

Minutes 29 May 2012



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 29 May 2012, commencing at 5.32pm.

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.

	No apologies received.

101	Councillor Glenys Francis Councillor Caroline De Lyall
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 24 April 2012 be confirmed.

	No Declaration of Interests were received.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2012-01059

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)(g) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 (Mayoral Minute) on the Ordinary agenda namely **Port Stephens Council ats Towers**.
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the report/information/discussion of the closed part of the meeting remain confidential until the matter is settled.

ORDINARY COUNCIL MEETING – 29 MAY 2012

102	Councillor Ken Jordan Councillor Peter Kafer
	It was resolved that the Mayoral Minute be adopted.

MAYORAL MINUTE

ITEM NO. 2

FILE NO:PSC2005-2722

MEDOWIE TRAFFIC MANAGEMENT

THAT COUNCIL:

- 1) That Council arrange a meeting with interested Councillors, community representatives and staff to consult on traffic management in the Medowie Town Centre.
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ORDINARY COUNCIL MEETING – 29 MAY 2012

103	Councillor Geoff Dingle Councillor Peter Kafer
	It was resolved that the Mayoral Minute be adopted.

BACKGROUND

The purpose of this report is to allow Council to given consideration of convening a meeting with respect to the Medowie Town Centre traffic management.

Medowie Progress Association at their meeting last night considered the traffic issues related to proposed development in the Ferodale Road/Peppertree area.

Councillors and staff attended and presented to the meeting. Council staff support any proposal for community consultation in local areas and propose the motion above.

**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 4

FILE NO: PSC2006-6662

PLANNING PROPOSAL – ADDITIONAL RESIDENTIAL LAND AT KINGS HILL

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the recommendations of the Rezoning Application for Land at North Raymond Terrace – Summary Odour Report (SLR Consulting Australia Pty Ltd, 19th March 2012) and the Kings Hill Planning Proposal Independent Planning Review (City Plan Services Pty Ltd, 28th March 2012) noting:
 - a. Recommendation not to rezone land within 1km of the Bedminster Waste Management Facility for residential development;
 - b. Recommendation not to rezone land within 250m of the landfill for residential development; and
 - c. Uncertainty regarding odour impacts from vents located on the landfill.
- 2) Does not proceed with the Planning Proposal to rezone Lot 11 DP 37430 and Part of Lot 3 DP 1098770 to R1 General Residential.

COUNCIL COMMITTEE MEETING – 8 MAY 2012
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Peter Kafer
	That Council defer Item 4 to allow for further information to be received.

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

Those for the motion: Crs Peter Kafer, Bob Westbury, Caroline De Lyall, Sally Dover, Bruce MacKenzie, Ken Jordan, Shirley O'Brien and Glenys Francis.

Those against the motion: Crs John Nell, Frank Ward and Geoff Dingle.

ORDINARY COUNCIL MEETING – 29 MAY 2012

104	<p>Councillor Glenys Francis Councillor John Nell</p> <p>It was resolved that Council:</p> <p>1) Endorse the recommendations of the Rezoning Application for Land at North Raymond Terrace – Summary Odour Report (SLR Consulting Australia Pty Ltd, 19th March 2012) and the Kings Hill Planning Proposal Independent Planning Review (City Plan Services Pty Ltd, 28th March 2012) noting:</p> <ul style="list-style-type: none"> a. Recommendation not to rezone land within 1km of the Bedminster Waste Management Facility for residential development; b. Recommendation not to rezone land within 250m of the landfill for residential development; and c. Uncertainty regarding odour impacts from vents located on the landfill. <p>2) Does not proceed with the Planning Proposal to rezone Lot 11 DP 37430 and Part of Lot 3 DP 1098770 to R1 General Residential.</p>
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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 Bob Westbury, Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward and Sally Dover.

Those against the Motion: Nil.

BACKGROUND

The purpose of this Report is to advise Council on a Planning Proposal seeking to rezone additional land at Raymond Terrace North, adjacent to the Kings Hill release area for residential purposes. The Report follows a period of public exhibition and completion of an Independent Planning Review (**Attachment 1**) and Summary Odour Report (**Attachment 2**).

Landowner: Newline Resources (represented by Tattersall Lander)
Subject Land: Part of Lot 3 DP 1098770 and Lot 11 DP 37430
Land Area: 41.5 hectares
Current Zoning: 1(a) Rural Agriculture under Port Stephens Local Environmental Plan 2000.
Requested Area to Be Zoned: 41.5 hectares to R1 General Residential

In April 2007 Tattersall Lander lodged a request on behalf of the landowner to rezone the subject land from 1(a) Rural Agriculture to 2(a) Residential under port Stephens Local Environmental Plan 2000. The subject land is located between land rezoned under the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 (the Kings Hill Local Environmental Plan) and the Bedminster Waste Management Facility and landfill.

The proximity of the subject land to the Bedminster Waste Management Facility and landfill, and the related potential for land use conflict and poor residential amenity are primary considerations in considering whether it is suitable for rezoning for residential purposes.

Waste management is a fundamental function and responsibility of local government. There is an element of risk both to the future operation of the Bedminster Waste Management Facility and landfill, and future residents, if the subject land is rezoned for residential purposes. Under the circumstances it is relevant for Council to consider whether the public interest will be served in rezoning the land as requested.

The need to rezone additional land at Kings Hill for residential purposes is also a consideration given the large land supply available.

Key Milestones

It is noted that the rezoning request was lodged in 2007. However, the rezoning of land at Kings Hill has been under consideration for a long time. The delay was primarily associated with potential noise impacts with the proposed introduction of the Joint Strike Fighter. The 2025 ANEF map was promulgated by the Department of Defence in October 2009 and the Kings Hill Local Environmental Plan was gazetted in December 2010.

Land within 1km of the Bedminster Waste Management Facility is a "deferred matter" under the Kings Hill Local Environmental Plan. Potential for odour impacts has been a primary consideration in assessing the Planning Proposal the subject of this Report.

The following is a summary of the key milestones in the assessment of the Planning Proposal:

- April 2007 – Rezoning request lodged.
- October 2007 – Independent Third Party Review (Air Noise Environment, October 2007).
- July 2009 – Department of Planning permits investigations into the rezoning to proceed.
- September to October 2009 – Consultation with relevant public authorities.
- October 2009 – 2025 ANEF is promulgated.
- August 2010 – Council resolves to seek permission from Department of Planning to place the rezoning request on public exhibition.
- October 2010 Department of Planning gives permission for the rezoning request to be placed on public exhibition.

- December 2010 – rezoning request was converted to a Planning Proposal.
- December 2010 – the Kings Hill Local Environmental Plan was gazetted (including "deferred matter" within 1km from the Bedminster Waste Management Facility).
- December 2010 to February 2011 – Planning Proposal placed on public exhibition.
- April 2011 – Consultants appointed to undertake independent assessment of the Planning Proposal (Worley Parsons (later City Plan Services) and SLR Consulting).
- May 2011 – Independent acoustic and odour reports completed.
- June 2011 to March 2012 – Ongoing liaison between the Proponent, odour experts and Council.
- March 2012 – Two Way Conversation between Independent Experts and Councillors.
- March 2012 – Independent Planning Review and Independent Summary odour reports completed.

Independent Planning Review

During the public exhibition of the Planning Proposal Council received a submission from its Waste Management Coordinator objecting to the Planning Proposal, raising concerns about the potential for impact upon the operation of the Bedminster Waste Management Facility and landfill. For this reason it was appropriate for Council to seek an independent review of and recommendation on the Planning Proposal. There was also a need to have noise and odour reports submitted by the Proponent reviewed by independent experts.

Recommendation of the Independent Planning Review

The Independent Planning Review (City Plan Services, 28th March 2012) at **Attachment 1** forms a basis for Council to consider whether it is appropriate to proceed with the Planning Proposal. It is important that Council read the Independent Planning Review in considering this matter.

The Independent Planning Review makes the following conclusion and recommendation on the Planning Proposal:

"The former Department of Planning, in its letter to the Council of 22 October 2010, certifying public exhibition of the Draft LEP under s. 65 of the EP & A Act, required the Council to demonstrate that the land proposed to be rezoned was suitable for the proposed zones having regard to potential odour impacts from the Bedminster facility.

It is clearly evident from SLR Consulting's Summary Odour Report (19 March 2012) that the portion of the land proposed to be rezoned for residential purposes under the Draft LEP and affected by the currently adopted 1000 metre odour buffer cannot be regarded as suitable for residential purposes at this time. In addition, Condition 5 of the development consent granted on 18 October 2011 to increase waste received at the Bedminster Facility and

increase landfill waste requires all buildings within 250m of the landfill to be tested for methane and CO² on a monthly basis. The condition affects part of the land the subject of the Draft LEP, making this land unsuitable for residential development until the risk associated with subsurface methane and CO² migration is determined and the corresponding exposure risk within the potentially affected dwelling sites quantified. Accordingly, it is recommended that all land covered by the Draft LEP affected by the 1000 metre odour buffer and within 250 metres of the landfill not be rezoned for residential purposes. In submitting this recommendation, I do not believe there is a public interest imperative supporting the residential rezoning proposed under the Draft LEP when such a rezoning of land within the 1000 metre odour buffer could threaten the operational viability of the Bedminster facility. It is the ongoing operation of this facility in accordance with the terms of its development consent that is in the public interest. The Kings Hill LEP, published on 10 December 2010, rezoned sufficient land in the area to accommodate up to 4500 dwellings. This is expected to comfortably satisfy housing demand in the area for the next 25 years. To add to this land supply by rezoning land within the 1000 metre buffer and thereby potentially threatening the Bedminster facility cannot be supported on planning grounds."

The recommendations of this Report to Council are consistent with the recommendations of the Independent Planning Review. That is, the Planning Proposal is not recommended to proceed for the following reasons:

- Land within 1km of the Bedminster Waste Management Facility is predicted to be subject to odour impacts;
- Buildings and structures within 250m of the landfill would be subject to methane and CO₂ testing under DA 16-2011-242-1; and
- Uncertainty about odour impacts from landfill vents.

Recommendation of the Independent Summary Odour Report

SLR Consulting was appointed to conduct an independent review of odour issues relating to the proposed rezoning of the subject land. The Proponent has been given opportunity to review work undertaken by SLR and provide additional information requested by SLR throughout the assessment process.

The recommendations of the Summary Odour Report are:

"The recommendations of the study to date remain as articulated in the SLR Consulting Letter of December 2011:

It is recommended that Port Stephens Council seek clarification of the issues raised in the SLR Consulting Peer Review and subsequent advisory letters. As stated previously: "it is considered that the significance of these issues is such that reasonable conclusions cannot be drawn from the study to provide Port Stephens Council with reasonable certainty that odour can be contained within the site boundary, so that it does not constitute an unreasonable odour nuisance. In the case of Raymond Terrace AAWT it is considered that the test of

unreasonable odour is consistent with that presented in the NSW OEH Approved Methods, and as replicated in the Technical Memorandum (Table 1)".

Based upon the above, it is concluded that the Proponent has yet to provide sufficient and reasonable justification for Port Stephens Council to accept a reduction in the odour buffer distance from its current specification, as adopted in December 2007.

Furthermore, it is strongly recommended that any odour impact assessment should include the odour emissions from the landfill. Observations made on 7 March 2012 (which were also observed by members of SITA management and officers from Port Stephens Council) indicate that odour is clearly detectable from the landfill risers. To date, no data concerning landfill gas composition or flow have been provided, and the odour emissions from the landfill have not been incorporated within the odour impact studies. It is considered that the landfill represents a significant source of odour from the site which should be considered within any determination of odour buffer distance. Given the strength and character of the odour, and the distance to the common boundary with the Proponent's land at this location, it is considered that odour would have been easily detected at the boundary on that day, and therefore off-site odour impacts would be a real possibility. In this regard, it is considered that the odour impact studies completed to date may significantly underestimate the odour emissions from the site (as a whole), and on this basis alone would render the odour impact assessments as incomplete.

In accordance with standard practice in NSW, it is the responsibility of the Proponent to demonstrate that changes in land use will not give rise to unacceptable odour impacts and, to date, this has not been achieved. The information provided by the Proponent to date cannot be used with confidence to justify any appropriate buffer distance. Supplementary sensitivity testing commissioned by Port Stephens Council and summarised in this report demonstrates (based upon the information provided) that unacceptable odour concentrations are predicted to extend significantly beyond the site boundary.

Accordingly, it is recommended that Port Stephens Council maintain its adopted 1,000m odour buffer until sufficient evidence is provided that demonstrates that the buffer can be reduced without causing unacceptable odour impacts.

A copy of the Summary Odour Report is at **Attachment 2** and should be reviewed in conjunction with this Report and in considering whether to proceed with the Planning Proposal.

The Proponent has maintained the position that odour issues have been adequately addressed to enable the Planning Proposal to proceed.

FINANCIAL/RESOURCE IMPLICATIONS

Staged rezoning fees have been paid by the Proponent in accordance with Council's Fees and Charges Schedule.

Council has incurred costs in appointing a town planner (Worley Parsons and subsequently City Plan Services) and an odour and noise consultant (SLR Consulting) to carry out an independent assessment of the Planning Proposal and review and investigation of odour and noise issues respectively.

LEGAL, POLICY AND RISK IMPLICATIONS

Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010

The subject land is located adjacent to land rezoned under the Kings Hill Local Environmental Plan 2010. It is appropriate for the Planning Proposal to adopt the provisions of the Kings Hill Local Environmental Plan 2010 for administrative reasons as well as the subject land's physical proximity to Kings Hill.

The Kings Hill Local Environmental Plan 2010 does not apply to land within 1km of the Bedminster Waste Management Facility and the relevant maps show the affected land as a "deferred matter". The completion of the Summary Odour Report places Council in a position to address the "deferred matter" in a separate and forthcoming Planning Proposal for land already zoned under the Kings Hill Local Environmental Plan.

The Independent Planning Review refers to the amount of land already zoned for residential purposes at Kings Hill as a relevant consideration for the Planning Proposal subject of this Report. It states the following:

"It is relevant to consider the extent of residential rezoning already achieved in Kings Hill when deciding whether progressing the Draft LEP represents the orderly and economic use of the land in the area and is in the public interest. The land now zoned for residential purposes in Kings Hill is expected to accommodate up to 4,500 dwellings when fully developed. At its originally anticipated take-up rate of 180 dwellings per year, this would amount to a 25 year supply.

Furthermore, having regard to the broader public interest, it is appropriate to consider the potential impacts of encroaching residential development on the operational viability of the Bedminster facility. This is particularly relevant in circumstances where the need for further residential rezonings in Kings Hill is not urgent and where further life of the Bedminster facility and associated landfill is expected to be approximately 17-19 years. The Bedminster facility provides an important waste management resource for the Port Stephens LGA and one that should be appropriately protected from potentially incompatible development that may threaten its ongoing operations. Given the generous supply of zoned residential land existing in Kings Hill it would be unreasonable and unnecessary to require the Bedminster plant to be upgraded beyond the

terms of the development consent applying to the plant in order to facilitate further residential rezonings in the immediate area."

The Independent Planning Review highlights that there is already a large supply of residential zoned land at Kings Hill. There is no substantial public interest reason in rezoning the subject land under this circumstance, particularly when it has not been demonstrated that odour issues are resolved, and there is potential for impact upon the ongoing operation and viability of the Bedminster Waste Management Facility and landfill.

Draft Port Stephens Local Environmental Plan 2012

The Draft Port Stephens Local Environmental Plan 2012 proposes to include a new local provision clause to ensure that additional matters for consideration are taken into account when considering development in the vicinity of the subject land (refer to Draft Clause 7.10 Development near a designated buffer area of the Port Stephens Draft Local Environmental Plan 2012). A Waste or Resource Management Map is included in the map layers and shows an area within 1km of the Bedminster Waste Management Facility. The inclusion of a 1km buffer is consistent with the recommendation of the Summary Odour Report.

Kings Hill Development Control Plan

In the event that the Planning Proposal proceeds it is recommended that the subject land is included within the Kings Hill Development Control Plan. Matters that will be addressed are: overall structure; precinct structure; environment and open space structure; transport structure; community facilities; residential structure; and infrastructure. It would also be appropriate to refer to the recommended 1km buffer, 250m buffer for methane and CO₂ testing, and potentially the odour from the landfill vents.

Kings Hill Section 94 Development Contributions Plan

In the event that the Planning Proposal proceeds it is recommended that the land is included within the Kings Hill Section 94 Development Contributions Plan being prepared for the broader Kings Hill development. This will ensure that in the event of the subject land being developed, appropriate contributions will be made towards the provision of public amenities and services in the area as a result of additional demand.

Restrictive Covenant

A restrictive covenant applies to the relevant lands with specific reference to management and emission of noise and odour. It "burdens" the land containing the Bedminster Waste Management Facility and landfill and "benefits" the subject land proposed for rezoning.

The Department of Environment, Conservation, Climate Change and Water (now Office of Environment and Heritage) advice on the restrictive covenant is referred to

in the Independent Planning Review and also in this Report under Consultation – Public Agency Submissions. The DECCW advice is summarised as:

- *"Effect of covenant requirement 1(b) and (c) is such that odour emissions from Lots 1 and 2 must be managed such that they are highly unlikely to cause offensive odour to Lot 3. Given the location of Lot 11, if odour impacts are consistent with residential development on any part of Lot 3, they would also be consistent with residential development on any part of Lot 11.*
- *Upon purchase of land, SITA essentially agreed to take sole responsibility for avoiding future odour conflicts on Lot 3 by managing odour emissions from Lots 1 and 2 so that they are unlikely to cause offensive odours at future residential development on any part of Lot 3.*
- *Concludes that it is technically feasible for operator to comply with terms of restrictive covenant."*

(Independent Planning Review, page 10).

Council received legal advice from Harris Wheeler dated 20th April 2010 on the restrictive covenant relative to the rezoning request and DECCW advice. The advice is summarised as:

"...restrictive covenants cannot be used by the Council to manage land use planning conflicts under Part 3 of the EP & A Act 1979...DECCW's letter of 22 December 2009 "should not be regarded as giving unqualified support for the abandonment of the proposed 1000 metre buffer".

(Independent Planning Review, page 20).

Relevant Development Applications

Co-composting Facility and Landfill (DA 1427-97)

Development Consent 1427-97 was issued on 9th February 1998 for a co-composting facility and landfill on property described as Lots 3 and 5 DP 850337, 34 and 34A Newline Road, Raymond Terrace. The Development Consent is accompanied by an Environmental Impact Statement that addresses matters such as the impacts of the development and mitigation measures (refer to Composting Plant and Landfill at New Line Road Raymond Terrace Environmental Impact Statement, ERM Mitchell McCotter, September 1997).

