Sports Council	77,714.98	119,123.18
West Tilligerry Tidy Towns and Landcare Committee	4,580.01	9,508.93
West Ward Cemeteries Committee	1,677.28	2,677.44
WW-subcommittee Karuah Columbarium	5,662.64	6,063.29
Williamstown Public Hall Committee	9,436.52	11,779.58
TOTALS	\$668,517.96	\$777,282.21

* Not full annual financial return information

ITEM NO. 10

FILE NO: 1190-001

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a) Rapid Response – Cr Jordan - Seaham Scouts – Donation to cover costs of morning tea for the Anzac Day Service at Seaham - \$500.00.
 - b) Rapid Response – Cr Jordan – Hinton Football Club – Donation towards plastic chairs - \$500.00.
 - c) Rapid Response – Cr Mackenzie – Medowie Football Club – Donation towards equipment, uniform and line marking - \$500.00.
 - d) Rapid Response – Cr MacKenzie – Tanilba Bay Scouts – Donation towards extra tiling in the toilets - \$500.00
 - e) Rapid Response – Cr Francis – Karuah Working Together – Donation towards purchasing a ramp - \$100.00

ORDINARY COUNCIL MEETING – 24 JULY 2012

222	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>
	<p>It was resolved that the recommendation be adopted.</p>

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:

5. Mayoral Funds
6. Rapid Response
7. Community Financial Assistance Grants – (bi-annually)
8. Community Capacity Building.

MINUTES FOR ORDINARY MEETING - 24 JULY 2012

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

SEAHAM SCOUTS	DONATION TO COVER COSTS OF MORNING TEA FOR THE ANZAC DAY SERVICE AT SEAHAM	\$500.00
HINTON FOOTBALL CLUB	DONATION TOWARDS PLASTIC CHAIRS.	\$500.00
KARUAH WORKING TOGETHER	DONATION TOWARDS PURCHASING A RAMP.	\$100.00

CENTRAL WARD – Councillors Mackenzie, O'Brien, Tucker, Dingle

MEDOWIE FOOTBALL CLUB	DONATION TOWARDS EQUIPMENT, UNIFORM AND LINE MARKING	\$500.00
TANILBA BAY SCOUTS	DONATION TOWARDS EXTRA TILING IN THE TOILETS	\$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

- 4) Mayor;
- 5) Councillors.
- 6) 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. 11

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 24 July 2012.

No:	Report Title	Page:
1	CASH AND INVESTMENTS HELD AT 30 JUNE 2012	
2	CONFERENCE REPORT NSW EMERGENCY MANAGEMENT CONFERENCE 7 JUNE 2012	
3	2012 MOUNT BAKER SKI-TO-SEA MARATHON, BELLINGHAM, USA	
4	PETITION OBJECTING TO THE FORESHORE MARKETS APPLICATION RUNNING ON THE SAME DAY AS EXISTING TOMAREE AND LEGACY MARKETS	

ORDINARY COUNCIL MEETING – 24 JULY 2012

223	Councillor Steve Tucker Councillor Sally Dover
	It was resolved that the recommendation be adopted.

The Mayor vacated the Chair at 8.10pm and left the meeting. The Deputy Mayor Chaired the meeting from 8.10pm until the Mayor resumed at 8.13pm.

GENERAL MANAGERS INFORMATION PAPERS



INFORMATION ITEM NO. 1

CASH AND INVESTMENTS HELD AT 30 JUNE 2012

REPORT OF: TIM HAZELL – FINANCIAL SERVICES MANAGER
GROUP: CORPORATE SERVICES

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 30 June 2012.

ATTACHMENTS

- 1) Cash and investments held at 30 June 2012;
- 2) Monthly cash and investments balance June 2011 – June 2012;
- 3) Monthly Australian term deposit index June 2011 – June 2012.