Condition 6 of the Development Consent is particularly relevant and refers to acquisition of an adjacent property concluded by the Environmental Impact Statement to be subject to odour impacts from the operation of the Bedminster Waste Management Facility. The condition is:

"A compensatory agreement shall be reached between the proponent and the current owners of the property identified as Lot 11, DP 37430, No. 42 Newline Road, Raymond Terrace and currently owned by Mr G & Mrs J Forster prior to the commencement of operation of the development. The agreement shall take the form of purchase of the property or a mutually agreeable

compensation package. Documentary evidence from the settlement shall be submitted to Council prior to the commencement of operation of the facility.

The property to the north-west of the site identified as Lot 53, DP 839722, No. 41 Newline Road, Raymond Terrace, and the site office/manager's residence located on the subject land, both currently owned by John McGrath Pty Ltd, shall continue to be held in the ownership of the proponent(s) unless it is demonstrated to Council that the properties are not adversely affected by reason of odour, dust, noise or similar environmental impact."

This Condition of Consent has been carried through with subsequent modifications to the original consent (the most recent being 7-1997-1427-5). The Proponent is now seeking to rezone Lot 11 DP 37430 for residential purposes. Until the status of this Condition of Consent is reviewed it is prudent that Council does not further consider Lot 11 DP 37430 for rezoning.

Three Lot Subdivision (DA 16-2005-495-1)

Development Consent 16-2005-495-1 was issued on 12th October 2005 for a three lot subdivision of the "Parent Lot" (Lot 105 DP 1016640). This Parent Lot encompassed the Bedminster Waste Management Facility, landfill, and the subject land being sought for rezoning by the Proponent.

The Statement of Environmental Effects submitted by Tattersall Surveyors with the Development Application states that the subdivision application:

"is for administrative purposes to allow for the individual management of separate activities, and will not require the undertaking of any physical works. The land use will remain unchanged, therefore there are no impacts expected on any endangered flora and fauna". (Statement of Environmental Effect page 5).

With respect to likely environmental, social and economic impacts the Statement of Environmental Effects states that:

"The location and nature of the site are such that the environmental impacts of the proposed subdivision are negligible. The subdivision does not involve any construction and will not change the present physical form of land. The subdivision itself is being proposed to facilitate the economic development and administration of separate activities.

Currently the subject lot contains three (3) different land uses, being the quarry, the Bedminster Co-composting facility and residence (generally containing all of the land not the subject of intensive operations and includes open pasture grazing, vegetated areas to the north of the void (landfill) and managers office and facilities. The proposed subdivision will allow for the land to be divided into each land use and thus enable better and more appropriate separated management of the individual sites/facilities".

The findings of the Independent Planning Review and Independent Summary Odour Report identify that there are likely impacts from land containing the Bedminster Waste Management Facility and landfill on the subject land being sought for rezoning and created by subdivision under Development Consent 16-2006-495-1.

Increase Waste Received at Facility and Increase Amount Approved Landfill (DA 16-2011-242-1)

Development Consent 16-2011-242-1 was issued on 18th October 2011 for increased waste received at facility and increase amount approved landfill. Condition of Consent 5 is relevant to the subject land requested for rezoning. It states that:

"All buildings and structures within 250m of the landfilled waste are to be tested for methane and CO2 on a monthly frequency with a calibrated methane detector."

This condition of consent is a result of referral to the NSW Environmental Protection Agency.

Rezoning land for residential purposes that would be subject to testing for methane and CO2 has the potential to expose future residents to unnecessary risk, and the burden of testing buildings and structures on a regular basis for methane and CO2. It follows that the reasonable planning approach is to not encourage residential development in such areas. It is a recommendation of this Report that a 250m buffer is applied from the landfill site for buildings and structures that would be subject to methane testing under DA 16-2011-242-1. The 250m buffer is shown on the map at **Attachment 3**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Ongoing viability of the Bedminster Waste Management Facility	High	Do not rezone land within 1km of the Bedminster Waste Management Facility for residential purposes	Yes
Odour impacts to future residents	High	Do not rezone land within 1km of the Bedminster Waste Management Facility for residential purposes	Yes
Exposure of future residents, buildings and structures to methane and CO2 from landfill	High	Do not rezone land within 250m of landfill for residential purposes	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

An Environment Report by Wildthing Environmental Consultants dated March 2010 is based on the Proponent's request to rezone the subject land in its entirety for residential purposes. It makes the following conclusions:

"Flora and fauna habitat studies have been undertaken over land identified as Lot 3 DP 1098 DP 1098770 & Lot 11 DP 37430 Newline Road, North Raymond Terrace, NSW to identify potential impacts resulting from a proposed rezoning and subsequent development. It is proposed that the site which is currently zoned 1(a) Rural be rezoned to R1 (General Residential) and R2 (Low Density Residential).

The 42 ha site occurs on undulating topography with higher ground located along an east-west aligned ridge, which runs along the southern boundary. Low ground in the far west of the site consisted of Quaternary alluvium derived from the Williams River. A small number of ephemeral drainage lines were present within the site which contained a small number of constructed dams.

The site has a relatively long history of grazing and selective logging, which has resulted in the eastern and western portions of the site being virtually cleared of native vegetation. Native woodland/forest was present within the central portion of the site. In total five vegetation communities were found to be present within the site:

- *Spotted Gum – Ironbark Woodland (5.75ha)*
- *Spotted Gum – Ironbark Forest (11.8ha)*
- *Treed Pasture (Spotted Gum – Ironbark (1.7ha)*
- *Pasture (22ha)*
- *Dam vegetation (<0.5ha).*

No endangered ecological communities were found to be present within the site. No threatened flora species were also recorded within the site during the survey. However, marginal habitat was found to be present for 4 of the 15 threatened flora species addressed. Considering the marginal quality of the habitat and/or lack of local records for these flora species and the fact that these species were not recorded on site the proposal is not likely to cause the extinction of any local population of these flora species.

Three threatened fauna species...Grey-crowned Babbler...Small Bentwing-bat and... Greater Broad-nosed Bat were recorded within the site as a result of the survey.

No other threatened species were recorded within the site despite suitable foraging/hunting/nesting resources of varying quality being available for 33 of the 40 remaining fauna species assessed. The proposal will result in an incremental loss of potential habitat for these addressed threatened species.

Considering the given recommendations the proposal is unlikely to disrupt the lifecycle the addressed species such that local extinction would occur.

Within the NSW North Coast Bioregion and Port Stephens LGA the population of the Emu has been listed as Endangered. The Emu was not recorded on site during the survey. The majority of the site contains suitable habitat for the Emu. However the proposal is considered unlikely to result in the local extinction of a viable local population of this bird species.

Investigations into the Port Stephens Comprehensive Koala Plan of Management (CKPoM) in accordance with State Environmental Planning Policy No. 44 – 'Koala Habitat Protection' revealed that the site contained 'Marginal Koala Habitat' and 'Mainly Cleared Habitat'. One preferred Koala Feed Tree, *Eucalyptus tereticornis* (Forest Red Gum) recognised within the CKPoM was found to be present on site. No direct sighting of Koalas or signs, such as scratches on trees and scats observed. Given the connectivity of the site to large tracts of suitable habitat there is potential for Koalas to utilise the site. It was recommended that as many specimens of *E. tereticornis* be retained within the scope of works.

Considerations have been made to the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act (1999). It was determined that the proposal should have no significant impact on a matter of National Environmental Significance.

In conclusion, provided the recommendations in this report are implemented it is unlikely that the proposal will result in a significant adverse impact upon any viable local communities, populations or individuals of the assessed threatened species."

The recommendations of the Wildthing Environment Report are:

- It is recommended that future residences and associated structures contained within low-density lots within suitable Grey-crowned Babbler habitat will be restricted to designated building envelopes. Outside these building envelopes additional restrictions will also be required to retain Babbler nesting areas and other habitat requirements such as fallen timber and trees.
- Where possible it is recommended that hollow-bearing trees which are required to be removed are to be compensated by suitable nestboxes. Additionally any future removal of hollow-bearing trees from the site will be required to be supervised by a suitably qualified ecologist.
- All infestations of the invasive weed Lantana, Noogoora Burr, Prickly Pear and Blackberry are to be controlled within the site.
- Before any works take place within the two adjoining dams in the far west of the site which are proposed to become a retention basin, the infestation of Water Hyacinth will be required to be brought under control.
- New roads within the proposal will be required to carry low speed limits to reduce the potential for collision with fauna species."

These recommendations should be addressed in the event a Development Control Plan is prepared for the subject land and the assessment of subsequent development applications.

The Environment Report was referred to the NSW Department of Environment, Climate Change and Water (now the Office of Environment and Heritage) who made the following comments:

"The overarching goal for conservation in NSW is that biodiversity and other environmental values of soil, water quality and salinity must be 'improved or maintained'. This means the gains for biodiversity must be greater than or equal to any losses resulting from clearing or other forms of degradation of biodiversity values. This goal is also reflected within the NSW State Plan, the relevant provisions of the NSW Threatened Species Act 1995, Native Vegetation Act 2003, and the Lower Hunter Conservation.

DECCW has reviewed the 'Statement of Effect on Threatened Flora and Faun' (Wildthing Environmental Consultants, March 2010) and notes that the proposed zoning concept plan:

- *Will result in the removal of suitable habitat and an incremental reduction in the quality of habitat for the Grey-crowned Babbler;*
- *Is likely to result in a reduction in the quality of the hunting habitat for the Small Bent-wing Bat and Greater Broad-nosed Bat; and Will result in an incremental loss of potential habitat for a range of threatened fauna species including the Bruch-tailed Phascogale, Squirrel Glider, Varied Sittella, Powerful Owl, Grey-headed Flying Fox, Eastern Free-tail Bat, Eastern False Pippistrelle, Eastern Bent-wing Bat and Large -Footed Myotis.*

DECCW's preference is to achieve an 'improve or maintain' outcome for biodiversity values at the rezoning stage with the intent of simplifying and streamlining any subsequent development application process.

In this instance, however, DECCW considers that the noted impacts on threatened species could be dealt with post-gazettal of the Draft LEP through subsequent development applications under Part 3A or 4 of the Environmental Planning and Assessment Act 1979. It would appear that the proposed management recommendations (e.g. preparation of a habitat management plan, retention of hollow bearing trees etc) provide a useful framework for further biodiversity mitigation and offset measures at the development application stage.

It should be noted that DECCW only has a statutory role in assessing a development application if the consent authority determines that the development is likely to significantly affect a threatened species, population or ecological community, or its habitat. If Council determines a significant impact is likely, then pursuant to Section 79B of the Act, Council must seek the concurrence of the Director-General of DECCW."

The comments from the Office of Environment and Heritage are consistent with their advice to managing biodiversity impacts associated with development under the Kings Hill Local Environmental Plan. That is, the preference is to achieve an "improve or maintain" outcome for biodiversity at the rezoning stage. Notwithstanding this preference, land was rezoned for residential purposes under the Kings Hill Local Environmental Plan without biodiversity offset arrangements in place, and the respective landowners are now committing significant resources to try and achieve an "improve or maintain" outcome at the development application stage. The land subject of this Report would follow a similar process, with likely substantial issues to be addressed in order to achieve an "improve or maintain" outcome, given the environmental characteristics the subject land identified in the Environment Report by Wildthing.

CONSULTATION

Public Exhibition

The Planning Proposal was placed on public exhibition from 23rd December 2010 to 3rd February 2011. 5 submissions were received (two were subsequently withdrawn). A submission summary table including responses to the issues raised is at **Attachment 4**.

Public Agency Submissions

The Planning Proposal was referred to relevant government authorities for comment. Responses were received from the NSW Office of Environment and Heritage (former Department of Environment, Climate Change and Water), Commonwealth Department of Defence, NSW Rural Fire Service, Hunter Water Corporation, NSW Transport, Roads & Maritime Services (former RTA and Ministry of Transport). A summary of the issues/comments is provided in the Independent Planning Review at **Attachment 1** and is repeated below.

Department of Environment Climate Change & Water (now OEH) 21st Sept 2009

- Supports application having regard to noise considerations, provided no variation of Environment Protection Licence required.
- Not clear whether entire site included in earlier flora and fauna studies for Kings Hill project – a number of concerns regarding biodiversity assessment of Kings Hill need to be resolved.
- Proposal utilises earlier study prepared for broader Kings Hill project, in which Council was advised that consultation should be undertaken with other representatives of the Aboriginal community, apart from Worimi Local Aboriginal Land Council – this has not occurred.
- All reasonable efforts should be made to avoid impacting on Aboriginal cultural values; if impact likely, appropriate management strategies should be adopted in accordance with Aboriginal community and Part 6 of the National Parks and Wildlife Act 1974.
- Concurs with recommended 1000 metre odour buffer given:

- Bedminster facility has history of causing odour complaints up to 2kms away.
- Effective odour control requires good operation and housekeeping.
- Development unlikely to occur on site for 5-10 years, providing time for future refinement of buffer zone based on demonstrated history of Bedminster operation to operate without causing adverse odour impacts during 'normal' operations, and to avoid plant upsets resulting in odour incidents; and a revised modelling based assessment for 'normal' operations.
- Notes that noise guidelines generally followed with respect to site's proximity to Bedminster Waste Composting Facility (aircraft noise not reviewed).

Department of Environment Climate Change & Water (now OEH) 22nd December 2009

- Indicates that proposal should not result in odour conflicts as compliance with terms of restrictive covenant should ensure that all potentially odorous operations on Lots 1 and 2, DP 1098770, are consistent with residential development on any part of Lot 3, DP 1098770.
- Notes that advice in 21 September '09 letter was provided without an understanding of requirements of restrictive covenant on title of land on which Bedminster facility located.
- Effect of covenant requirement 1(b) and (c) is such that odour emissions from Lots 1 and 2 must be managed such that they are highly unlikely to cause offensive odour to Lot 3. Given the location of Lot 11, if odour impacts are consistent with residential development on any part of Lot 3, they would also be consistent with residential development on any part of Lot 11.
- Upon purchase of land, SITA essentially agreed to take sole responsibility for avoiding future odour conflicts on Lot 3 by managing odour emissions from Lots 1 and 2 so that they are unlikely to cause offensive odours at future residential development on any part of Lot 3.
- Concludes that it is technically feasible for operator to comply with terms of restrictive covenant.

Department of Environment Climate Change & Water (now OEH) 18th May 2010

- Outlines aim to "improve or maintain" biodiversity and other environmental values of soil water quality and salinity.
- After reviewing 'Statement of Effects on Threatened Flora and Fauna', notes that proposal:
 - Will result in removal of suitable habitat and incremental reduction in quality of habitat for Grey-crowned babbler
 - Is likely to result in a reduction in quality of hunting habitat for Small Bentwing Bat and Greater Broad-nosed bat; and
 - Will result in incremental loss of potential habitat for a range of threatened fauna species;
- Noted impacts on threatened species could be dealt with post gazettal of LEP through subsequent DAs under Part 3A or 4 of the EP & A Act. Proposed management recommendations (preparation of a habitat management plan, retention of hollow bearing and food trees, etc) provide a useful framework for

further biodiversity mitigation and offset measures at development application stages of proposal.

- Notes if Council determines that development is likely to have a significant impact on threatened species, then pursuant to s 79B of the EP & A Act, it must seek concurrence of Director General of DECCW.

Department of Defence 30th September 2009

- Strong reservations about proposal as site affected by aircraft noise, which is anticipated to increase with introduction of New Air Combat Capability at Williamtown RAAF Base.
- If proposal pursued, emphasises importance of: establishing mechanisms to ensure future residents are not exposed to upper most levels of noise at the site; making future residents aware of noise impact prior to purchase; additional design provisions being required during construction to minimise noise impacts in future.
- To address above concerns, requests that: no area of site be rezoned for residential use where development would be unable to achieve indoor noise levels shown in Table 3.3 of AS 2021-2000; lifestyle, affordability and similar issues be given appropriate consideration in above regard; all prospective purchasers at Kings Hill be advised of military aircraft noise at site; and that particular design requirements are required during construction to mitigate noise.

Department of Defence 28th June 2010

- Does not support proposal.
- Notes site is influenced by aircraft noise from a number of separate flight tracks and profiles, and by both civil and military aircraft operating from or utilising RAAF Base Williamtown.
- Notes high average maximum noise levels across site – very difficult to achieve degree of noise controls required to comply with indoor design sound levels prescribed at Table 3.3 in Australian Standard 2021-2000; Agrees with conclusions in NSW DoP's Independent Review of Australian Noise Exposure Concepts for RAAF Base Williamtown, that suggests delaying development in south western corner of Kings Hill site, where noise levels may exceed 85 dB(A).
- If proposal proceeds, requests that NSW DoP and Council ensures prospective purchasers are aware both EWT and Kings Hill sites are affected by aircraft noise to varying degrees.

Department of Defence 22nd March 2012

- Updated advice following the release of a 'new' 2025 ANEF in August 2011.
- Defence was able to model additional noise abatement procedures for the Joint Strike Fighter and this has had the effect of contracting the area covered by the ANEF contours including over the subject land.
- Notwithstanding, the subject land remains under a number of established flight paths and is regularly over flown by both military and civil aircraft operating from or utilising RAAF Base Williamtown. These flight paths will, by necessity, continue to be used by all aircraft types operating from RAAF Base Williamtown in the future.
- As such Defence's position as outlined in its submission dated 28th June 2010 remains extant. Defence reiterates that it would not accept responsibility for any future liabilities stemming from any decision to permit residential development in a manner which would be inconsistent with Australian Standard 2021-2000.

Rural Fire Service 28th August 2009

- Notes parts of subject site are bushfire prone (Port Stephens Bush Fire Prone Land map).
- Future development on bushfire prone land required to comply with s.79BA or s.91 of EPA Act, and may require issue of a bush fire safety authority as per s.100B of Rural Fires Act 1997.
- Requirements of 'Planning for Bushfire Protection' 2006 should be considered in planning stages of future development on bush fire prone lands.

Hunter Water Corporation 28th September 2009

- No objections to proposal.
- No water or wastewater infrastructure currently services site.
- Site located in Raymond Terrace Water Supply System.
- Options for staged augmentation works necessary to service North Raymond Terrace Development Area are proposed in existing Raymond Terrace Water Supply Servicing Strategy.
- Anticipates development within Kings Hill area will be serviced via watermain extensions from a connection into proposed lead in mains located in Pacific Highway; Due to size of proposed rezoning, developer funded Water Supply Servicing Strategy.
- Anticipates development within Kings Hill area will be serviced via watermain extensions from a connection into proposed lead in mains located in Pacific Highway; due to size of proposed rezoning, developer funded Water Supply Servicing Strategy required to determine suitable servicing options.
- Wastewater transportation – site located within Raymond Terrace Waste Water Treatment Works (WWTW) catchment, expects additional loading will be delivered directly to treatment works; notes issue of size of Development Area – significant upgrading of Infrastructure needed; Advises that development area is to be serviced by independent infrastructure, so proposal will have no impact on existing wastewater collection and transfer systems; development in Kings

Hill area also anticipated to be serviced independently. Developer funded Wastewater Servicing Strategy required.