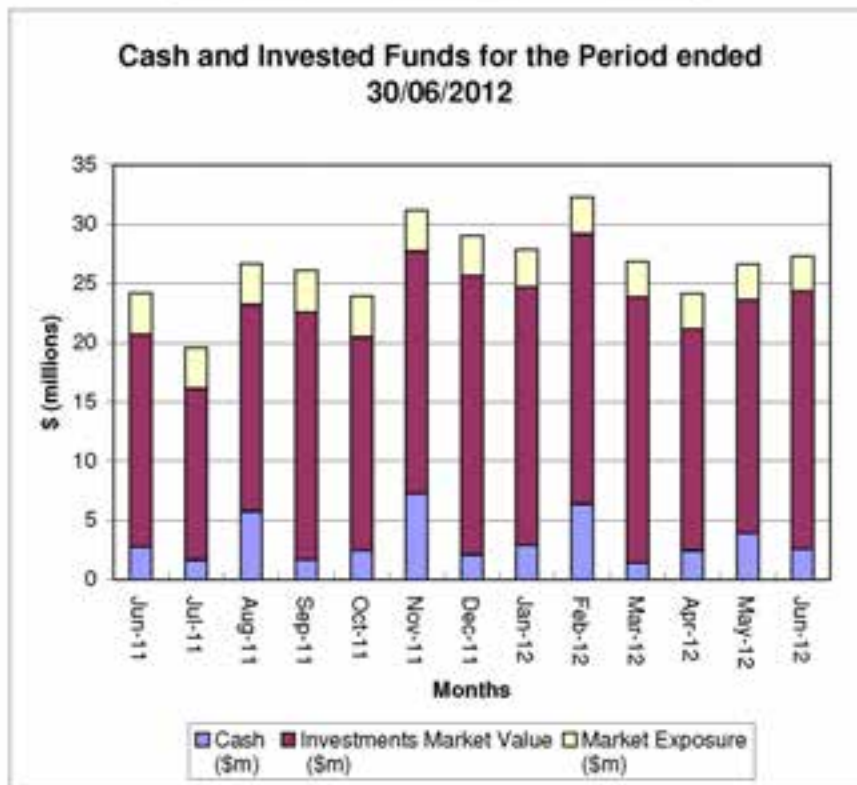
ATTACHMENT 1

CASH AND INVESTMENTS HELD AS AT 30 JUNE 2012								
ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
THE ROCK BUILDING SOCIETY LTD	CURVE	A3/BBB	TD	5.88%	120	4-Jul-12	1,000,000	1,000,000
MYSTATE FINANCIAL LTD	FARQUHARSON	A2/BBB	TD	5.77%	120	11-Jul-12	1,000,000	1,000,000
BEIRUT HELLENIC BANK LTD	N/A	N/R	TD	6.00%	90	11-Jul-12	250,000	250,000
SUNCORP METWAY	RIM	A1	TD	5.82%	120	17-Jul-12	1,000,000	1,000,000
BANK OF QUEENSLAND	FARQUHARSON	A2/BBB	TD	5.80%	120	20-Jul-12	1,000,000	1,000,000
B & E LTD	CURVE	N/R	TD	5.80%	90	23-Jul-12	1,000,000	1,000,000
POLICE CREDIT UNION LTD	RIM	N/R	TD	5.45%	90	6-Aug-12	1,000,000	1,000,000
POLICE CREDIT UNION LTD	FARQUHARSON	N/R	TD	5.80%	120	10-Aug-12	1,000,000	1,000,000
BANK OF CYPRUS AUSTRALIA LTD	CURVE	N/R	TD	5.55%	91	13-Aug-12	1,000,000	1,000,000
BANK OF CYPRUS AUSTRALIA LTD	CURVE	N/R	TD	5.55%	90	13-Aug-12	1,000,000	1,000,000
SUNCORP METWAY	FIG	A1/A+	TD	5.40%	120	11-Sep-12	1,000,000	1,000,000
ME BANK	CURVE	A2/BBB	TD	5.35%	120	18-Sep-12	1,000,000	1,000,000
ME BANK	CURVE	A2/BBB	TD	5.11%	91	24-Sep-12	1,000,000	1,000,000
MYSTATE FINANCIAL LTD	FARQUHARSON	A2/BBB	TD	5.35%	120	3-Oct-12	1,000,000	1,000,000
BANK OF QUEENSLAND	RIM	A2/BBB	TD	5.24%	120	5-Oct-12	1,000,000	1,000,000
PEOPLE'S CHOICE CREDIT UNION	CURVE	N/R	TD	5.17%	120	12-Oct-12	1,000,000	1,000,000
RAILWAYS CREDIT UNION LTD	FIG	N/R	TD	5.14%	120	16-Oct-12	1,000,000	1,000,000
WAW CREDIT UNION COOPERATIVE LTD	FIG	N/R	TD	5.15%	120	24-Oct-12	1,000,000	1,000,000
SUB TOTAL \$							17,250,000	17,250,000
OTHER INVESTMENTS								
LONGREACH SER. 19 PROP. LNK NOTE	LONGREACH	A+	FRN	0.00%	8yrs	7-Sep-12	500,000	493,950
C'TH BANK EQUITY LNK DEPOSIT SER. 2	C'TH BANK	AA	FRN	3.00%	5yrs	5-Nov-12	500,000	498,900
BENDIGO BANK	C'TH BANK	BBB+	FRSD	4.91%	5yrs	9-Nov-12	500,000	494,715
HELIUM CAP. LTD "ESPERANCE AA+"	GRANGE	CCC	CD O	4.28%	7yrs	20-Mar-13	1,000,000	248,700
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	30-Jun-13	500,000	500,000
GRANGE SECURITIES "KAKADU AA"	GRANGE	CCC	CDO	4.35%	7yrs	20-Mar-14	1,000,000	154,200
GRANGE SEC. "COOLANGATTA AA" *	GRANGE	C	CDO	0.00%	7yrs	20-Sep-14	1,000,000	0
DEUTSCHE BANK TELSTRA LNK DEP. NTE	FIG SECURITIES	A+	FRN	4.43%	7yrs	30-Nov-14	500,000	500,000
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	31-Dec-14	500,000	500,000
NEXUS BONDS LTD "TOPAZ AA-"	GRANGE	A+p	CDO	0.00%	10yrs	23-Jun-15	412,500	340,313
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,874	789,251
SUB TOTAL (\$)							7,430,374	4,524,029
INVESTMENTS TOTAL (\$)							24,680,374	21,774,029
CASH AT BANK (\$)							2,594,723	2,594,723
TOTAL CASH AND INVESTMENTS (\$)							27,275,097	24,368,752
CASH AT BANK INTEREST RATE				3.45%				
BBSW FOR PREVIOUS 3 MONTHS				3.80%				
AVG. INVESTMENT RATE OF RETURN				4.66%				
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE			
CDO = COLLATERALISED DEBT OBUIGATION					FRSD = FLOATING RATE SUB DEBT			
* LEHMAN BROTHERS IS THE SWAP COUNTERPARTY TO THIS TRANSACTION AND AS SUCH THE DEAL IS BEING UNWOUND NO VALUATION INFORMATION IS AVAILABLE								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 425 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
P. GESLING								