- Wastewater treatment – Raymond Terrace WWTW does not have capacity for proposed development; current inlet works not capable of accepting ultimate development flows from Kings Hill area via anticipated independent Waste Water Pump Station and Carrier main; future upgrades, expected to be completed in 2015, anticipated to redress this problem, but in meantime access is on a "first come first served" basis.

Roads and Traffic Authority (now Roads and Maritime Services) 26th October 2009

- No objection to proposal, subject to issues in its submission being resolved.
- Proposal should be bound by same provisions in draft LEP 2007 – Kings Hill.
- Expects proposal to be subject to clauses requiring State public infrastructure provision and satisfactory arrangements.
- Requires developer, in addressing satisfactory arrangements, to enter into a Voluntary Planning Agreement for contributions towards designated State Public Infrastructure prior to development proceeding on site; and
- Prior to approval, Council should:
 - Consider (former) Department of Infrastructure, Planning and Natural Resources) Integrating Land Use and Transport Planning Policy and draft SEPP 66 – Integration of Land Use and Transport. Opportunities for pedestrians and cyclist connections to surrounding area should be considered.
 - Ensure that developer is aware of potential for road traffic noise to impact on future development of the site.

NSW Ministry of Transport 2nd October 2009

- Recognises aims of Lower Hunter Regional Strategy to provide for population growth with additional jobs and dwellings;
- Concerned about available accessibility between subject site and nearby regional centres, and potential to create residential neighbourhoods at North Raymond Terrace which are isolated and car-dependant; and
- Suggests further discussion and consideration of public transport be undertaken before rezoning occurs in the area.

OPTIONS

- 1) Adopt the recommendations of this Report and:
 - a. Endorse the recommendations of the Rezoning Application for Land at North Raymond Terrace – Summary Odour Report (SLR Consulting Australia Pty Ltd, 19th March 2012) and the Kings Hill Planning Proposal Independent Planning Review (City Plan Services Pty Ltd) noting;
 - i. Recommendation not to rezone land within 1km of the Bedminster Waste Management Facility;
 - ii. Recommendation not to rezone land within 250 of the landfill; and
 - iii. Uncertainty regarding odour impacts from vents located on the landfill.
 - b. Do not proceed with the Planning Proposal to rezone Lot 11 DP 37430 and Part of Lot 3 DP 1098770 to R1 General Residential.
- 2) Reject the recommendations of this Report and update and proceed with the Planning Proposal to rezone the subject land to R1 General Residential in whole or part.

ATTACHMENTS – all listed below are provided *under separate cover*

- 1) Independent Planning Review (City Plan Services, March 2012);
- 2) Summary Odour Report (SLR Consulting Australia Pty Ltd, 19th March 2012);
- 3) Map; and
- 4) Submission Summary Table.

COUNCILLORS ROOM

- 1) Independent Planning Review (City Plan Services, March 2012);
- 2) Summary Odour Report (SLR Consulting Australia Pty Ltd, 19th March 2012);
- 3) Map; and
- 4) Submission Summary Table;
- 5) Exhibition Folder and Submissions.

TABLED DOCUMENTS

Nil.

ITEM NO. 1

FILE NO: 16-2011-430-1

DEVELOPMENT APPLICATION FOR SEVEN (7) LOT SUBDIVISION AT NO 8 – 10 REES JAMES ROAD RAYMOND TERRACE

REPORT OF: MATTHEW BROWN – MANAGER DEVELOPMENT ASSESSMENT AND COMPLIANCE

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2011-430-1 for the following reasons:
- The proposal does not comply with the *Port Stephens Development Control Plan 2007*. Clause B1.C30 requires no more than 3 allotments utilising an access way whilst the proposal is for 7 lots with a maximum potential of 20 dwellings, which is unacceptable from a streetscape, amenity, connectivity, waste servicing, stormwater and water quality perspective;
 - The proposal will result in unacceptable amenity impacts. The development would result in 24 to 40 garbage bins being placed in front of the 2 allotments fronting Rees James Road. This would result in poor amenity and is considered not in keeping with the streetscape and amenity of a Torrens title subdivision, and an orderly built environment;
- 1) The proposal has failed to address water quality in accordance with B2.C3 of *Development Control Plan 2007*;
- The proposal results in an unacceptable impact on stormwater volumes with the potential to increase nuisance flooding into neighbouring properties such as behind proposed lots 6 and 7;
 - The proposal does not include preliminary engineering plans for stormwater, water quality and access as per the requirements of Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*; and
 - The development is does not comply with the requirements of Section B2.13 of *Development Control Plan 2007* in that it has not been accompanied by an acoustic report addressing aircraft noise impacts and demonstrating the sites suitability for the proposed development.

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	Councillor John Nell Councillor Geoff Dingle
	That Council defer Item 1 to the Ordinary Council on 29 May 2012, to allow for further information to be provided to Council.

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

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

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

Those against the motion: Crs Frank Ward.

ORDINARY COUNCIL MEETING – 29 MAY 2012

105	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that Council indicates its support in principle, for the development application for seven (7) lot subdivision at No. 8-10 Rees James Road, Raymond Terrace, and the applicant be advised of the need to provide a stormwater drainage study and the inclusion of a public road.

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

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

Those against the Motion: Cr Frank Ward.

Cr Ken Jordan left the meeting at 6.06pm prior to voting on the Matter Arising.

MATTER ARISING

106	Councillor Geoff Dingle Councillor Caroline De Lyall
	It was resolved that future development application plans, including subdivision applications be provided to Councillors under separate cover.

107	Councillor Glenys Francis Councillor Peter Kafer
	It was resolved that a report be provided to Council on the need for acoustic reports for those properties within the 20-25 ANEF.

BACKGROUND

At the Council Committee Meeting of 13 March 2012 and the Ordinary Council Meeting of 27 March 2012 it was recommended and resolved that the *"Item be deferred to allow for a site inspection by Councillors."* This inspection has since occurred, where Councillors heard from both Council staff and the applicant and considered such.

The purpose of this report is to present a development application to Council for determination as "called up" by Councillor MacKenzie for the reason "applicant not happy with Councils progress".

The development application as submitted proposes the subdivision of two (2) lots into seven (7) Torrens Title allotments.

It is proposed that Lots 2, 3, 4, 5 and 7 all be accessed via a 6.5m wide Right of Carriageway. Proposed Lots 1 and 6 will have direct frontage to Rees James Road.

The main issues associated with the proposal and discussed in the report are:

- Aircraft Noise;
- Compliance with DCP 2007; and
- Residential Amenity and orderly Development.

It is important to note that, in meetings with the applicant, 'in principle' support has been advised for the development of the site, however the current design is impracticable and unlikely to function well.

The application was notified in accordance with Councils policy and no submissions were received.

Timeline:

- 28/06/2011 – application lodged with Council
- 30/06/2011 – application allocated
- 08/07/2011 – site inspection
- 20/07/2011 – stop the clock letter issued
- 21/07/2011 – additional information received
- 26/07/2011 – application called to Council by Cr Mackenzie
- 01/08/2011 – meeting with applicant
- 03/08/2011 – additional information provided in response to meeting
- 26/08/2011 – letter issued requesting additional detail
- 08/11/2011 – applicant requested the application be determined with information submitted
- 13/01/2012 – building referral received
- 23/01/2012 – wastewater referral received
- 01/02/2012 – notification completed

FINANCIAL/RESOURCE IMPLICATIONS

It is important to note that staff met with the applicant on a number of occasions with the aim of facilitating a negotiated outcome for the site.

Should Council adopt the recommendation and refuse the development application, the applicant may appeal to the Land and Environment Court. Defending the Councils determination would have financial implications.

The development as proposed will have an unacceptable impact on receiving waters, and will potentially pass on the cost and burden of retrofitting a system onto the council. The failure to address this issue will likely result in Council needing to acquire land and/or construct a detention system in the future at cost to council.

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council's Policy for subdivision, resulting in a low residential amenity for the future occupants of lots and surrounding properties due to the lack of streetscape appeal, connectivity, undesirable collection and storage of garbage bins arrangements and inadequate drainage provision.

By not achieving the underlying principles of Council policy, Council and the broader community will be burden by the costs associated with solving likely future impacts in areas as outlined.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Applicant appeal against refusal	Medium	Adopt Recommendation to refuse	Yes
Cost burden to Council having to retrofit drainage system	High	Adopt Recommendation to refuse	Yes
Cost / liability burden to Council to acquire land and/or construct a detention system in the future	High	Adopt Recommendation to refuse	Yes
Poor streetscape and amenity outcome for occupants of lots and broader community	Medium	Adopt Recommendation to refuse	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposal will assist in creating additional building allotments and associated housing stock for the Ports Stephens market which is a distinct socio economic

positive for the region. It is considered however that impacts associated with the poor residential amenity of the allotments, created by the access arrangements, along with the issues of garbage collection result in the development in its current form having adverse social impacts.

CONSULTATION

The application was exhibited in accordance with Council policy and no submissions were received.

OPTIONS

- 1) Adopt the recommendation;
- 2) Reject or amend the Recommendations; or
- 3) Defer determination to allow for a redesign of the proposal.

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment.

COUNCILLORS ROOM

- 1) Subdivision Plan;
- 2) Statement of Environmental Effects.

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

The development application as submitted proposes the subdivision of two (2) lots into seven (7) Torrens Title allotments.

It is proposed that Lots 2, 3, 4, 5 and 7 all be accessed via a 6.5m wide Right of Carriageway. Proposed Lots 1 and 6 will have direct frontage to Rees James Road.

THE APPLICATION

Owner	Mr B R Statham
Applicant	LeMottee Group Pty Ltd
Detail Submitted	Statement of Environmental Effects Plan of Proposed Subdivision Draft 88B Instrument

THE LAND

Property Description Address	Lot: 3 DP: 617626, Lot: 10 DP: 1034741 8-10 Rees James Road, RAYMOND TERRACE
Area	6712m ²
Dimensions	The development site is irregular in shape, having a frontage to Rees James Road of approximately 120m
Characteristics	The site is generally clear, containing two residential dwellings. The site has gentle undulations with the site falling slightly to the rear and west.

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	2(a) – Residential 'A' Zone
Relevant Clauses	16 – Residential Zones 17 – Subdivision in Residential Zones 47 – Services 51A – Acid Sulfate Soils

Development Control Plan	Section B1 – Subdivision and Streets Section B2 – Environment and Construction
State Environmental Planning Policies	Nil

Discussion

Port Stephens Local Environmental Plan 2000

Clause 16 – Residential Zones

Clause 16 states;

(1) Description of the zone

The Residential "A" Zone is characterised by one and two storey dwelling-houses and dual occupancy housing. Townhouses, flats and units up to two storeys may occur throughout the zone. Dwellings may also be erected on small lots in specially designed subdivisions. Small-scale commercial activities compatible with a residential neighbourhood and a variety of community uses may also be present in this zone.

Comment: The development is considered to be consistent with the 2(a) – Residential Zone description.

(2) Objectives of the zone

The objectives of the Residential "A" Zone are:

(a) to encourage a range of residential development providing for a variety of housing types and designs, densities and associated land uses, with adequate levels of privacy, solar access, open space, visual amenity and services, and

(b) to ensure that infill development has regard to the character of the area in which it is proposed and does not have an unacceptable effect on adjoining land by way of shading, invasion of privacy, noise and the like, and

(c) to provide for non-residential uses that are compatible with the area and service local residents, and

(d) to facilitate an ecologically sustainable approach to residential development by minimising fossil fuel use, protecting environmental assets and providing for a more efficient use of existing infrastructure and services, and

(e) to ensure that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk.

Comment: The development is generally consistent with the zone objectives, however significant concern is raised over the potential amenity of the allotments.

With all allotments exceeding the 600m² threshold for dual occupancy in the 2(a) – Residential zone, there is the potential for the subdivision to be carried out so as to contain 14 dwellings. Further the proposed access way, with a 5m width has the potential for 1.8m fences to be built to the boundary creating a narrow fence lined corridor as an access and frontage for the allotments. In terms of residential amenity, it is considered that this level of amenity is not acceptable and the subdivision should be redesigned.

Further the requirements for garbage collection pose significant amenity issues with the potential for up to 28 bins to be located at the Rees James Road frontage for collection. The bins will be required to be placed at the Rees James Road frontage as garbage collection trucks will not traverse the private right of carriageway. These bins would occupy large portions of the frontages of proposed lots 1 and 6. The lot layout as proposed would also require Lot 5 to transport bins up to 90m for collection.

It is considered for these amenity reasons that the development should be redesigned.

Clause 17 – Subdivision in Residential Zones

Clause 17 states;

(1) A person shall not subdivide land in a residential zone except with the consent of the consent authority.

(2) Consent for the subdivision of land (other than land to which subclause (3) applies) to create an allotment with an area of less than 500m² that is, in the opinion of the consent authority, intended to be used for the purpose of residential housing is to be granted only if consent has been granted, or is granted at the same time, for the erection of a dwelling on that allotment.

(3) Consent for the subdivision of land in the Hill Tops precinct of the Nelson Bay (West) Area to create an allotment with an area of less than 600m² that is, in the opinion of the consent authority, intended to be used for the purpose of residential housing, is to be granted only if consent has been granted for the erection of a dwelling on that allotment.

Comment: The proposed subdivision is compliant with clause 17, having allotments that exceed the minimum 500m² requirement for vacant allotments.

Clause 47 – Services

Clause 47 states;

The consent authority shall not grant its consent to the carrying out of any development on any land unless:

(a) a water supply and facilities for the removal or disposal of sewage and drainage are available to that land, or

(b) arrangements satisfactory to it have been made for the provision of that supply and those facilities.

Comment: The development site can be serviced with reticulated water and sewer.

Clause 51A – Acid Sulfate Soils

Clause 51A sets the requirements of development in regards to Acid Sulfate Soils. The development is situated on land classified as class 5 Acid Sulfate Soils. It is considered that the development as proposed will not lower the water table of adjoining classes' of Acid Sulfate Soils by more than 1m and as such no further consideration is required.

Port Stephens Development Control Plan 2007

Section B2.13 – Aircraft Noise

At the time of lodgement of the application, section B2.13 was in effect.

The development site is located within the following aircraft noise zones

Noise Map	Noise Contour	Acceptable Development (subdivision of residential land and dwellings)
ANEF 2025	20-25	Conditionally Acceptable
ANEF 2012	20-25	Conditionally Acceptable

The provisions of Australian Standard 2021-2000 do not expressly discuss development for the purposes of subdivision, however they do define dwellings in the 20-25 noise contour as "conditionally acceptable". Further more, B2.3 – Building Site Acceptability Based on ANEF Zones, notes subdivision on the 20-25 ANEF contour to be "conditionally acceptable" development.

Given the development is noted as being "conditionally acceptable", it is required that an aircraft noise report be submitted to accompany the application and demonstrate that the site is suitable for the development proposed.

The application was submitted without an acoustic report which was subsequently requested by Council staff. The applicant responded;

The undersigned has no intention of recommending to the client that they spend in excess of \$3000 to obtain an Acoustic Report when it is well documented that the site is within the 20-25 ANEC Contours and it would take about 8 years to get any more information than that as the aircraft that forms the basis of noise mapping will not be available until at least 2019. Accordingly, sending an acoustic engineer to the site with sound measuring and recording equipment would be an utter waste of time.

The application has failed to adequately consider either the 2012 ANEF Noise Maps or the 2025 ANEF Noise Maps and is considered to be inconsistent with the provisions of Section B2.13 – Aircraft Noise.

Section B1 – Subdivision and Streets

The application has been assessed against the applicable provisions of *Port Stephens Development Control Plan, 2007 – Subdivision and Streets*,

The application is considered unsatisfactory with regards to B1 – Subdivision and Streets. Inconsistencies with the provisions of the Development Control Plan are engineering based and discussed in the Engineering Section below.

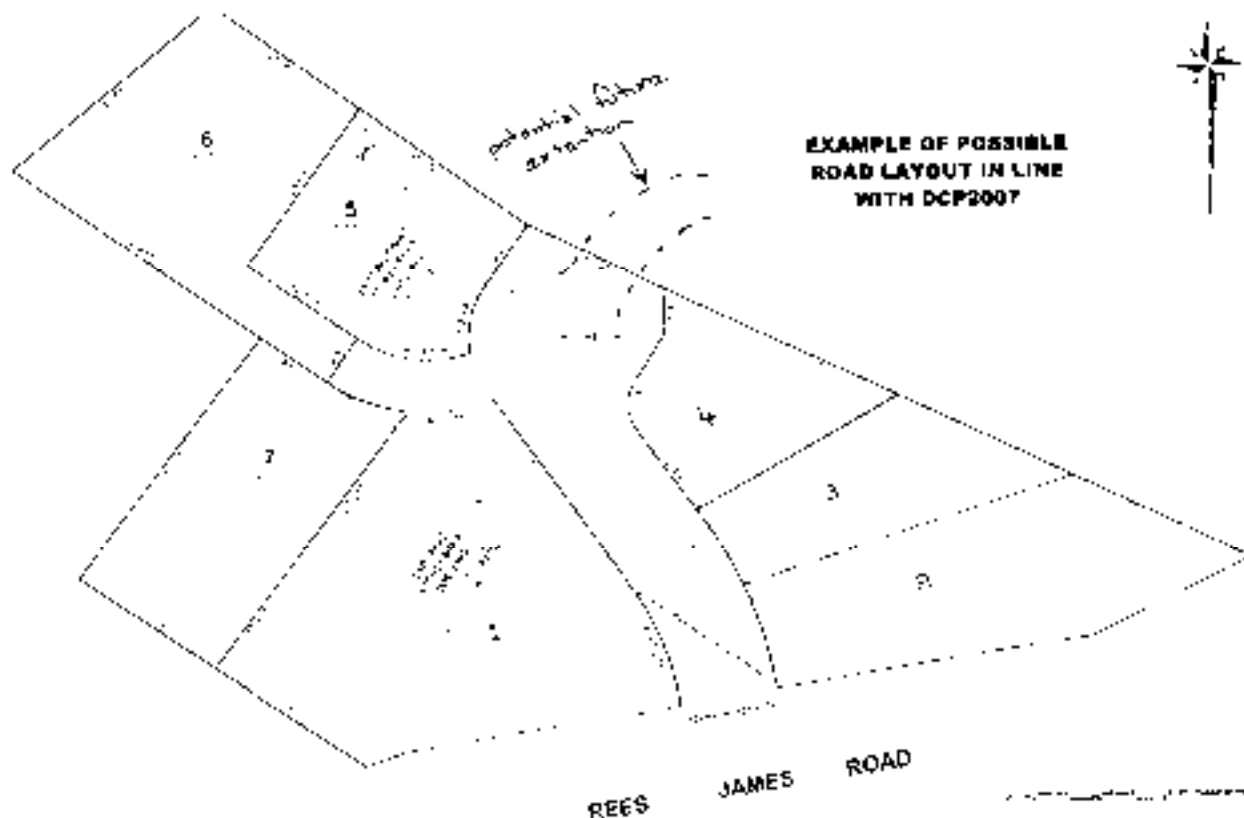
Engineering Referral

Council staff wrote to the applicant in July 2011 and again in September 2011 seeking that the proposal be modified to comply with Council's DCP. The proposal was insufficient in supplying documentation and also does not meet the requirements of the DCP 2007. The following is a list of the considerations:

The major issue was the extreme number of potential dwellings that would be created on the right of carriageway combined with the lack of supporting documentation to address drainage and water quality issues. It was suggested by staff that the Right of Carriageway be amended to a road way. Staff in an attempt to facilitate an outcome suggested a relaxation of the road width and verge width requirements given the short length of the road and its ultimate low volume function.