ATTACHMENT 2

Cash and Investments Held

Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Jun-11	2,752	17,929	3,502	24,182
Jul-11	1,657	14,462	3,466	19,588
Aug-11	5,767	17,441	3,489	26,697
Sep-11	1,676	20,893	3,538	26,106
Oct-11	2,476	17,978	3,453	23,906
Nov-11	7,240	20,462	3,468	31,171
Dec-11	2,101	23,546	3,384	29,032
Jan-12	2,909	21,781	3,150	27,839
Feb-12	6,372	22,787	3,143	32,303
Mar-12	1,391	22,485	2,965	26,821
Apr-12	2,441	18,722	2,959	24,121
May-12	3,931	19,700	2,961	26,611
Jun-12	2,597	21,774	2,906	24,371



ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Jun-11	5.6312
Jul-11	5.5814
Aug-11	5.5178
Sep-11	5.4358
Oct-11	5.4065
Nov-11	5.3510
Dec-11	5.3504
Jan-12	5.3389
Feb-12	5.3715
Mar-12	5.3972
Apr-12	5.3227
May-12	4.9508
Jun-12	4.6252



INFORMATION ITEM NO. 2

**CONFERENCE REPORT
NSW EMERGENCY MANAGEMENT CONFERENCE
7 JUNE 2012**

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

FILE: PSC2012-00075

BACKGROUND

The NSW Emergency Management Conference was held on 7 June 2012 in Sydney and was attended by the Mayor, General Manager and relevant operational staff responsible for managing Council's day to day emergency management relationships, Mr Ian Crawford and Mr Steve Bowling.

The intent of the conference organised by the Ministry for Police and Emergency Services was "Helping Your Community to Prepare for and Recover from a Disaster".

Attachment 1 provides the conference program. This year's conference followed recent significant flooding in the northern and western areas of the State. Affected local Councils were vocal about difficulties which occurred in these events. The Deputy Commissioner, State Emergency Service, Mr Steven Pearce acknowledged that improvements would be made.