To assist the applicant, a sketch similar to the one below was provided to the applicant to demonstrate that a road could be accommodated on the site to address the access, garbage and residential amenity issues that are of concern with the right of carriageway as proposed. The sketch was provided with the recommendation that the applicant explores and refines the concept further. Refinement can occur to the road alignment, lot sizes, etc to suit the servicing and site specific constraints of the site. It is likely that a small amount of land would also need to be put aside to accommodate stormwater detention facilities however this was considered achievable without compromising lot yield.

The development as submitted by the applicant proposes a lot yield of 7 allotments while the sketch with a roadway as provided by staff also contains a 7 lot yield and potential for connection into future subdivision of adjoining land.



The applicant refused to explore the provision of a road within the development and asked that the application be determined based on the information as already provided and their preference for a Right of Carriageway.

It should be noted that stormwater concept, water quality concept and preliminary engineering plans (access, drainage and water quality) all remain outstanding for the proposal as submitted to Council.

The following is the detail associated with each issue of concern:

Traffic and Access

B1P3 – *Subdivision should provide street connections for future subdivision on adjacent land.*

The proposed Right of carriageway does not provide connectivity. The development engineers provided a sketch demonstrating that a road layout can be produced to create future connectivity, garbage services, and access to existing dwellings and not create sterilised portions of land. The applicant refused to try and explore this option further and asked that the application be determined as submitted.

B1C14 – *streets must be designed to enable each lot to front a street*

The proposed right of carriageway does not provide street frontage to lots. Rights of carriageway with large numbers of dwellings/lots are considered to create poor amenity and urban design outcomes primarily due to fencing being erected against rights of carriageway, the lack of separation between dwellings due to a lack of road reserve width which creates the amenity of space and streetscape that is desirable.

B1C30 – *No more than three lots on a right of carriageway*

The proposal is for 7 lots with 5 not having direct access to Rees James Road. The lot sizes have the potential for 20 dwellings to be developed on the site. A total of 12 dwellings would be a realistic expectation of the overall yield using the 161 – 183A Benjamin Lee Drive, Raymond Terrace development as a yard stick of dual occupancy take-up rates. It should be noted that the control B1C30 was written into the 2007 DCP in response to the poor visual and social outcomes achieved at 161 – 183A Benjamin Lee Drive development and others of this nature. The gun barrel driveways which resulted in the 'colorbond canyon' style of fencing were considered undesirable from a streetscape and amenity perspective.

The applicant expressed that a cul-de-sac could not be created without sterilising significant parts of the site. A conceptual sketch was then provided by council staff demonstrating that a suitable road could be achieved and that with further refinement of the lot sizing and shapes an optimum solution could be achieved without a drop in the developments yield. The applicant chose not to pursue this option, and requested that the application be determined based on the information submitted.

Garbage Pick-up

Council's Waste Services section has confirmed that garbage trucks will not be able to provide services along the right of carriageway. This will result in 24 to 40 garbage bins being placed in front of the two lots fronting Rees James Road. It is not standard practice to have such an impost on lots which are not part of strata or integrated housing development. It will also result in bins needing to be transported a distance of up to 85 metres to place on Reese James Road frontage.

Stormwater and Water Quality

The applicant has failed to provide a stormwater concept plan to address the volumes and runoff for the site. Part of the site will discharge to Rees James Road and part will discharge to the North West where an interallotment drainage easement exists. However no attempt has been provided to address the detention of increased flows and volume that will arise from the development of the proposed lots. Should the detention not be provided by the developer it is likely that council may have to spend council funds at some point in the future to retrofit drainage solutions due to problems arising from this development.

A subdivision of this scale is required to provide computer modelling of the water quality impacts that the future development of the site will impose. The applicant has

suggested that this impost be handled when development of the lots occurs in the future. The significant runoff that the proposed (but not supported) 5.5m wide by 85m long right of carriageway will create needs to be addressed at subdivision stage to determine what area of land is needed to provide suitable stormwater treatment. Otherwise there may not be sufficient land available and set aside to cater for the system without the need to reconfigure the subdivision lots in a later modification of the consent.

2. Likely Impact of the Development

It is considered that the development as proposed will not result in adverse impacts to adjoining properties, but it will create allotments of low residential amenity. Further the issue of garbage storage on street during collection will result in adverse impacts on both the streetscape and residential amenity.

It is considered that the proposal can be amended to resolve the issues raised in this report and consideration should be given to amending the subdivision design.

3. Suitability of the Site

It is considered that the site is suitable for residential subdivision. The form of the subdivision as proposed however is considered to be inappropriate.

4. Submissions

The application was notified in accordance with Council policy and no submissions were received.

5. Public Interest

Given the likely low residential amenity of the allotments and the issues resulting from the collection and storage of garbage bins, it is considered to not be in the public interest to approve the residential subdivision of the subject site in its current form.

ITEM NO. 2

FILE NO: A2004-0217

PROPOSAL TO CLOSE LANEWAY OFF BROWN STREET RAYMOND TERRACE

REPORT OF: MATTHEW BROWN – MANAGER DEVELOPMENT ASSESSMENT AND COMPLIANCE

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note this report; and
- 2) Takes no further action in relation to the proposal to close the Lane that links Brown Street and Richardson Road Raymond Terrace.

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Caroline De Lyall</p>
	<p>That Council:</p> <ol style="list-style-type: none">1. Receive and note this report; and2. Takes no further action in relation to the proposal to close the Lane that links Brown Street and Richardson Road Raymond Terrace;3. That the Member for Port Stephens be requested to liaise with the Local Area Commander with respect to anti-social behaviour in vicinity of the laneway off Brown Street, Raymond Terrace;4. That the Department of Housing be requested to conduct education programs with their residents in the areas in Raymond Terrace where laneways exist.

ORDINARY COUNCIL MEETING – 29 MAY 2012

Cr Ken Jordan returned to the meeting at 6.08pm prior to voting.
Cr Bruce MacKenzie left the meeting at 6.10pm prior to voting.
Cr Peter Kafer left the meeting at 6.13pm prior to voting.
Cr Peter Kafer returned to the meeting at 6.15pm prior to voting.

108	<p>Councillor Peter Kafer Councillor Glenys Francis</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1. Receive and note this report; and 2. Takes no further action in relation to the proposal to close the Lane that links Brown Street and Richardson Road Raymond Terrace; 3. That the Member for Port Stephens be requested to liaise with the Local Area Commander with respect to anti-social behaviour in vicinity of the laneway off Brown Street, Raymond Terrace and instigate proactive policing programs in the area; 4. That the Department of Housing be requested to conduct education programs with their residents in the areas in Raymond Terrace where laneways exist.
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BACKGROUND

The purpose of this report is to respond to a Notice of Motion from Councils ordinary meeting of 23rd August 2011 (Min 310) as follows:

"It was resolved that Council liaise with the Department of Housing regarding the laneway leading to Brown Street from Richardson Road, Raymond Terrace. This laneway has been of concern to many residents in the Brown Street area since the opening of the 24 hour service station. It is constantly the source of complaints re littering and rubbish and the fences of the neighbours have been damaged".

Discussions have been held between relevant staff in the Facilities and Services Group and the Development Services Group regarding this issue and it has been agreed that whilst some antisocial behaviour has occurred in and around this area, the benefits that the laneway provides in regard to connectivity between the two streets exceed the disadvantages associated with this behaviour. These benefits include access to bus routes in Richardson road, access to the service station convenience store and access to North Raymond Terrace from the Brown Street area.

The following response has been received from the Asset Operations Manager of the Department of Housing;

"The laneway is a council owned laneway that provides pedestrian access to the local community and as such it is not Housing NSW decision to have the laneway closed. Port Stephens council have already expressed their disapproval of any closure due to its connectivity to bus services on Richardson road. While it appears that the problems are arising from anti social behaviour, these are matters that should be raised with the police, the provision of a higher fence will not eliminate this behaviour and will only allow a blank canvas for further graffiti etc.

Housing NSW aims to provide a safe and secure property in line with residential tenancy agreement for all its dwelling, specifically in regards to the fencing of cottages we aim to provide a 1500mm boundary fence, while the existing fencing

would not be considered optimum due to some denting and graffiti, it is considered in tact and as such any full replacement would be part of a planned program and would be prioritised with other properties with fencing requirements."

This matter has also been discussed with the Office of Craig Baumann, member for Port Stephens, who has received complaints regarding the lane from a nearby resident. Mr Baumann's Office has advised that all Authorities concerned have indicated non interest in closing the laneway for the reasons mentioned above. Accordingly, Mr Baumann's Office has advised the complainant that no assistance could be offered in regard to the lane closure.

FINANCIAL/RESOURCE IMPLICATIONS

Should Council resolve to further consider closure of the lane then this formal process would have financial implications including staff time, legal costs and the costs of installing physical barriers.

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Closing the laneway could potentially restrict legal/practical access for residents between roadways accordingly adversely impacting on them. Damages may be sought from Council	Medium	Recommendation is to retain the laneway at present status- No action	Yes
Financial risk of compensation being sought by residents affected by antisocial behaviour occurring in lane	Low	It is not considered that Council can be held legally responsible for antisocial behaviour occurring in this location and therefore the risk is non existent	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is alleged that antisocial activity occurs in the laneway including graffiti, waste deposition and congregation of youths. The closure of the lane could eliminate this activity in that location however would disadvantage responsible residents who use it to access bus routes, Richardson Road and the service station.

CONSULTATION

- 1) Department of Housing-Asset Operations Manager;
- 2) Office of Craig Baumann;
- 3) Traffic Engineer.

OPTIONS

- 1) Take no further action in this matter;
- 2) Further consider the closure of the lane in terms of public demand, cost and benefit.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

FILE NO: PSC2008-3522

PLANNING PROPOSAL – LOT 1 DP 997897 NO 456 FULLERTON COVE ROAD FULLERTON COVE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **Attachment 1** to commence the process in accordance with the provision of the Environmental Planning and Assessment Act, 1979;
- 2) Council forward the Planning Proposal to the Department of Planning and Infrastructure with the request for a Gateway Determination.

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Bob Westbury</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 MAY 2012

109	<p>Councillor John Nell Councillor Ken Jordan</p>
	<p>It was resolved that the 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, Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward and Sally Dover.

Those against the Motion: Nil.

BACKGROUND

Council Resolution 448

The purpose of this Report is to action Council's resolution of 20 December 2011 at which Council considered a report on Development Application 16-2011-603-1 at its meeting on 13 December 2011 and again on 20 December 2011 after obtaining legal advice on the matter, wherein Council resolved to:

- 1) Receive and note the legal advice that the subdivision cannot be approved; and that
- 2) Representations be made with the Member for Port Stephens to seek an appointment with the Director-General of the Department of Planning to seek his agreement to expedite a site specific amendment to the Port Stephens Local Environmental Plan enabling this subdivision to be given consent in the future.

A copy of the report presented to Council on 20 December 2011 is included at **Attachment 2**.

To achieve the intent of the Resolution, an amendment is required to the Port Stephens Local Environmental Plan 2000 in the form of a planning proposal to permit the subdivision of the subject site in the manner proposed in the development application. The Planning Proposal is located at **Attachment 1**.

Subject Site

The subject site is located on the eastern side of Fullerton Cove Road Fullerton Cove and has a total site area of 14.41ha. The site extends east across Nelson Bay Road, however, no vehicular access is available to the lot from this road. Access to the eastern part of the property is obtained from Fullerton Cove Road via a concrete underpass that is shared with the lot on the northern boundary of the subject site. There is an existing detached dual occupancy development which fronts Fullerton Cove Road.

Port Stephens Local Environmental Plan 2000

The land is zoned 1(a) Rural Agriculture under the Port Stephens Local Environmental Plan (LEP) 2000. Subdivision is prohibited under clause 12 in LEP 2000 in the 1(a) zone. Subdivision of a dual occupancy development is also prohibited under clause 14 in LEP 2000.

Development Application

The Development Application was lodged with Council in 2011 (DA 16-2011-603-1) for a two lot subdivision on a site containing a detached dual occupancy development at No. 456 Fullerton Cove Road Fullerton Cove, with the subdivision designed to include one existing dwelling on each lot created. The applicant has since withdrawn the application, rather than have the application determined by refusal.

A Locality Plan is included at **Attachment 3**.

Point 2 of Council Resolution of 20 December 2012 (Minute Number 448)

A meeting was held in Sydney between relevant Council officers, Craig Baumann – Member for Port Stephens, Neil McGaffin - Department of Planning and Infrastructure and Sam Haddad, Director-General – Department of Planning and Infrastructure (DoPI) on 2nd February 2012. While no agreement to support the proposed amendment to the LEP was obtained in the meeting, advice on the Department's approach to site-specific amendments was offered. DoPI's preference is for a broader strategic approach to an amendment such as a locality based plan was expressed, rather than a schedule listing under clause 62 in the LEP. However, Council officers advised that subdivision had already occurred in the immediate vicinity of the site and that the proposal would be consistent, making the need for a locality based review of little value.

Planning Proposal

A Planning Proposal has been prepared and is included at **Attachment 1**. The Planning Proposal details the justification for the amendment to the LEP and concludes that a site-specific amendment to 'enable' the subdivision of the lot into two lots, each containing one existing dwelling is the best means to achieve the outcomes identified in the planning proposal. A strategic review of lot sizes in the immediate vicinity was undertaken with details also included in the Planning Proposal.

FINANCIAL/RESOURCE IMPLICATIONS

As this Planning Proposal has been prepared in response to a Council Resolution and not initiated by a proponent, no fees have been received for the works undertaken by Council officers as set out in the adopted Fees and Charges 2011-2012 schedule.

LEGAL, POLICY AND RISK IMPLICATIONS

Amending the Port Stephens LEP 2000 will enable the subdivision to be approved. The Planning Proposal outlines the plan-making process for this planning proposal and the relationship with the draft Port Stephens Local Environmental Plan 2012.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Possibility of creating a precedent that encourages further subdivision applications of this nature.	Low	Not retain this clause in the draft 2012 LEP, thus limiting the window of opportunity for further subdivision applications.	Yes
Department of Planning and Infrastructure refuse the Planning Proposal under a Gateway Determination.	Moderate	No further action can be taken. The DA has been withdrawn.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal is generally consistent with development on adjacent sites. The area is unlikely to intensify beyond the existing development due to environmental constraints such as flooding. Further, the amendment to the LEP relates to subdivision only as the dwellings are already permissible and constructed on the site.

CONSULTATION

Consultation will be undertaken in accordance with requirements outlined in a Gateway determination issued under the provisions of the Environmental Planning and Assessment Act, 1979. Should a Gateway determination be issued, the Planning Proposal will be placed on exhibition for community comment. Outcomes of the exhibition will be considered in a further report to Council.

OPTIONS

- 1) Amend the Port Stephens Local Environmental Plan 2000 by adopting the Planning Proposal and requesting a Gateway determination to proceed. This is the preferred option;
- 2) Resolve to amend the Planning Proposal prior to requesting a Gateway determination; or
- 3) Resolve not to adopt the Planning Proposal and retain the current provisions in the Port Stephens Local Environmental Plan 2000.

ATTACHMENTS - all listed below are provided *under separate cover*.

- 1) Planning Proposal – 456 Fullerton Cove, Fullerton Cove;
- 2) Council report (DA 16-2011-603-1) Item 4 – 20 December 2011;
- 3) Locality Plan.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: A2004-0853

ACQUISITION AND DIVESTMENT OF LAND POLICY AND PROPERTY INVESTMENT POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Acquisition and Divestment of Land policy and the Property Investment policy as presented to Council;
- 2) Place the Acquisition and Divestment of Land policy and Property Investment policy on public exhibition for 28 days;
- 3) Adopt the Acquisition and Divestment of Land policy and Property Investment policy as presented to Council should no submissions be received;
- 4) Should no submissions be received in relation to the Acquisition and Divestment of Land policy or Property Investment policy, revoke the Property Investment and Development policy adopted by Council on 27/01/2004, Minute No. 10.

COUNCIL COMMITTEE MEETING – 8 MAY 2012
RECOMMENDATION:

	<p>Councillor John Nell Councillor Bob Westbury</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 29 MAY 2012

110	<p>Councillor Glenys Francis Councillor Steve Tucker</p>
	<p>It was resolved that the recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to have Council endorse the attached *Acquisition and Divestment of Land* policy and *Property Investment* policy and resolve to place the draft policies on public exhibition.

Council's existing *Property Investment and Development* policy adopted by Council on 27/01/2004, Minute No. 10, relates only to Council's Operational Land bank and Investment Property portfolio and does not include the acquisition and divestment of

Land that was purchased or acquired for community or infrastructure purposes. Therefore, two new policies have been developed to capture all Council's management, acquisition and divestment activities with regards to property. The *Acquisition and Divestment of Land* policy includes all of Council's land holdings and the *Property Investment* policy relates only to Council's Property Investment portfolio.

The policies provide a framework and formal process to ensure a consistent and informed approach to acquisition, management and divestment of land and buildings is undertaken.

FINANCIAL/RESOURCE IMPLICATIONS

The policies outline the distribution of funds from the Property Investment portfolio, from land development activities and the sale of reclassified and rezoned land. As there is no change to the structure of the distribution of funds from existing arrangements, there are no financial or resource implications.