The process for reviewing arrangements with the Commonwealth for Disaster Planning & Preparedness was explained along with current grant programs available to local communities.

The opportunity to meet new Emergency Management personnel was appreciated.

ATTACHMENTS

- 1) Conference Program NSW Local Government in Emergency Management Conference – 7 June 2012.

ATTACHMENT 1



Ministry for Police & Emergency Services

NSW Local Government in Emergency Management Conference 2012

HELPING YOUR COMMUNITY TO PREPARE FOR AND RECOVER FROM A DISASTER

Thursday 7 June 2012

Sofitel Wentworth Sydney
Melbourne Room, 61-101 Phillip Street, Sydney NSW 2000

Time	Topic	Speaker
8.30	Registration	
9.00	Welcome and Introduction	Les Tree Chief Executive Officer Ministry for Police and Emergency Services
9.30	Emergency Risk Management	Kathy Burshtein - Project Director, State Risk Assessment Simon Oppel - Senior Manager, Mitigation, Risk Management and Planning Anna-Jane Trainor - Senior Manager, Grants Program Ministry for Police and Emergency Services
10.30	Morning Tea	
11.00	State Emergency Service Question & Answer Forum	Deputy Commissioner Mr Steven Pearce State Emergency Service
11.30	Community Preparedness Plan	John Richardson Strategic Development Coordinator Australian Red Cross
12.15	Lunch	
1.15	Case Study – Recovery at the Local Level	John Craig Wagga Wagga Recovery Centre Manager
2.00	NSW Recovery Arrangements	Raechel Squires Senior Manager Response and Recovery Ministry for Police and Emergency Services
2.30	Panel and Open Forum	Senior State Representatives available from – • NSW Treasury • Rural Assistance Authority • Roads and Maritime Services • Department of Primary Industries • NSW Public Works • Finance and Services • Division of Local Government
15.15	Afternoon Tea and Conference Close	

Questions
For further information please contact Antonella Ouma-Machio on (02) 8247 5916 or Rebecca Graham on (02) 8247 5912, or alternatively email at recovery.conference@mpes.nsw.gov.au

INFORMATION ITEM NO. 3

2012 MOUNT BAKER SKI-TO-SEA MARATHON, BELLINGHAM, USA

REPORT OF: MAYOR BOB WESTBURY
GROUP: GENERAL MANAGERS OFFICE

FILE: PSC2011-00067

BACKGROUND

Port Stephens Sister Cities Committee was invited to send a representative to the 2012 Mount Baker Ski-to-Sea Marathon conducted by Bellingham Sister City organisation in the USA. Council's super fit stalwart Steve Paul, Manager of Soldiers Point Caravan Park, was chosen as Port Stephens representative. Steve's prowess as a paddler is well recognised having represented Port Stephens in the same race for the 100th Anniversary event last year. The race is conducted from Mount Baker to the harbour of Bellingham - 100 miles of downhill torture including cross country skiing, downhill skiing, mountain biking, road bike racing, running, river canoeing and kayaking. Steve participated in the river canoe leg with a team mate from Canada and achieved a great effort in finishing 40th out of 500 teams and ultimately finished 5th out of 174 teams in his division!

Steve was able to attend several functions and presented local schools in sharing books, gifts and stories promoting Port Stephens. Team mates in his division from other Sister Cities included Tateyama Japan, South Korea, Finland and Mongolia. It was a fantastic experience meeting regional and international friends.

According to Steve, "the concept is great and bonds the cultures and nationalities with a common goal. The experience gained competing against ex-olympians with state of the art equipment was a fabulous experience and I was more than happy with the result, having had a fantastic time being home-hosted by Sister City families while in Bellingham".

Council's Sister City Committee congratulates Steve for his great ambassadorship promoting Port Stephens to the world.

ATTACHMENTS

Nil.

INFORMATION ITEM NO. 4

**PETITION OBJECTING TO THE FORESHORE MARKETS APPLICATION
RUNNING ON THE SAME DAY AS EXISTING TOMAREE AND LEGACY
MARKETS**

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

FILE: PSC2012-01997

BACKGROUND

The purpose of this report is to advise Councillors that a petition has been received by the General Manager from the Tomaree Sports Complex Markets held on Sunday 8 July at Nelson Bay foreshore objecting to the foreshore markets application running on the same days as existing Tomaree and Legacy Markets as follows:

"We the undersigned object to the Foreshore Markets application running on the same days as existing Tomaree and Legacy markets.

The petition contains 64 signatures.

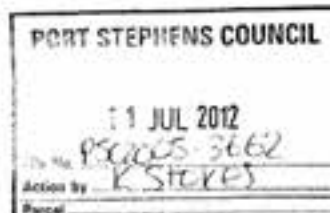
ATTACHMENTS

- 1) Letter and Petition;
- 2) Map of location.

ATTACHMENT 1

9th July, 2012

Peter Gessling,
General Manager,
Port Stephens Council,
P.O. Box 42,
RAYMOND TERRACE 2324



Dear Peter,

Re:- Advertisement in Port Stephens Examiner Wednesday 4th July, 2012
(Council Page)

Please find enclosed signed petition from Tomaree Sports Complex markets held on Sunday 8th July, 2012, relating to markets held at Nelson Bay foreshore.

Council's DA states "NO TWO MARKETS ON THE SAME DAY IN THE SAME AREA ON COUNCIL LAND".

This application contravenes the DA signed by us and Council in 1999 when Tomaree markets commenced.

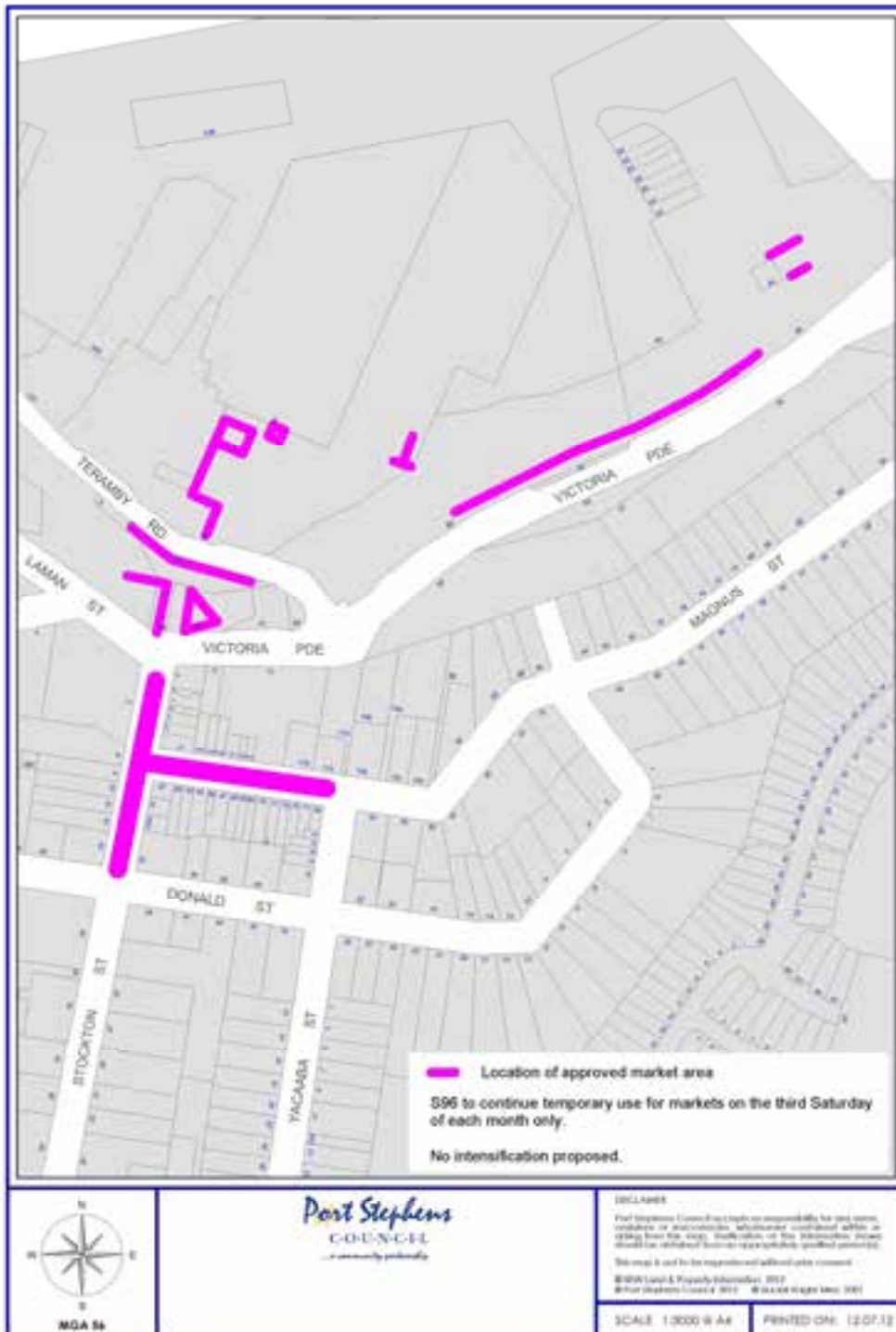
Tomaree and Legacy have been working in conjunction with each other for years and years without any problems.