LEGAL, POLICY AND RISK IMPLICATIONS

The policies set a framework under which Port Stephens Council will manage the operations of its Property Investment portfolio and the manner in which Council will undertake the acquisition and divestment of its property assets. The policies ensure that Council takes account of the relevant legislation provisions and procedures/processes required under the provisions of the legislation.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Acquisition of land and investment properties without appropriate feasibility/cash flow analysis may result in a poor choice or payment in excess of market value for the land/building asset and divestment of property for less than current market value or divestment in poor market conditions	Medium	The policies provide a regulatory framework and outline Council's responsibilities and obligations under the provisions of the various legislation additionally the policies ensure that appropriate information is sought and analysed to enable Council to make well informed decisions on acquisition and divestment	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Efficient and effective management of the acquisition and disposal of all Real Property provides an ongoing alternate revenue stream to Council. Additionally the

policies outline the distribution of funds in accordance with Council's Long Term Financial Plan.

CONSULTATION

- 1) Civil Assets Manager;
- 2) Community and Recreation Manager;
- 3) Senior Survey and Land Information Manager;
- 4) Property Services Development Coordinator;
- 5) Property Services Investment Coordinator;
- 6) Property Services Property Officer;
- 7) Councillors – 2 Way Conversation held 17 April 2012.

OPTIONS

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

ATTACHMENTS

- 1) Draft Acquisition and Divestment of Land Policy;
- 2) Draft Property Investment Policy;
- 3) Property Investment and Development Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted:
Minute No:
Amended:
Minute No:

FILE NO: A2004-0853

TITLE: ACQUISITION AND DIVESTMENT OF LAND POLICY

RESPONSIBLE OFFICER: PROPERTY SERVICES MANAGER

BACKGROUND

The acquisition and divestment of Land by Council requires a formal process that is underpinned by probity, due diligence, analysis of risk and other key objectives. In acknowledging this, the number of Land acquisitions and/or divestments undertaken by Council in any given year although relatively low, are crucial to the strategic provision of open space, operational and community benefits, achieving planning outcomes and commercial gains from land development.

This policy applies to the acquisition of all Land as defined in this policy. To acknowledge Council's charter that it is the custodian and trustee of public assets and is required to effectively account for and manage the assets for which it is responsible (Section 8 of the Local Government Act 1993).

This policy applies only to the divestment of Operational Land as defined under the Local Government Act 1993.

OBJECTIVE

- 1) To define the criteria which must be considered prior to the acquisition and/or divestment of Council owned Land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned Land. The objectives of this policy aim to provide Council with a framework which adopts the following principles:
 - probity
 - statutory compliance
 - commercial optimisation, flexibility and confidentiality
 - transparency of process; and
 - achievement of specific strategic outcomes of Council and the community.

PRINCIPLES

- 1) All decisions and actions in relation to the acquisition and/or divestment of Land will have due regard to the following fundamental principles:
- Best value for money – Achieving 'best value' may include financial, social and environmental benefits,
 - Transparency – processes must be open to scrutiny, provide full information, and record the reasons behind decisions.
 - Accountability – demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails,
 - Impartiality – address perceived or actual conflicts of interests.

DEFINITIONS

For the purposes of this policy:

- 'Acquisition Authority' means Port Stephens Council.
- 'Act' means the Local Government Act 1993.
- 'Contract' means any form of contract which legally binds the Council (or potentially binds Council) and includes formal contracts and other forms of contractual arrangements including heads of agreement, in principle agreement, options to purchase etc.
- 'Land' is as defined in Section 21 of the Interpretation Act 1987.

As a more specific reference for the purpose of this policy, 'Land' is defined as:

- I. Land as a physical entity including:
- I. any building or structure on or improvement to Land; or
 - II. any stratum of land whether below or above ground; or
 - III. a strata lot pursuant to relevant strata subdivision legislation.

- 'Land Development Activities' means the development of land that has been purchased by Council specifically for future development.

'Owner Initiated Acquisition'	means the principle considerations defined in Section 23 of the Land Acquisition (Just Terms Compensation) Act 1991 to acquire affected properties.
'Programmed Acquisition'	means when the acquiring authority requires the affected property and initiates the acquisition process.
'Regulation'	means the Local Government (General) Regulation 2005 and any replacement Regulation.

POLICY STATEMENT

- 1) The purpose of this policy is to describe the manner in which Port Stephens Council will undertake the acquisition and divestment of Land assets and to provide Council with:
 - a documented reference to guide its decision making process;
 - a reference that will survive successive Councils;
 - an endorsed framework to enable and pursue Land acquisition and divestment opportunities of merit and pro-actively present such opportunities to Council;
 - to establish delegations necessary to allow implementation functions to be addressed to meet market drivers;
 - to set out the principles, framework, responsibilities and processes for Council and officers to account for, and manage the acquisition and divestment of Council Land assets;
 - to identify, manage and mitigate the risks associated with the acquisition and divestment of Land; and
 - to ensure impartiality, transparency, accountability and the delivery of best value in the divestment of Land ('fundamental principles').

LAND ACQUISITION PROCEDURE

1. Fundamental Principles

Council will acquire Land for the purpose of carrying out its functions under the Act. Any Land to be acquired by Council is subject to a formal resolution of Council.

Independent Valuation Benchmark and Special Value

Any Land acquisition is to be benchmarked to an independent valuation of Land unless the size of the land or the agreed value is negligible.

In some cases there will be a justified basis for Council acquiring property at a price above the valuation benchmark in order to guarantee the successful securing of the property to achieve defined goals and objectives of Council or to acquire the property with a view to adding value [or reducing risk] to a larger scheme or development [future or current].

Any special value should be determined and quantified within the initial decision of Council and referenced to the achievement of specific goals and objectives of Council.

2. Acquisition Process

While the General Manager and/or their delegate may make preliminary enquiries and negotiations regarding a possible purchase and purchase price, no formal negotiations will commence without there first being a resolution of Council authorising the negotiations. The General Manager and/or their delegate shall:

- be responsible for the conduct of all negotiations;
 - have regard to an independent valuation obtained from a registered valuer;
 - seek such other professional advice as is considered necessary in the circumstances;
 - have regard to the Independent Commission Against Corruption publication Direct Negotiations so far as is appropriate in the circumstances; and
 - report the outcome of all negotiations to the Council for determination.
3. Prior to finalisation of an acquisition, Council shall determine the classification of the Land as either operational or community.
4. Council's process of Land acquisition must include the following steps:
- Identification of the Land acquisition opportunity by Council and/or the Responsible Officer,
 - In principle decision by the General Manager to commence the pre-acquisition process,
 - Preparation of a comprehensive assessment of the land acquisition including:
 - I. required due diligence;
 - II. independent valuation, maximum price [purchase, lease or other];
 - III. assessment against the principles and objectives of Council's Integrated Planning framework;
 - IV. identification of funding source and assessment against Council's Long Term Financial plan; and
 - V. a statement of goals and objectives for the proposed Land to be acquired including a statement of any 'Special Value' deemed appropriate by Council.

- Formal consideration by Council of dealing with the matter and if required in accordance with Section 10A of the Act be dealt with in a closed meeting.
- Formal report to Council including the Land acquisition assessment and documented reasons for Council's acquisition of the Land, and if supported, delegation to the General Manager to negotiate an outcome subject to the financial and risk parameters as determined by Council.
- Negotiation, and if successful, implementation of all matters necessary for the preparation, signing and sealing of contract documentation required.
- Once completed the General Manager to advise Council of the outcome [successful or otherwise].

The process is designed to ensure fairness and equity.

METHODS OF ACQUISITION

Wherever possible Council's preferred method of acquisition is to acquire Land through mutual agreement with the owner of the Land. The key principles in the acquisition of Land are:

- Opportunistically by responding when the desired Land is offered to the market; and
- Pro-actively by initiating negotiations for the desired Land.

Council's preferred position is not to acquire Land through compulsory acquisition, however, Council has an obligation to provide services to the community and if required Council may consider utilising its powers under the Local Government Act 1993 in respect of 'compulsory acquisition'.

If the land is to be acquired for future development or strategic investment purposes, the acquisition of the land will be through negotiation between Council and the Vendor on the basis of a valuation to determine a fair market value plus or minus 10% for the purposes of negotiation. The key principles in the acquisition are:

- location
- topography
- area
- zoning

A business case and feasibility study will be prepared to determine the viability and development potential for the Land to be included in the report to Council.

COMPENSATION

Compensation will apply to property owners affected by acquisition under the following provisions:

- Owner initiated acquisitions
- Programmed acquisitions

In determining the amount of compensation to which a person is entitled, Part 3 Division 4 of the Land Acquisition (Just Terms Compensation) Act, 1991 requires that regard must be given to the following matters only:

- (a) The market value of the land on the date of its acquisition;
- (b) Any special value of the land to the person on the date of its acquisition;
- (c) Any loss attributable to severance;
- (d) Any loss attributable to disturbance;
- (e) Solatium (ie. compensation for non-financial disadvantage arising the need to relocate as a result of the acquisition); and
- (f) Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

Property owners claiming hardship in accordance with Section 24 of the Land Acquisition (Just Terms Compensation) Act, 1991 provisions should note that:

Council is not required to acquire land unless it is of the opinion that the owner will suffer hardship (within the meaning of the Land Acquisition (Just Terms Compensation) Act, 1991). An owner of land must demonstrate they suffer hardship if:

- (a) the owner is unable to sell the land, or is unable to sell the land at its market value, because of the designation of the land for acquisition for a public purpose; and
- (b) it has become necessary for the owner to sell all or any part of the land without delay:
 - i. for pressing personal, domestic or social reasons, or
 - ii. in order to avoid the loss of (or a substantial reduction in) the owner's income.

However, if the owner of the Land is a corporation the corporation does not suffer hardship unless it has become necessary for the corporation to sell all or any part of the Land without delay for pressing personal, domestic or social reasons of an individual who holds at least 20 per cent of the shares in the corporation, or in order to avoid the loss of (or a substantial reduction in) the income of such an individual.

LAND DIVESTMENT PROCEDURES

1. Fundamental Principles

All decisions and actions in relation to the divestment of Land will have due regard to the following fundamental principles:

- Best Value for Money – Achieving 'best value' may include financial, social and environmental benefits.
- Transparency – processes must be open to scrutiny, provide full information, and record the reasons behind decisions.

- Accountability – demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
- Impartiality – address perceived or actual conflicts of interests, ensuring fairness and equity.

2. Land deemed to be surplus

'Land' includes all real property whether vacant or improved. Land may not be sold by Council unless it is classified as 'Operational Land' under Section 25 of the *Local Government Act, 1993*.

In order to establish whether or not Land is deemed to be surplus, a process of consultation is required to be completed across relevant divisions of Council prior to reclassification in accordance with the *Local Government Act, 1993*.

3. Delegated Authority

Section 377 (1) (h) of the *Local Government Act 1993* requires a specific resolution of Council to dispose of Land. The decision cannot be delegated.

The report to Council is to include reference to the manner of divestment (often contained within a confidential report) in regards to the terms of the sale and the agreed price, or range for negotiations. The sale cannot proceed outside of such parameters (without a further resolution).

The resolution should also provide for the General Manager to be provided with delegated authority to negotiate any outstanding, usually minor conditions, and to be authorised to execute any documents in relation to the matter deemed appropriate by Council's legal advisors.

A copy of the report and resolution is to be provided to Council's legal advisors upon instruction, as authority to act and to ensure compliance with the resolution.

No formal actions may be commenced in the divestment of Land until a report has been considered by Council and an appropriate resolution adopted.

Informal pre-sale discussions/negotiations must always be qualified 'subject to resolution of Council if there is no current resolution of Council to dispose of the Land.

4. Valuation Processes

At least one formal market valuation undertaken by a valuer registered to value such property is required to be commissioned prior to all property divestments.

Two valuations may be required when the value of the property is likely to exceed \$2,000,000.00 and/or the process of divestment is not competitive (as defined below).

An internal review of the valuation(s) is to be carried out and reported, with specific attention to the valuation rationale, method of valuation, calculations and sales evidence used. After such review, the valuation is to be considered in the setting of an asking price for sale, reserve price for auction or benchmark for negotiations, tender or expression of interest.

When two valuations have been provided, averaging is the preferred method for considering the price, when any difference in the valuation is 10% or less. Differences in valuations of more than 10% require an assessment of the reasons why they are different, and more detailed justification of the price.

An updated valuation or valuation advice is required after 12 months of the date of the original valuation if the Land is not sold, or at any time, there is considered to be a material movement in the value.

The valuation instructions must clearly state the following:

- The purpose of the valuation being 'divestment';
- The basis of valuation being 'market value highest and best use', unless an alternative basis is considered more appropriate in the circumstances;
- That the valuation is to be marked confidential; and
- That the valuation includes market commentary, details of sales evidence and adjustments, valuation rationale and methodology, a valuation range (for negotiations) and comments on marketability, most appropriate method of divestment and opportunities to add value.

In addition, the valuer must make a statement that there is no actual or perceived conflict of interest in undertaking the valuation.

METHODS OF DIVESTMENT

An open competitive process of divestment is required choosing one of the following methods:

- Expression of interest – usually used for unusual properties capable of a variety of development, difficult to determine a market value.
- Tender – least common and used predominantly in high value, limited market situations.
- Auction – the most open and public method, favoured by government, but reliant on high levels of competition. Often achieves a quick sale. Can fail in poor market.
- Private Treaty – most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an independent third party to the negotiation process) and can arise after an unsuccessful Auction.

Council may approve a non-competitive process of divestment such as direct negotiations, subject to clearly documented reasons and the employment of risk mitigation measures.

Risk mitigation measures for direct negotiations may include:

- obtaining two valuations where the Land may be valued at more than \$2,000,000.00; pre-establishing a range for negotiation, having regard to the two valuations;
- managing conflicts of interest with declarations of no personal or financial associations;
- establishing a Negotiation Protocol, describing the manner in which meetings, negotiations, decisions and progress reporting is to be managed and documented; and
- limitation on marketing budget and exclusive agency periods.

1. Divestment below Market Value

In rare circumstances, Land may be disposed of to achieve strategic outcomes. In such situations, 'best value' may comprise financial, environmental or social elements, with the price falling below the 'market value' range.

The report seeking resolution of Council should clearly state the reasons for such sale and quantify the amount below market value attributable to each element. The obligation to obtain a market valuation exists in accordance with the above, in order to provide a measure of the non-financial elements of the sale.

2. Sale to Adjoining Owners

In circumstances where Land is not able to be sold in isolation on the open market (such as small parcels, undersized lots, former road widening, closed laneways, boundary adjustments etc) and the only potential purchasers are adjoining owners; the Land must be offered in equal proportions to each adjoining owner on identical sale terms and conditions.

Where an adjoining owner does not wish to purchase their proportion of the Land, the rejected Land will be equally offered to the remaining adjoining owner.

The recommended method of determining the sale price is the 'before and after' method as related to the purchaser's Land. For small portions of Land, the 'piecemeal' (\$ rate per square metre) method may be more appropriate.

An essential condition of sale is that the purchaser is required to consolidate the subject Land with their existing holding at no cost to Council.

The costs associated with the sale process will be borne by the prospective purchaser.

3. Sale of Roads – Roads Act, 1993

No road can be sold until it is formally closed in accordance with the provisions of the Roads Act, 1993.

For purchaser initiated closures and sales, the costs associated with the road closure will be borne up front by the prospective purchaser.

When Council initiates the road closure (in order to realise the value of surplus Land), the costs will be borne by Council as development costs.

The agreed purchase price and estimated costs will be reported to Council seeking resolution agreeing to make application to close the road and dispose of the Land upon closure in accordance with the terms of sale.

In accordance with Section 43 of the Roads Act, 1993, funds from the sale of roads are required to be set aside for acquiring Land for public roads or for carrying out work on public roads.

CONFIDENTIALITY

In the majority of divestments of Land, the information contained in reports to Council to sell Land may confer an advantage upon a person with whom Council is, or proposes, to be conducting business. On balance, it would be contrary to the public interest for Council to deal with such matter in an open session because release of the information could prejudice Council's ability to obtain the maximum return on the property.

Therefore, it is acknowledged that reports to Council on the divestment of Land will be generally deemed confidential under Section 10A (2) (c) of the Local Government Act, 1993. This confidentiality may be lifted by Council resolution upon settlement, if considered to be in the public interest.

RELATED POLICIES

Property Investment and Divestment policy
Restricted Funds policy
Cash Investment policy
Integrated Strategic plans
Resource strategy
Long Term Financial plan

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

NIL

ECONOMIC IMPLICATIONS

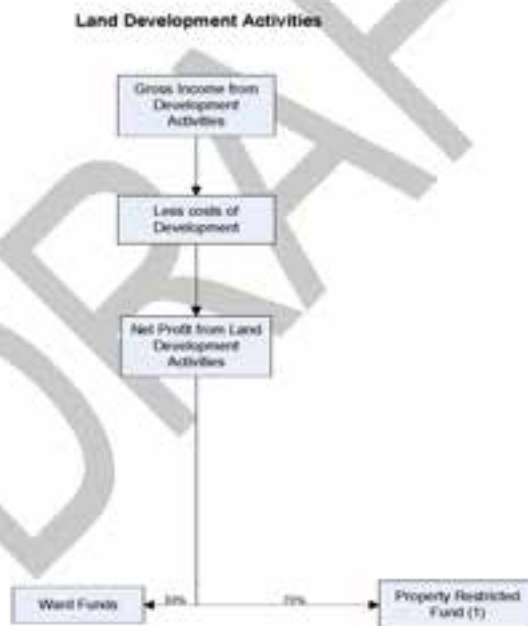
1. Distribution of Funds

Net profit received from sales of surplus Community Land that has been rezoned and reclassified will be entirely allocated to the Asset Rehabilitation reserve.

Net profit received from the sale of Land from road closures, boundary adjustments, small parcels and surplus operational land will be assigned to General revenue.

Where land development activities on Land in the operational development land bank produce a net profit, 70% will be allocated to the Property investment restricted fund and 30% will be allocated to Ward funds. The 30% Ward funds will be expanded in accordance with the integrated strategic plans.

Should an allocation of funds be sought contrary to the ratio stated within this policy a Council resolution will be required to amend the ratio.



ENVIRONMENTAL IMPLICATIONS

Environmental considerations for land that is to be reclassified or rezoned will be addressed at the time of the preparation of the Planning proposal. The development of land will require a Development Application at which time it will be necessary to prepare a Statement of Environmental Effects, which will assess any environmental impacts.

RELEVANT LEGISLATIVE PROVISIONS

- 1) The Local Government Act, 1993 vests authority in Council to sell or exchange Real Property. In respect of this policy, 'exchange' includes property acquisition and other related activities including Land swaps etc.
- 2) In accordance with Section 377 of the Act, any decision to dispose of Land must be made by resolution of Council as the power to sell, exchange or surrender Land cannot be delegated.
- 3) Section 45 of the Act prevents Council from selling, exchanging or otherwise disposing of community Land other than to become or be added to a Crown Reserve or National Park.
- 4) Section 55 of the Act requires tenders to be called in certain circumstances. However, it is not necessary to call tenders for the sale of Land.
- 5) In accordance with Council's Purchasing policy and Disposal policy, Land acquisition and divestment activities are excluded from the provisions of the Purchasing policy.

Council's property activities will be managed within the legislative parameters of the:

- Local Government Act, 1993;
- Valuation of Land Act, 1916;
- Conveyancing Act, 1919;
- Environmental Planning and Assessment Act, 1979;
- Residential Tenancies Act, 1987;
- Land Acquisition (Just Terms Compensation) Act, 1991;
- Roads Act, 1993;
- Retail Lease Act, 1994;
- Crown Lands Act, 1989;
- Environment Protection and Biodiversity Conservation Act, 2000;
- National Parks and Wildlife Conservation Act, 1975;
- Real Property Act, 1919;
- Regulations under each of the above Acts;
- Relevant Codes, Plans and Policies referred to in Section 13 of this policy; and
- any other legislation applicable to the policy.

Contract for the Sale of Land

Contracts for the sale of Land will usually contain standard conditions of sale. Any unusual or special conditions of sale require the approval of Council or the General Manager under delegation.

Council's legal representative is responsible to ensure contracts for the sale of Land satisfy statutory disclosure and warranty obligations (Conveyancing (Sale of Land) Regulation 2005).

IMPLEMENTATION RESPONSIBILITY

Property Services Manager

REVIEW DATE

January 2014

DRAFT

ATTACHMENT 2



POLICY

Adopted:
Minute No:
Amended:
Minute No:

FILE NO: A2004-0853
TITLE: PROPERTY INVESTMENT POLICY
RESPONSIBLE OFFICER: PROPERTY SERVICES MANAGER

BACKGROUND

The current portfolio mix and status of Council's investment portfolio provides investment returns that currently alleviate some call on rates and continue to provide acceptable capital growth across the portfolio.

This policy provides guidelines for consideration in the process of acquisition, improvement, value adding and disposal of investment properties. Investment properties are those that provide financial return to Council and or provide strategic pathways for future income generation. Within the context of this policy, it is important to state that investment properties can also be held in some cases as land bank opportunities and while over the initial term Council may derive an income from the property, future development can be undertaken in accordance with the Acquisition and Divestment of Land Policy.

Property investment activities and in particular lower risk investments are generally longer term activities spanning medium to longer terms (say 5 to 20 years).

The attractiveness of a property investment will be dependant upon a variety of factors not only inherent to a particular subject property but also upon a range of external factors such as Government fiscal, taxation and investment policies, investor confidence, availability of funds and analysed returns as compared to other investments such as the stock market for example.

The Principles of this policy provide a framework of considerations to ensure a consistent informed approach to acquisition, management and divestment is undertaken.

It is noted that this policy refers to only Operational Land as defined under the Local Government Act 1993 and provides no structure for the acquisition or disposal of Community Land. All land required, managed or disposed of in accordance with this policy will be classified 'Operational' within the context of the Local Government Act 1993.

OBJECTIVE

- 1) To invest in Real Property and maintain a real estate portfolio as a strategy for providing capital growth and recurrent source of income in supporting Council's rates and other statutory income producing activities in the provision of services to the community.
- 2) To acquire and maintain an optimum portfolio balance of medium and longer term property investments providing acceptable growth and recurrent returns.

PRINCIPLES

- 1) To ensure optimum financial return is realised through appropriate identification, selection and management of Council's Property Investment portfolio including acquisition and disposal of assets.
- 2) To utilise effective property management and investment practices in the management of Council's Property Investment assets to ensure maximum economic return to Council.
- 3) To satisfy the real property needs of Council by meeting the requirements and corporate objectives outlined in the current Long Term Financial Plan.
- 4) Investment decisions will have regard to the prevailing economic conditions and factors relative to property investment such as those discussed within the Property Investment policy, taking into account vacancy rates, lifestyle costs of improvements, location and future development potential.
- 5) Any decision to acquire or divest of an asset comprising part of the Investment Property Portfolio is required to be supported by a resolution of Council.

DEFINITIONS

'Act'	means the Local Government Act 1993
'Investment Property'	means built form commercial, retail, industrial or residential property that derives a rental return (yield) in accordance with the long term financial plan.
'Property Investment Portfolio'	means properties dealt with within the financial statements of Port Stephens Council at Note 14.
'Real Property'	means a freehold or leasehold or other reversionary or partial interest in improved land.

POLICY STATEMENT

- 1) The purpose of this policy is to set forth a framework under which Port Stephens Council will manage the operations of its Property Investment portfolio ensuring:
 - The establishment of a documented process to guide the decision-making process;
 - A reference guide that will survive successive Councils; and
 - The overall mix and nature of investment properties will provide a balanced source of income that complements existing investment activities.
- 2) The Property Investment Coordinator (PSC275) will regularly review and report on the performance of its investment portfolio and use this information to determine recommendations to Council regarding acquisition, management and divestment in respect of the portfolio.
- 3) All property investment activities will be undertaken in accordance with Property Services section Long Term Financial Plan and will also reflect Council's ongoing commitment to sustainability.

RELATED POLICIES

- 1) Restricted Funds policy
- 2) Cash Investment policy
- 3) Asset Management policy
- 4) Long Term Financial plan
- 5) Acquisition and Divestment of Land policy
- 6) Integrated Strategic plans

SUSTAINABILITY IMPLICATIONS

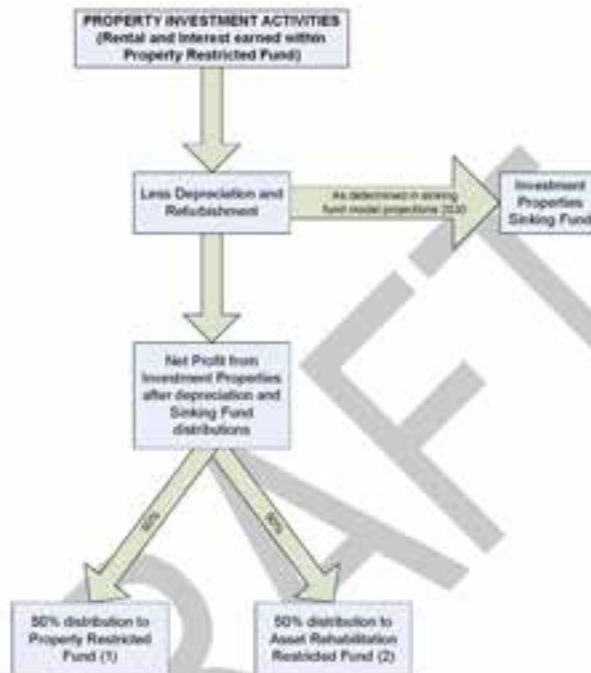
SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Efficient and effective management of the acquisition and disposal of Investment properties will provide an ongoing income stream, which reduces the call on rate revenue and provides funds for further investment.

The distribution of funds received from Council's investment portfolio is to be carried out in accordance with the following:



ENVIRONMENTAL IMPLICATIONS

Nil

RELEVANT LEGISLATIVE PROVISIONS

- 1) Local Government Act 1993
- 2) Real Property Act 1900
- 3) Conveyancing Act 1919
- 4) Retail Leases Act 1994

IMPLEMENTATION RESPONSIBILITY

- 1) Property investment Coordinator PSC725

REVIEW DATE

- 1) May 2014 - two years from implementation

ATTACHMENT 3



Adopted: 27/01/04
Minute No:010
Amended:
Minute No:

FILE NO: 1510-000

TITLE: PROPERTY INVESTMENT & DEVELOPMENT POLICY

RESPONSIBLE OFFICER: BUSINESS & DEVELOPMENT MANAGER

BACKGROUND

The nature and status of Council's current investment and development portfolio has placed it in a credible position which may be continually enhanced by realising further investment and development opportunities.

This policy provides guidelines for consideration in the acquisition development and disposal of investment properties. Investment and Development properties are those that provide financial return to Council and or provide strategic pathways for future income generation.

Property Investment activities are those that have a pre-determined yield, a lower risk associated with return and are usually improved properties eg multi-storey commercial premises. Property Development activities require further input of capital and carry higher risk usually being unimproved properties eg vacant land.

The Principles of this policy provide a basis to ensure optimum financial return is realised through appropriate identification, selection and management of Council's investment portfolio including acquisition and disposal of assets. They also support the basis for recommendation upon which Council may determine to pursue acquisition or disposal of its investment properties including buildings.

The policy refers to Operational Land only as defined under the Local Government Act 1993 and provides no consideration for the acquisition or disposal of Community Land and its associated requirements. All land acquired, managed or disposed of in accordance with this policy will be classified "Operational" within the context of the Local Government Act 1993.

OBJECTIVE

- To invest in property and maintain a strong real estate portfolio as a strategy for providing capital growth and a recurrent source of key income in the provision of services to the community.
- To acquire and maintain an optimum balance of short, medium and long term property investments ensuring exponential growth and the financial capacity to further invest and develop.

- To complement the current Cash Investment Policy in providing an alternate income source thereby reducing the call on rate revenue and other statutory income producing activities of Council.

PRINCIPLES

- 1) To ensure optimum financial return is realised through appropriate identification, selection and management of Council's investment portfolio including acquisition and disposal of assets.
- 2) To utilise effective property management techniques and investment practices in the management of Council's assets to ensure maximum long term economic advantage to Council.
- 3) To satisfy the real property needs of Council by meeting the requirements and corporate objectives outlined in Council's investment portfolio model.

POLICY STATEMENT

The overall mix and nature of investment properties will provide a balanced source of income which complements existing cash holdings.

All future investment and development activities will provide return on investment greater than achievable cash rates at any specified time.

Council will systematically assess and review the performance of its investment portfolio and use this information to determine when and how to preserve or increase each properties value and usefulness or dispose of individual properties. Decisions in this regard will be based on analysis of cost information for individual properties and will reflect the viability of Council's commitment of financial resources to specific projects. Priority will be given to projects with a positive effect on investment returns without imposing on short term cash availability.

All property investment activities will be undertaken in accordance with Council's Management Plan and the Business and Development Business Plan and will reflect Council's ongoing commitment to sustainability. Community identified needs within the Management Plan will also provide guidelines for the suitability of property investment decisions in relation to the vision of Council and its corporate goals. Investment activities will reflect both financial and strategic objectives.

Borrowings may be considered in accordance with relevant policy, the Management Plan and targeted debt service ratios.

The attached Annexures A to E provide specific guidelines for Investment and Development Policy activities and will be applied in conjunction with the Policy Objectives, Principles and Statement.

Annexure A	Structure of Investment Portfolio
Annexure B	Investment Considerations
Annexure C	Financial Considerations
Annexure D	Reporting Procedures
Annexure E	Distribution of Funds

RELATED POLICIES

Restricted Funds Policy
Cash Investment Policy
Business Development Funding Policy
Acquisition Policy (under development)
Disposal Policy (under development)
Economic Development Strategy
Social Plan
Financial Management Strategy
Asset Management Policy

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Efficient management of the acquisition development and disposal of investment and Development properties will provide an ongoing income stream which reduces the call on rate revenue and provides funds for further investment.

ENVIRONMENTAL IMPLICATIONS

Nil

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993
Real Property Act 1900
Retail Leases Act 1994

IMPLEMENTATION RESPONSIBILITY

Property Unit

REVIEW DATE

One year from implementation.

Annexure A Structure of Investment Portfolio

Investment decisions will have regard to the changing nature of Council's portfolio requirements and the demand on its cash investments. In this respect an appropriate mix of properties will be held that will enable Council to both capitalise on long term investment strategies and provide short term cash flows where required. In order to achieve this balance a range of properties that enables diversification within the market will be maintained.

The optimum balance of properties will consist of short, medium and long term investments. This will enable Council to realise assets at varying rates and allow income streams to be generated at various points within the life cycle of the investment.

In determining the suitability of activities Council will also consider the nature of investments and their ability to meet future resource requirements.

An appropriate range of investment properties will be maintained in accordance with their categorisation within the following classifications:

- Greenfield
- Concept planned
- DA under development
- DA approved
- Development in progress
- On market

The following additional criteria are based on industry standards and considered an appropriate benchmark to determine suitability where lettable property is considered.

- Secure return to Council by achieving at least a ten year lease on "A" grade tenants, at least a five year lease on "B" grade tenants and three year lease term on "C" grade tenants. The definitions of these gradings are:

A Grade	Large lettable areas of 7000sqm leased to national tenants.
B Grade	Medium lettable areas of between 200sqm to 700sqm leased to well known, reputable and solvent tenants.
C Grade	Small lettable areas of less than 200sqm leased to lesser known tenants.

In assessing applications for occupancy of each grade of premises due diligence will be undertaken to establish applicants solvency and compliance with pre-determined industry accepted criteria.

Annexure B Investment Considerations

Considerations in determining suitability of investment properties for acquisition or disposal include but are not limited to:

- Analysis of the reason for purchase and the individual strategy for the future use of the property ie does the acquisition
 - satisfy the real property needs of Council or,
 - provide an income source for current and/or future revenue
- Current return on investment and its performance in accordance with Council's annual Key Performance Indicators noted in the Management Plan and Business Plan.
- Assessment of strategic value of property and Council's ability to further capitalise on investment.
- Initial value of the property in relation to the current market value of the property ie how has the property appreciated or depreciated in value.
- Current and future ability to return optimum rental on improved properties.
- Suitability of the property for identified purpose ie extent of development or design requirements and associated budgetary restrictions both short and long term.
- Acquisition costs ie purchase price and associated costs such as valuation, enquiries, stamp duty, contract and conveyancing fees.
- Holding costs incurred until future development or disposal occurs.
- Maintenance and preservation requirements of the asset both current and future and the need to commit financial resources based on cost analysis.
- Immediate income generation.
- Flexibility of Investment.
- Sustainability of investment income following disposal.

Council will aim to maximize its return on all property investments however statutory and social obligations may in some instances impose restrictions on the capacity to fulfil this requirement. For example this may occur as a result of Council's planning policies where policy implications restrict the ability to realise maximum return on investments. Where this occurs Council will apply sound business practice and determine the proposal based on its financial merit.

Alternatively where proposals indicate potential to fulfil future financial, social or statutory requirements investment decisions may consider the ability to meet long term investment goals ie initial low yield and long term potential benefit.

Annexure C

Financial Considerations

The decision to proceed with acquisition or disposal of investment properties will be made having due regard to "Investment Considerations" and the following financial performance criteria:

Acquisition

Ability to provide 10% or greater return on investment

Ability to purchase at or below market value

Short and long term impact on financial resources

Disposal

Performance in relation to market expectations

Ability to dispose of above market value

Short term realisation of asset versus long term loss of income

By systematically assessing current economic climate, predominant market forces and financial performance of individual investment properties maximum return is achieved in accordance with financial and strategic goals.

Following acquisition of investment properties with improvements Council will maximise rental return by prudent management, review of rental payments, rental reviews, lease options and the monitoring of movements of rents and tenants on a local and regional level.

An annual budget will be prepared for the expenses related to the operation of investment and development properties and monitoring the placement of funds. The budget will also contain provision for holding and associated costs in respect of unimproved properties.

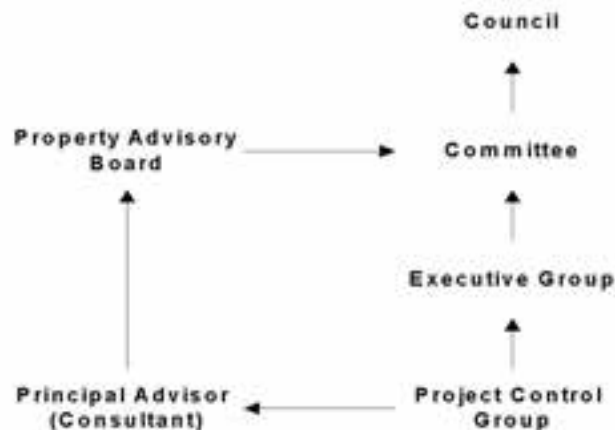
Annexure D Reporting Procedures

All proposals to acquire or dispose of property will be presented to the Property Advisory Board for consideration. The Board will be furnished with full and extensive details on the history, costs and benefits of each proposal in accordance with the Investment and Development Policy considerations. This detail together with Council's ability or otherwise to acquire for an amount less than or equal to current market value or dispose of for an amount equal to or in excess of current market value will provide the basis for determination of individual proposals prior to submission to Council for determination.

The performance of each investment property will be reported on a monthly basis detailing their ability to meet the pre-determined criteria of Council's Management Plan and the objectives therein.

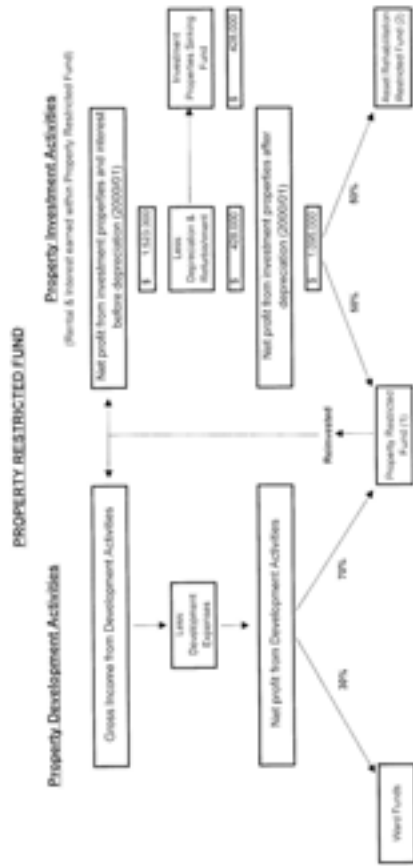
Disposal of all investment properties will be undertaken in accordance with Council's Disposal of Land Policy (currently under development).

Acquisition of all investment properties will be undertaken in accordance with Council's Acquisition policy (currently under development).



Annexure E Distribution of Funds

Funds received from Investment Properties will be distributed in accordance with the Restricted Funds Policy ie where investment activities produce a net profit 50% of profit will be returned to Property Investment Restricted Fund and 50% will be allocated to Asset Rehabilitation Restricted Fund. Where land development produces a net profit 70% will be allocated to Property Investment Restricted Fund and the remaining 30% to Ward Funds.