We strongly object to these new markets being given the OK.

Your reply would be greatly appreciated.

WE THE UNDERSIGNED OBJECT
TO THE FORESHORE MARKETS
APPLICATION RUNNING ON THE SAME
DAYS AS EXISTING TOMAREE AND
LEGACY MARKETS. 8.7.12.

ATTACHMENT 2



NOTICES OF MOTION

Cr Bruce MacKenzie left the meeting at 8.16pm prior to Item 1.

Cr Bruce MacKenzie returned to the meeting at 8.17pm.

NOTICE OF MOTION

ITEM NO. 1

**FILE NO: A2004-0217,
PSC2009-00397**

COMMUNITY SAFETY PRECINCT

COUNCILLOR: KAFER & FRANCIS

THAT COUNCIL:

- 1) Ask the General Manager to supply councillors with copies of minutes of the Community Safety Precinct Committees that the Mayor and other Councillors attend in the information paper section of the Council Business papers so that Councillors are aware of what is occurring in Port Stephens with regards to crime and crime prevention.
-

ORDINARY COUNCIL MEETING – 24 JULY 2012

224	Councillor Peter Kafer Councillor Bruce MacKenzie
	It was resolved that Council ask the General Manager to supply councillors with copies of minutes of the Community Safety Precinct Committees that the Mayor and other Councillors attend in the information paper section of the Council Business papers so that Councillors are aware of what is occurring in Port Stephens with regards to crime and crime prevention.

BACKGROUND REPORT OF: BRUCE PETERSEN – MANAGER COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES

BACKGROUND

The NSW Police Force has established Community Safety Precinct Committees in various Local Area Commands throughout NSW. In Port Stephens the Community Safety Precinct Committee is convened and administered by the Port Stephens Police Local Area Command with meetings held on a quarterly basis.

The role and purpose of these Committees as stated by NSW Police Force is as follows: -

Community Safety Precinct Committees (CSPCs) provide an opportunity for local Councils and community members to meet with Police Local Area Commanders and share their perspective on local crime and safety issues. It provides the opportunity for community members and business owners to get involved in strategies designed to address local crime concerns. It also provides an opportunity for Local Area Commanders to promote accurate local crime information and raise awareness of crime prevention approaches.

The purpose of CSPCs is to:

- Ensure Local Area Commanders are communicating to their local communities;
- Encourage community partnerships to reduce crime and the fear of crime;
- Develop local solutions to local crime in partnership with local stakeholders;
- Improve public safety and reduce the fear of crime at a local level;
- Raise understanding of the relationship between policing and crime reduction; and
- Ensure Commanders take into account local community views on police visibility, police deployment and crime hotspots when deciding police tasking and deployment.

(Source: NSW Police Force website: www.police.nsw.gov.au)

The minutes of the Community Safety Precinct Committees are posted on the NSW Police Force website. To ensure however that Council is kept fully informed at all times with current information on local crime trends, issues and crime prevention initiatives, the inclusion of the minutes of the Port Stephens Community Safety Precinct Committee as a regular Information Paper in Council's Business Paper would provide Councillors with ready access to this information.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

PUBLIC SAFETY AUDIT

COUNCILLOR: KA FER & FRANCIS

THAT COUNCIL:

- 1) Ask the General Manager to organise a Public Safety Audit to be carried out as soon as possible in the Raymond Terrace CBD area;
 - 2) That Councillors, appropriate council staff and representations of Public Utility organisation be invited to take part;
 - 3) That Police from Port Stephens Local Area Command be invited to attend if they wish.
-

ORDINARY COUNCIL MEETING – 24 JULY 2012

225	Councillor Glenys Francis Councillor Bruce MacKenzie
	It was resolved that Council: <ol style="list-style-type: none">1) Ask the General Manager to organise a Public Safety Audit to be carried out as soon as possible in the Raymond Terrace CBD area;2) That Councillors, appropriate council staff and representations of Public Utility organisation be invited to take part;3) That Police from Port Stephens Local Area Command be invited to attend if they wish.