ITEM NO. 6

FILE NO: PSC2012-00846

THE UNITING CHURCH IN AUSTRALIA PROPERTY TRUST (NSW) – PROPOSED LEASE – 29 STURGEON STREET RAYMOND TERRACE

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the signing and affixing the seal of Council to the lease with the Uniting Church in Australia Property Trust (NSW) for 29 Sturgeon Street, Raymond Terrace.

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

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

MATTER ARISING

	<p>Councillor Peter Kafer Councillor Geoff Dingle</p>
	<p>That Council investigate the No Parking signs erected on the building wall at 29 Sturgeon Street, Raymond Terrace.</p>

ORDINARY COUNCIL MEETING – 29 MAY 2012

111	<p>Councillor Ken Jordan Councillor John Nell</p>
	<p>It was resolved that the recommendation be adopted.</p>

MATTER ARISING

112	<p>Councillor Ken Jordan Councillor John Nell</p>
	<p>It was resolved that the Supplementary Information be received and noted.</p>

BACKGROUND

The purpose of this report is to advise Council that the Property Services section have negotiated with The Uniting Church in Australia Property Trust (NSW) T/AS Lifeline to enter into a lease for a three year term over the currently vacant Council owned property located at 29 Sturgeon Street at Raymond Terrace (formerly occupied by Rivers Clothing). Council purchased the property with vacant possession in early 2005 for \$900,000 and up until the occupation by Rivers commencing in 2011, only short term leases over the premises had been entered into.

Rivers removed themselves in January 2012 (by mutual agreement and under the terms of the lease) from the former four year lease over the premises on economic grounds. The building currently features a good standard of presentation and state of repair throughout while the Lessee intends to undertake their own fit-out.

The terms agreed are \$50,000 annual rent Plus GST and recoverable outgoings. The lease also includes an option for one further term of three years.

FINANCIAL/RESOURCE IMPLICATIONS

The Council owned site at 29 Sturgeon Street is a valuable strategic land holding within the Raymond Terrace Central Business District. The proposed lease facilitates an income stream derived from Council owned premises over the medium term prior to the longer term redevelopment of the site whilst also providing an opportunity to form an ongoing relationship with a provider of low cost second hand furniture, clothing and home wares.

LEGAL, POLICY AND RISK IMPLICATIONS

It is a requirement of the Real Property Act that leases in excess of three years duration must be registered upon the title of the land to which they apply. If the lease is to be registered the seal must be affixed upon signing. The seal of a Council must not be affixed to a document unless the document relates to the business of a Council and the Council has resolved (by way of resolution specifically referring to the document) that the seal be affixed.

The Agreement for Lease and Lease have been prepared by the Property Services section.

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	Low	Formalise the lease documentation as recommended	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The leasing proposal provides a continuation of the income stream which ceased when Rivers clothing vacated in January and will to some degree safeguard the building from decay as occupied buildings are generally better maintained and presented.

Lifeline will also use the premises as a referral point for their trademark suicide prevention service which is an obvious benefit to the social fabric of Raymond Terrace. The provision of low cost second hand furniture and home wares to the community will also be of major benefit.

CONSULTATION

- 1) Group Manger Corporate Services;
- 2) Property Investment Coordinator.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

FILE NO: PSC2011-04348

SUSTAINABILITY DELIVERY REVIEW – PROPERTY MANAGEMENT

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 Management and endorse the findings of the review;
- 2) Acknowledge the significant savings already achieved by Property Services Section as a result of the partial restructure in 2009 and the commitment to continue to seek further business improvements and continued vigilance over costs.

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Caroline De Lyall</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 29 MAY 2012

113	<p>Councillor Caroline De Lyall Councillor John Nell</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 delivery review of the Property Management function of community leasing across Council, the property investment portfolio and other strategic assets held for future public purpose or operational goals.

The Property Management function of Property Services comprises the management of Port Stephens Council's Property Investment Portfolio, Council's strategic land holdings that have buildings constructed and are currently tenanted and the management of Council's Community Leases and Licences for other sections of Council over both improved and unimproved lands.

The Community Leasing component comprises the management of 140 leases and licences across Council on behalf of other sections in addition to providing specialist advice in relation the many legislative provisions that exist. This component also provides a process for more equity and accountability in community leasing in addition to providing a mechanism to control public liability risks over leased/licensed lands and premises.

The Commercial Property Management function is concerned with primarily the effective management of the investment property portfolio and other designated income producing and non-income producing assets both from an operational and strategic perspective while that position also provides a supervisory responsibility and assistance to the Community Leasing function.

The critical functions of the two streams of the Property Management activity can be summarised as follows:

Commercial Property Management

Provides Commercial Property Management function;

Commercial Leasing

Maintenance Programs

Provides Strategic Asset Management functions;

Life Cycle Management

Provides strategic advice to Council on acquisition and divestment;

Leasing up space as and when it becomes vacant and includes the drafting of leases, instructing retained Lawyers where relevant, preparation of documents for Property Advisory Panel (PAP) and the Group Manger, General Manager and Councillors where relevant;

Significant focus on cost control;

Life cycle modelling and management of Sinking Funds provisions;

Ongoing compliance with legislative provisions;

Ensuring insurance including public liability and WHS risks are controlled.

Community Leasing

Specialist advice in relation to Community Leasing and Licences;

Management of the portfolio for other sections across Council;

Assisting other sections within Council to navigate the many legislative provisions

Ensuring risks (public liability and WHS) are controlled.

Improvements in delivery of the service to date

\$60,000 in recurrent costs were saved as a result of the partial restructure implemented in 2009;

Project costing module interfaced to the (Property) expenses general ledger accounts to more effectively control costs;

Continued effective focus on cost control in general;

Long-term sinking fund projection and modelling undertaken to adequately cater for rehabilitation and maintenance of the portfolio into the future;

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

Acquisition and implementation of a specialist property management software system, ProgenNet to more effectively manage the portfolio.

Income / Expenditure and Staffing

Community Leasing

Income (under internal service agreements)	\$20,000
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Recurrent Expenditure	\$67,444
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Capital Expenditure	\$Nil.
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Community Leasing = 1.15 EFT

Commercial Property Management

Income	\$2,491,000
--------	-------------

Operating Expenditure	\$ 816,134*
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Capital Expenditure	\$ 375,000*
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Staffing costs are \$64,409

Current yield for the Investment Portfolio is 8.43%, which is within current industry benchmarks for commercial property of a similar portfolio mix.

* Note: The operating and capital expenditure budget includes expenses for Council's strategic land holdings such as 29 Sturgeon Street, The Terrace Shopping Village, 44 – 48 William Street and 18 – 20 King Street, Raymond Terrace.

Service Review Findings

Benchmark to private enterprise

There are currently many commercial leasing agents that are capable of managing Council's investment portfolio. Agent's fees range significantly depending on the type of investment and reach up to 11% of gross rent for smaller portfolios. Current advice from two local property valuers and two multi national commercial agents states that on Council's portfolio agents would charge fees of 5% of gross rent.

Leasing up fees are in addition to the above agents fees and can be significant.

To manage Council's community leases an annual charge per lease would be considered to be the most appropriate charge however at a nominal \$500 per lease/licence the cost is \$70,000 however given the considerable time that is spent

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

managing the relationships with community groups this fee seems unlikely to be negotiated.

Data Summary

Current Salary Cost to Manage Portfolio	\$64,409 (70% of \$92,013)
Cost for external agent to manage portfolio at 5% of current rent	\$124,550 (excluding leasing up fees)

This is for Property Management only and does not include:

Strategic asset management;
Investment advice (acquisition and divestment);
Sinking fund modelling and management.

FINANCIAL/RESOURCE IMPLICATIONS

To continue with the current cost control and business improvement strategies in place will continue to provide returns better than private enterprise benchmarked results. However, outsourcing the service delivery will result in significantly increased costs and loss of efficiencies already gained since 2009.

LEGAL, POLICY AND RISK IMPLICATIONS

Council is legally obligated to effectively manage leasing and licensing of Community land in accordance with the provisions of the Local Government Act, 1993. Effective management of the Property Investment portfolio ensures ongoing compliance with the many legislative provisions and control over risks associated with liability and work health and safety.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Should Councils commercial portfolio not be managed effectively returns to Council would be detrimentally affected	High	Adopt the recommendations contained in the Sustainability Delivery Review – Property Management	Yes
If insurance and WHS risk are not effectively controlled Council will be exposed to significant financial risk also	High	Adopt the recommendations contained in the Sustainability Delivery Review – Property Management	Yes

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
If obligations are not clearly defined between the parties to a lease then Council is further exposed to financial and in some cases reputation risk	Medium	Adopt the recommendations contained in the sustainability Delivery Review – Property Management	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

If Council adopts alternate options to the recommendations within the strategy there will be significant loss of efficiencies and increased costs as a direct result.

CONSULTATION

Extensive consultation has been undertaken with industry professionals from both private enterprise and public sector organisations.

OPTIONS

Nil.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Service Strategy – Property Management;
- 2) Service Strategy – Investment Property Annexure;
- 3) Service Strategy – Community Leasing Annexure.

ITEM NO. 8

FILE NO: PSC2004-0242

QUARTERLY BUDGET REVIEW AS AT 31 MARCH 2012

REPORT OF: TIM HAZELL – FINANCIAL SERVICES MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget as detailed in Attachment 1 - Quarterly Budget Review Statement – March 2012;
 - 2) Notes the estimated surplus from ordinary activities before Capital amounts of \$669,000 as detailed in Attachment 1 - Quarterly Budget Review Statement – March 2012;
 - 3) Notes the estimated underlying operating deficit of \$5.081 million as detailed in Attachment 1 - Quarterly Budget Review Statement – March 2012.
-

COUNCIL COMMITTEE MEETING – 8 MAY 2012
RECOMMENDATION:

	<p>Councillor Frank Ward Councillor Caroline De Lyall</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 29 MAY 2012

114	<p>Councillor Ken Jordan Councillor Caroline De Lyall</p>
	<p>It was resolved that the recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to amend the budget by bringing to Council's attention the proposals and issues that have an impact on the 2011/12 budget which are detailed in the Quarterly Budget Review Statement – March 2012. This Statement sets out the details of variations between Council's original budget and the proposed budget as part of the December Quarterly Budget Review.

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

FINANCIAL/RESOURCE IMPLICATIONS

Council's Net Operating Results are expected to decline by \$15,000 and Council's General Revenue Results are expected to improve by \$68,000 with the adoption of the recommended changes.

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Underlying operating result is in deficit	High	Long term financial plan established to reach break even point by 2015	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

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

OPTIONS

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

ATTACHMENTS

- 1) Quarterly Budget Review Statement – March 2012.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



**Quarterly Budget Review
Statement – March 2012**

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1. Introduction

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

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

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

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

The QBRs is composed of the following components:

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

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

2. Responsible Accounting Officer's Statement

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

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

It is my opinion that the Quarterly Budget Review Statement for Port Stephens Council for the quarter end 31/03/2012 indicates that Council's projected financial position at 30/06/2012 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Name: Peter Gesling

Responsible Accounting Officer, Port Stephens Council

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

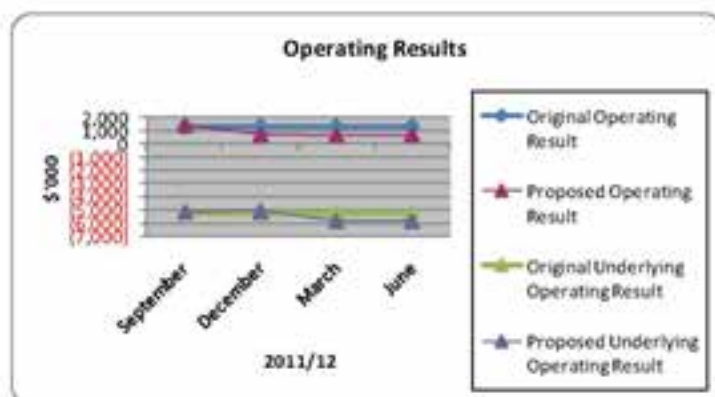
3. Income & Expenses Budget Review Statement

	Original Budget	Revised Budget ¹	Actual	Recommended Changes for Council Resolution	Proposed Budget ²
	\$'000	\$'000	\$'000	\$'000	\$'000
Income from Continuing Operations					
Revenue					
Grants & Contributions provided for Operating Purposes	10,695	10,113	7,324	284	10,401
Rental & Investment Revenue	1,452	1,305	944	0	1,305
Other Revenue	5,014	3,972	2,903	36	4,006
Rates & Annual Charges	42,772	42,260	42,258	36	42,294
User Charges & Fees	20,517	20,576	20,546	707	21,240
Grants & Contributions provided for Capital Purposes	6,665	10,402	4,805	1,556	11,360
Other Income					
Net (loss) from the disposal of assets	4,527	4,527	130	0	4,527
Total Income from Continuing Operations	104,804	104,387	77,540	2,441	106,930
Expenses from Continuing Operations					
Borrowing Costs	2,137	2,077	1,304	0	2,077
Depreciation & Amortisation	16,669	16,669	130	0	16,669
Employee Benefits & On-Costs	31,819	31,552	24,828	200	31,749
Materials & Contracts	22,736	22,133	21,768	1,541	23,294
Other Expenses	6,259	6,732	7,642	461	8,192
Net (loss) from the disposal of assets					
Total Expenses from Continuing Operations	81,621	83,143	65,444	1,127	84,301
Net Operating Result for the Year	13,183	11,244	14,096	1,540	12,629
Net Operating Result for the year before Grants and Contributions provided for Capital Purposes	1,216	663	11,291	(116)	663
Less:					
Profit from Land Sales	4,000	4,000	0	0	4,000
Profit from Newcastle Airport	2,500	2,500	2,700	0	2,500
Less:					
Medivac Legal Matter	0	750	0	0	750
Underlying Operating Result³	(16,284)	(9,687)	14,591	(116)	(16,081)
Net Cost of Council (General Revenue)					
Plus					
Depreciation	16,669	16,669	130	0	16,669
Less:					
Transfer to/from restricted reserves	16,429	17,025	1,670	(715)	16,715
Loans funded from General Revenue	1,036	1,036	0	0	1,036
Capital works from General Revenue	171	324	0	28	252
General Revenue Result⁴	60	1,047	17,740	68	1,136

Notes:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.



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

This statement sets out the details of variations between Council's revised operating budget and the proposed budget as part of the March Quarterly Budget Review. Whilst there are a number of minor budgetary changes proposed across the Council budget which has delivered an overall decrease in the Operating Result of \$15,000 (refer to Recommended Changes for Council Resolution column in Income and Expenses Budget Review Statement), the material amendments are detailed below under each income and expenditure category.

Council's Underlying Operating result, which excludes profit from both land sales and Newcastle Airport, has altered slightly from a projected deficit of \$5.07 million to a projected deficit of \$5.08 million.

The General Revenue result has improved by \$68,000 mainly due to an increase in internal revenue for the Building Trades Business Unit.

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

	Budget Change	
	\$'000	F/U
REVENUE		
Grants and Contributions provided for Operating Purposes	284	F

The major variance is in relation to grants received for Environmental Protection (\$113K), Weed Control (\$23K) and Economic Development (\$14K). Tourism income transferred from Fees and Charges to Grants and Contributions (\$118K).

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

Interest and Investment Revenue	-	-
Nil change		
Other Revenues	35	F
Lower than anticipated income from Workers Compensation Insurance due to lower claims (\$60K). Increased Long Service for new employees from other Councils (\$18K). Increased Road Closure income (\$39K). Increased plant sales at Ngioka Centre (\$10K). Increased Halls income (\$9K). Increased private works (\$15K).		
Rates and Annual Charges	38	F
Increased Land Rates income (\$23K) and increased income received for Garbage Collection Service (\$15K).		
User Charges and Fees	767	F
There have been various increases and decreases in User Fees and Charges and the changes are listed below. Increased RTA charges for Nelson Bay Road (\$2,346K), Workers Health Initiative income (\$29K), Parks and Gardens income (\$38K) and other miscellaneous income (\$36K). Decreased State Roads Maintenance income (\$640K), Caravan Park Fees (\$245K), Sec 603 Certificates income (\$16K), Child Care Services income (\$192K), Private Works income (\$41K), Swimming Pools income (\$100K), Communicate Port Stephens income (\$16K) and Non-Domestic Waste income (\$428K).		
Grants and Contributions provided for Capital Purposes	1,558	F
Increased Sec 94 Contributions from Developers (\$1,500K) and a WASIP Grant (\$58K).		
EXPENDITURE		
Borrowing Costs	-	-
Nil change		
Depreciation and Amortisation	-	-
Nil change		
Employee Benefits and On-Costs	383	F
Decreased Training Costs (excluding wages) (\$138K). Saving to be transferred to Legal Costs. There has been Salaries savings (\$273K) across the Council. The decreases are Workers Compensation Salaries (\$60K), Corporate Systems Administration (\$120K), Information Services (\$31K), Commercial Services Manager (\$85K), Children's Services (\$95K), Community and Recreation (\$25K). The increases are Environmental Education (\$20K), Waste Services (\$15K), Financial Services (\$50K), Commercial Enterprises (\$31K) and Workers Health Initiative (\$25K). There has been an increase in Other Employee Costs (\$28K).		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

Materials and Contracts	1,561	U
The bulk of the increased costs are for the increased RTA work at Nelson Bay Road. Raw Materials (\$824K), Legal Costs (\$150K) and Contractors (\$759K) and a decrease in Day Labour (\$193K) make up most of the increased costs for Materials and Contracts.		
<hr/>		
Other Expenses	41	F
Decreased contributions to the Rural Fire Services (\$52K).		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

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4. Capital Budget Review Statement

	Original Budget	Revised Budget ¹	Actual	Recommended Changes for Council Resolution	Proposed Budget ²
	2000	2000	2000	2000	2000
Capital Funding					
Rate & other limited funding	171	224	0	28	292
Capital Grants & Contributions	2,328	3,070	1,263	56	3,126
Internal Reserves	6,432	13,754	63	(1,333)	12,224
Internal Rate Rises					
Domestic Waste Management Section 94	0	0	0	0	0
Section 94	3,159	3,774	0	0	3,774
City of Hobart Park	4,194	3,773	0	0	3,773
Restricted Cash	622	3,306	0	17	1,625
Loans	0	0	0	0	0
Total Capital Funding	14,225	27,827	1,323	(1,425)	24,802
Capital Expenditure					
Commercial Services Group					
Commercial Enterprises					
Prong Bay Holiday Park	1,823	2,826	5	0	2,811
Hobart Holiday Park	440	433	0	0	433
Marketing & Administration	0	275	0	0	275
Stroms Beach Resort	0	39	54	0	35
Prong Bay Holiday Park	474	726	174	0	726
Solden Point Holiday Park	0	7	0	0	7
Commercial Enterprises Total	2,737	4,407	233	0	4,267
Commercial Property					
Office and Chambers	341	341	47	0	341
Property Development	0	3,275	275	(1,333)	345
Property Investments	0	375	47	0	375
Commercial Property Total	341	3,987	371	(1,333)	1,057
Financial Services					
Depots	0	93	7	0	93
River Administration	3,259	3,474	1,262	0	3,474
Financial Services Total	3,259	3,567	1,269	0	3,567
Commercial Services Group Total	6,337	11,961	2,840	(1,333)	8,891
Corporate Services Group					
Corporate Services Group Manager's Office					
Legal Services	0	47	27	0	47
Corporate Services Group Manager's Office Total	0	47	27	0	47
Corporate Services Group Total	0	47	27	0	47
Facilities and Services					
Civil Assets					
Building Trades	0	0	49	0	0
Building Trades Business Unit	0	0	76	0	0
Civil Assets Section Manager	0	0	7	0	0
Community and Recreational Assets	7,569	7,190	1,432	46	8,236
Design and Project Development	3,572	3,424	3,441	0	3,694
Drainage	1,092	1,249	150	52	1,443
Civil Assets Total	12,233	11,863	6,145	98	13,373
Community and Recreation					
Emergency Fire Service	0	250	249	0	250
Ngala Centre	278	278	91	0	278
Richard Torrance Library	0	5	5	0	5
Community and Recreation Total	278	533	345	0	533
Facilities and Services Total	12,511	12,396	6,490	98	13,906
Total	14,225	37,827	8,213	(1,425)	24,402

Notes:

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

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

This statement sets out the details of variations between Council's revised capital budget and the March Quarterly Budget Review. There are budgetary changes proposed which require a decrease in capital expenditure of \$1,427,000. The amendments to the capital program are detailed below under each Section.