BACKGROUND REPORT OF: BRUCE PETERSEN – MANAGER COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES

BACKGROUND

Overall Raymond Terrace is a great place to live, work and play. It's a place where residents generally feel safe at home and when they are out and about during the day. Like most other towns however perceptions of safety may change at night due to darkness and there are generally less people out and about. It is therefore important from time to time to monitor and review public areas (eg; parks, laneways) and associated infrastructure (eg; street lighting, footpaths) to ensure they are maintained and or enhanced for increased safety. This will contribute to the protection and maintenance of public areas for all residents to enjoy and be proud of. One means of contributing to this aim would be through a basic audit undertaken from time to time of areas which were identified as benefiting from an audit of this type. This could be undertaken by relevant trained Council Officers

along with interested Police and/or Public Utility representatives. The 'Safer by Design Guidelines' already used by Council and the Police in the assessment of relevant Development Applications could form the basis on which the audits are based with recommendations being considered by the relevant bodies.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: A2004-0217

PROTECTING DIVING PLACES IN PORT STEPHENS

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Requests the State Government to remove and stop future build up of sand at the western end of Shoal Bay Beach and Halifax, to protect the unique soft corals at Halifax and Fly Point, two of the most precious diving spots in Port Stephens.
-

ORDINARY COUNCIL MEETING – 24 JULY 2012

226	Councillor Bruce MacKenzie Councillor John Nell
	It was resolved that Council requests the State Government to remove and stop future build up of sand at the western end of Shoal Bay Beach and Halifax, to protect the unique soft corals at Halifax and Fly Point, two of the most precious diving spots in Port Stephens.

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

BACKGROUND

Sand naturally migrates from east to west along Shoal Bay Beach. In recent times this sand migration has accumulated at the western end of Shoal Bay and has travelled around Nelson Head and along Little Beach.

Halifax Point and Fly Point are protected as an Aquatic Reserve (since 1983). This Aquatic Reserve is known for its high biodiversity values, specifically its soft corals and sponges, and is one of the most popular shore dive locations in Australia.

The movement of sand within the waterway of Port Stephens is not the responsibility of Port Stephens Council.

NOTICE OF MOTION

ITEM NO. 4

FILE NO: A2004-0217

AQUATIC BUILDINGS

COUNCILLOR: KA FER & FRANCIS

THAT COUNCIL:

- 1) Seek to have the buildings located on the Raymond Terrace foreshore and known as Raymond Terrace Aquatic Club House demolished. Both of these buildings are unsafe and a danger to the community as they have long standing and serious repair needs and are easily accessible. This has been discussed for a number of years and is now held up due to Council staff recommending a series of Heritage photos and drawings to occur at an approx cost of \$7,500. These buildings are not heritage and do not warrant this extra cost.
-

ORDINARY COUNCIL MEETING – 24 JULY 2012

227	Councillor Glenys Francis Councillor Peter Kafer
	It was resolved that Council seek to have the buildings located on the Raymond Terrace foreshore and known as Raymond Terrace Aquatic Club House demolished. Both of these buildings are unsafe and a danger to the community as they have long standing and serious repair needs and are easily accessible. This has been discussed for a number of years and is now held up due to Council staff recommending a series of Heritage photos and drawings to occur at an approx cost of \$7,500. These buildings are not heritage and do not warrant this extra cost.

BACKGROUND REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING & ENVIRONMENTAL SERVICES MANAGER

BACKGROUND

The subject buildings, known as the Raymond Terrace Club House and Observation Tower, are located within the Raymond Terrace Heritage Conservation Area under

the Local Environmental Plan 2000 and are a "Contributory Heritage Item" under the Development Control Plan 2007.

A development application to demolish the buildings was approved on 29 March 2012 (File No: 16-2011-893-1).

In accordance with advice received from Council's Heritage Advisor during the assessment of the application, the following conditions of consent were included on the approval:

- Archival recording of the Raymond Terrace Club House and Observation Tower is to be undertaken prior to demolition.
- The Archival recording is to include fully drafted and measured drawings of both building, Photographs are to be taken and the location/direction of the photograph is to be indicated on the drawings. This report is to be undertaken by a heritage professional who has been involved in preparing such reports previously and is to be in accordance with the NSW Heritage Office documents on archival recording.
- A copy of the report is to be provided to Council's Heritage Advisor prior to removal of the building.
- Two (2) additional copies of the final report are required to be provided for lodgement with the Raymond Terrace Historical Society and the Raymond Terrace Library.

As such, until such time that the archival recording is undertaken, the buildings cannot be demolished.

NOTICE OF MOTION

ITEM NO. 5

FILE NO: A2004-0217

RAYMOND TERRACE GRAFFITI

COUNCILLOR: FRANCIS

THAT COUNCIL:

- 1) Work with the Raymond Terrace Business Chamber, Raymond Terrace Police, interested community people, the Raymond Terrace Youthie and Port Stephens Tourism to develop a strategy for removal of graffiti in the Raymond Terrace area.

Recently Port Stephens Tourism donated a trailer to the Port Stephens Action group for their assistance to remove graffiti from buildings and structures.

If the above meetings are successful and a group is formed in the Raymond Terrace area surely the Port Stephens Action Group could offer their expertise and Port Stephens Tourism could assist this newly formed group to obtain necessary equipment.

ORDINARY COUNCIL MEETING – 24 JULY 2012

228	Councillor Glenys Francis Councillor Peter Kafer
	<p>1) It was resolved that Council work with the Raymond Terrace Business Chamber, Raymond Terrace Police, interested community people, the Raymond Terrace Youthie and Port Stephens Tourism to develop a strategy for removal of graffiti in the Raymond Terrace area.</p> <p>Recently Port Stephens Tourism donated a trailer to the Port Stephens Action group for their assistance to remove graffiti from buildings and structures.</p> <p>If the above meetings are successful and a group is formed in the Raymond Terrace area surely the Port Stephens Action Group could offer their expertise and Port Stephens Tourism could assist this newly formed group to obtain necessary equipment.</p> <p>2) That the Supplementary Information be received and noted.</p>

BACKGROUND REPORT OF: JOHN MARETICH – CIVIL ASSETS MANAGER

BACKGROUND

Port Stephens Graffiti Action Team is an incorporated body that operates in the Nelson Bay suburbs and CBD. This action team focuses on the removal of graffiti as soon as practicably possible in the most cost effective manner. It is thought that the quick graffiti removal will reduce the occurrence of graffiti on private and public assets. While the Action Team do undertake works on private property, Council will only subsidise costs for works on public assets.

This group is not a Council body, but is subsidised by Council through inkind time from our Building Trades Painter for graffiti removal, safety inductions, training and some supervision of the Action Team, and also a financial contribution for materials, plant registration / maintenance costs. Council's annual budget for graffiti management is \$30,000 which includes an average annual financial contribution of \$4,000 to the Action Team for their expenses. The remaining budget is to account for our Building Trades Painter and materials. In the past the overall cost to Council for Graffiti management has been in the order of \$60,000 in any one year when graffiti has been high.

There is currently only a total \$30,000 budget allocation the Action Graffiti Team.

Council through its Community Connections Program works with young people on a bimonthly basis to keep the Raymond Terrace Skate Park free from graffiti as much as possible.

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.

229	Councillor Ken Jordan Councillor John Nell
	It was resolved that Council move into Confidential Session.

INFORMATION ITEM NO. 1

108 MAGNUS STREET, NELSON BAY

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

FILE: A2004-0851

ORDINARY COUNCIL MEETING – 24 JULY 2012

230	Councillor Bruce MacKenzie Councillor Peter Kafer
	It was resolved that when negotiations are completed a report be presented to Council.

There being no further business the meeting closed at 8.50pm.

I certify that pages 1 to 268 of the Open Ordinary Minutes of Council 25 September 2012 and the pages 169 to 172 of the Confidential Ordinary Minutes of Council 25 September 2012 were confirmed by Council at its meeting held on Sept 2012.

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Cr Bruce MacKenzie
MAYOR