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

	Budget Change	
	\$'000	F/U
CAPITAL EXPENDITURE		
Fingal Bay Holiday Park	5	U
Increased funding for electricity power heads at Fingal Bay Holiday Park.		
Property Development	1,530	F
A number of Development opportunities have been deferred. RT Sports fields (\$90K), Salamander Waters (\$850K) and Bagnall Ave and Soldiers Point Road (\$590K).		
Community & Recreational Assets	46	U
Increased funding for Raymond Terrace Parks (\$20K), Tomaree Parks (\$13K), Halls (\$58K), Rural West Amenities (\$7K), Tomaree Amenities (\$11K) and decreased funding on Waterways (\$34K).		
Drainage	52	U
Increased Grant received for Mamba Wetlands Drainage.		

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

5. Cash and Investments Budget Review Statement

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

	Opening Balance (000's)	Transfers		Closing Balance ¹ (000's)	Nominal Balance ² (000's)
		To	from		
Externally Restricted					
Externally Restricted					
Developer Contributions - General	8,351	70		8,421	8,421
Specific Purpose Unexpended Grants	1,078		(1,078)	0	0
Domestic Waste Management	737		(144)	593	541
Crown Holiday Parks	5,577		(4,343)	1,234	1,314
Total Externally Restricted	15,743	70	(5,565)	10,208	10,576
Internally Restricted					
Administration Building Building Fund	118	48		166	1,530
Asset Rehabilitation Reserve	952		(954)	0	1,314
Bonds held for Developer's Works	61		0	61	61
Builder's Security Deposits	7		0	7	7
Drainage Reserve	44		(44)	0	93
Election Reserve	140	100		240	246
Employee Leave Entitlements	2,588	0		2,588	6,341
Information Technology Strategy	38		(7)	29	471
Investment Properties Depreciation Fund	16	254		270	457
Investment Properties Reserve	0	4,895		4,895	2,692
Levies and Special Rates	0	0		0	0
Other Waste Reserve	146		(146)	0	2,328
Parking Meter Reserve	38	85		123	562
Plant and Vehicle Replacement	238	1,528		1,766	4,528
Rehabilitation Quarry	55	6		64	738
Road and Environment Asset Rehab	30		(30)	0	340
RTA Buses	140		(140)	0	1,676
RTA Contributions	67	0		67	67
Ward Funds	125		(125)	0	1,534
Waste Depot Reserve	112	188		300	1,419
Newcastle Airport Limited	6,771	3,407		10,178	10,378
Sustainable Energy and Water Reserve	18	0		18	225
Sec 355c Committees	673			673	673
Total Internally Restricted	12,390	18,728	(1,441)	21,677	38,143
Total Restricted	28,133			31,885	48,719
Total Cash & Investments	28,133			31,765	
Available Cash³	0			0	0

Notes:

1. The available cash position excludes restricted funds. External restrictions are funds that must be spent for a specific purpose and cannot be used by Council for general operations. Internal restrictions are funds that Council has determined will be used for a specific future purpose.
2. Closing Balance is the forecasted cash balance to support restrictions.
3. Nominal Value is forecasted cumulative balance of restrictions.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the GBR5.

Further details on the funding being provided by the following external restrictions:

- Section 94 contributions
- Crown Holiday Parks

This information is outlined in the tables below.

Section 94 Contributions	\$'000
Opening Balance	8,351
Plus Income and Interest	3,788
Less Capital Expenditure	
- Shoal Bay Foreshore	500
- Anna Bay Recreation Facilities	200
- Fingal Bay Surf Club	1,984
- Parks & Reserves	79
- Libraries	57
- Design and Project Development	787
- Community and Recreation Assets	110
Equals Closing Balance	8,421

Crown Holiday Parks	\$'000
Opening Balance	5,577
Plus Income	6,321
Less Operating Expenditure	4,011
Less Capital Expenditure	
- Fingal Bay Recreation Room upgrade	326
- Fingal Bay Garden Villas	960
- Fingal Bay reconstruct Amenities	1,500
- Fingal Bay convert Van Sites to Tourist Sites	20
- Halifax install 5 Bay Villas	168
- Halifax Office refurbishment	15
- Halifax Workshop upgrade	10

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

- Halifax upgrade existing Amenities	318
- Halifax relocate Cleaning Shed & construct 2 Bedroom Cabin	122
- Shoal Bay Footpath reconstruction	2
- Shoal Bay refurbish Recreation Room & Kitchen	27
- Shoal Bay construct 5 Ensuite Units	116
- Barry Park Public Amenities	80
- Anna Bay Recreation Areas	500
- Shoal Bay Foreshore	1,500
Less Loan Repayments	909
Equals Closing Balance	1,314

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

6. Key Performance Indicators (KPIs) Budget Review Statement

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

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

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

Green

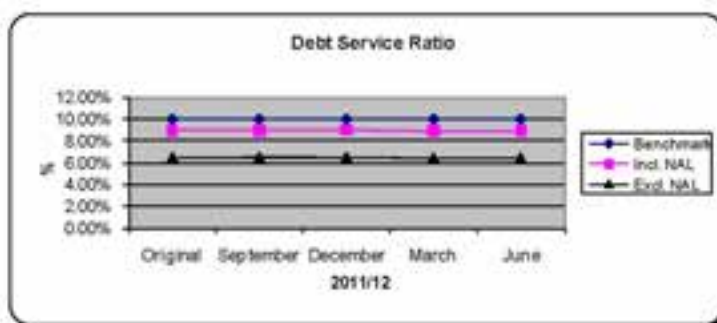
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KPI Summary	Original Budget	Revised Budget	Recommended Changes for Council Resolution	Proposed Budget
Debt Service Ratio	8.95%	8.94%	- 0.02%	8.92%
Buildings Renewal Ratio	67.56%	67.56%	-	67.56%
Collection Performance	4.96%	4.96%	-	4.54%

Debt Service Ratio (DSR)

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



The Gauge

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



This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

Comment

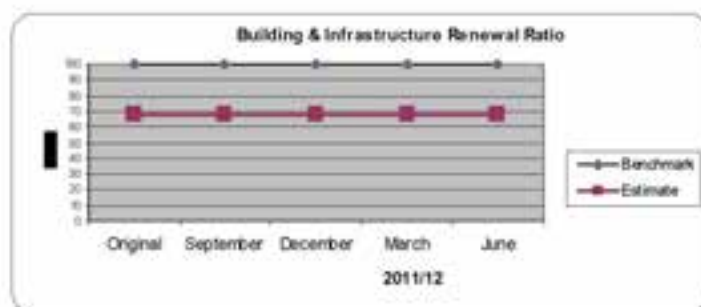
The DSR is expected to decrease by 0.02% from 8.94% to 8.92% as a result of budgeted income increasing. This has little impact and indicates that Council remains in a stable position to cover interest charges and principal payable on borrowings with budgeted income. Council's debt position remains manageable

The DSR excluding the loans made to the Newcastle Airport is forecasted to be 6.37%.

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

Building & Infrastructure Renewal Ratio

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



The Gauge

Less than 100%
Greater than 100%



Comment

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

Collection Performance

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.



The Gauge

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



Comment

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

7. Budget Review Contracts and Other Expenses

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

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

- Were entered into during the quarter ending 31 March 2012; and
- Have a value equal to or more than \$50,000

There were no new contracts for this period.

Part B of the report shows expenditure as at 31 March 2012 for:

- Consultancies
- Legal fees

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

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/03/2012 and should be read in conjunction with other documents in the QBRs.

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

Part A
Contracts Listing

Contractor	Contract Detail & Purpose	Contract Value (\$)	Commencement Date	Duration of Contract	Budgeted (Y/N)

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2011 and should be read in conjunction with other documents in the GMR.

15

Part B
Consultancy & Legal Expenses

Expense	Annual Budget (\$)	Expenditure YTD (\$)	Budgeted (Y/N)
Consultancies	803,622	543,307	Y
Legal Fees	976,220	810,451	Y

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2011 and should be read in conjunction with other documents in the G8RS.

8. Financial Risks

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

IDENTIFIED ISSUES	RESPONSIBILITY	ACTION REQUIRED	EXPECTED COMPLETION DATE
Fingal Bay Link Road – Acquisition of road reserve and final design.	Civil Assets, with assistance from Property Section.	Negotiations are in progress with Worimi to purchase part of the road reserve. Acquisition of parts of two blocks of land at Shoal Bay have been put on hold pending outcome with Worimi's.	Further reports will be submitted to Council in due course as issues are concluded. Completion of action cannot be predicted.
Meadowle Community Preschool Building	Community & Recreation.	Cracking in building became evident March 2010. Commenced investigation process and monitoring site and building. Awaiting comprehensive Geotech report before considering remediation options. Expected cost for interim treatment is \$10,000 to \$15,000 at this stage pending recommendations and report.	Remediation work completed in November 2010. May be a possibility of further works required. Further inspection carried out in March 2012. Further reports will be submitted to Council.

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2011 and should be read in conjunction with other documents in the G8RS.

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

IDENTIFIED ISSUES	RESPONSIBILITY	ACTION REQUIRED	EXPECTED COMPLETION DATE
<p>Contract review of (1) Waste Levy cost sharing, and (2) take or pay methodology in Waste Disposal Agreement with Port Stephens Waste Management Group. Potential impact modelled on 2011/2012 is an extra \$535,875 on Waste Reserve. Potential total impact from 2012 to 2018 is \$5,323,368 in extra contract payments</p>	<p>Community and Recreation/Waste Team</p>	<p>Dispute resolution process in Waste Disposal Agreement commenced September 2010. Legal Advice received in November 2010 from Harris Wheeler advised that council was under no legal obligation to alter the cost sharing of waste levy; however, it would be liable for \$13 - \$15 per tonne of the claimed increase to the take or pay line. Letter to Department of Environment, Climate Change and Water sent 19-10-2010 to advise of intention to use revenue from Waste and Sustainability Improvement Payment Program to part fund potential cost impact from take or pay methodology issue should negotiations fail to deflect entire claim. This is an ongoing issue with the DECCW and an additional letter was sent to the Minister for the Environment & Heritage on the 07-11-2010 regarding this issue.</p> <p>Issue 1 – Waste Levy claim was initially rejected by PSC on legal advice. Sita presented a business model that showed that it was not financially viable for them to continue to pay 50% of the waste levy. Based on this in the spirit of the partnership PSC made an offer of an altered levy sharing method as of 2014/15 where Sita's payment would be capped at \$58.25 until 2018 and PSC would pay the gap. No response from Sita as of 14-11-2011. Any change to a 50/50 sharing of the levy has not been budgeted for in 2011/2012.</p> <p>Issue 2 – PSC made an offer to resolve issue in 2011/12. Sita responded on the 20th of April with a new offer of a \$12.90 per tonne addition. Council sent a letter on the 21st of September saying that we were willing to present this to the Council for approval. This has been budgeted for in 2011/2012.</p>	<p>12/12/11 – Verbal agreement reached with Port Stephens Waste Management Group. Deed of Amendments reported to Council in March 2012.</p>

This document forms part of Port Stephens Council's Quarterly Budget Review Statement for the quarter ended 30/9/2011 and should be read in conjunction with other documents in the G8R5.

ITEM NO. 9

FILE NO: PSC2011-04379

SUSTAINABILITY REVIEW – RATES AND DEBTORS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Rates and Debtors and endorse the findings of the review;
 - 2) Reduce the EFT in the Rates and Debtors structure by 0.6 through staff attrition saving \$40,700 in the recurrent budget;
 - 3) Continue with the Direct Debit Promotion annually at a cost of \$1,075 to the recurrent budget;
 - 4) Actively promote email delivery of rate notices through email and information flyers to ratepayers explaining the benefits.
-

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

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

ORDINARY COUNCIL MEETING – 29 MAY 2012

115	<p>Councillor Ken Jordan 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 Rates and Debtors (Revenue team) (stage 3) and seek endorsement of the recommendations contained in the service strategy.

The comprehensive review of this service package has been undertaken in line with the principles of best value and is in accordance with the delivery of the Community Strategic Plan 2021: Strategic Direction 5 – Governance and Civic Leadership.

By way of background, the sustainability review undertaken by the Revenue team comprised three key stages:

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

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

Revenue Team Services

The Revenue team is part of the Financial Services Section, Corporate Services Group.

The team provides three main services:

- strategy, policy and advice;
- rates and debtors functions;
- coordination of cash flow and cash investments.

The services within the team entail:

- 1) Staffing – 6.8 EFT;
- 2) Funding – recurrent annual budget of \$705,000 (excluding legal costs which are included in the Legal Services team budget and payment collection transaction costs which are included in the Finance and Assets team budget).

The main outputs of the team are:

- Development of rating, debtors, hardship and cash investment policies and strategies;
- Advice to staff and Councillors on rating, debtors and hardship matters;
- Making and levying of \$33.3M rates, \$11.7M waste and Domestic Waste Management charges, \$330,000 on-site sewage management annual fees and \$250,000 Hunter Central Rivers Catchment Management contributions annually;
- Maintenance of ratepayer, property, rating, charging and valuation records;
- Issue of approximately 4,650 invoices annually for sundry debts amounting to \$7M, including:
 - kerb, guttering and footpath contributions, private works
 - property rents, meeting room hire
 - website hosting, overdue holiday park fees
 - S.149 certificates

- tipping fees, motor vehicle trade-ins and mechanical services
 - sporting club loans and OSMS hardship loans
 - committee contributions and stores
 - staff uniform contributions
 - government grants and contributions
 - business premises annual fees and inspections
 - fire safety statements
 - awarded legal costs and property damage
 - family day care levies and overdue childcare fees
 - electricity, telephone, water, security, sanitary and fire safety contributions
 - cemetery fees and S.94 contributions
- Recording of rating and debtors financial transactions;
 - Rates and debtors payment collection;
 - Rating certificates;
 - Monitoring of organisational cash requirements;
 - Ensuring sufficient cash is available to maintain Council operations; and
 - Investment returns maximised within organisational and legislative requirements.

Service Review Findings

The Rates and Debtors sustainability review undertook an examination of all functions provided by the team. All activities undertaken satisfy a statutory and/or financial requirement. There are no discretionary services that may be ceased.

The size of the Council, scope of services and number of staff engaged in the Rates and Debtors functions were assessed against other Group 4 and 5 councils and expressed as a ratio of staff to rate assessments. The number of rate assessments per staff member ranged from 2,187 to 10,000 with a median of 4,625 rate assessments per staff member. Port Stephens has 4,676 rate assessments per staff member.

The review considered alternate service delivery options. A limiting factor in outsourcing the functions is the integrated functionality utilised in Council's local government software. Specifically there are linkages between the rating and debtors systems and centralised name and address register, property ownership, certificates, valuations, fire safety register, business inspections register, on-site sewage management register, property parcels, document management system, general ledger and debt recovery module. Outsourcing the levying of rates or invoicing would involve an unacceptable loss of existing functionality or require implementation of new processes to create the required linkages that are unlikely to be as cost effective as services provided using staff resources.

The following functions are currently outsourced for best value and subject to current term contracts: rate and instalment notice printing and emailing (Forms Express), payment collection including BPAY (NAB) and PostBillpay (Australia Post), and debt collection (Australian Receivables Limited).

The review found that options to generate new sources of income in the rates and debtors areas are limited, however new fees have been implemented in previous years:

- property enquiry fees introduced in 2005;
- dishonour fees introduced in 2006;
- credit card fees introduced in 2007.

There have been internal efficiencies implemented within the rates and debtors functions in recent years streamlining and documenting processes, replacing manual checking and document preparation with Crystal reports and data extraction as well as implementation of software enhancements developed by Council's local government software provider (Civica) that also reduce manual checking and processing.

At the same time, more rigorous processes have been put in place concerning rating policy, strategy and income risk management, property land category and exemption assessment, database integrity validation, document management and debt recovery.

It has generally been the Revenue team's experience in recent years that relatively fewer resources have been required to levy rates and issue invoices and greater resources have been required to collect rates and debts after issue.

The recommendation proposes to reduce the number of staff in the Revenue team by 0.6 effective fulltime employees (EFT) through natural attrition when the next staff member leaves Council's employment. One staff member has signalled their likely resignation from Council in the near future to move interstate due to family commitments. The recommendation as proposed will cause no staff to be made redundant. The tasks of the departing team member are to be redistributed amongst the team.

Service Priorities

Throughout the sustainability review, the following service priorities have been identified:

- Ensure best value by continuing to keep service contracts current and market tested;
- Contain variable costs of the team, specifically salaries and payment transaction costs;
- Encourage direct debit as the most cost effective payment stream (via continuation of the direct debit promotion lottery draw); and
- Continue to fully recover debt collection legal costs.

FINANCIAL/RESOURCE IMPLICATIONS

The total EFT within the Revenue team is 6.8. The service strategy proposes to delete 0.6 EFT from the organisation structure through staff attrition to realise efficiency and productivity gains.

This will result in savings in recurrent expenditure of approximately \$40,700.

The direct debit promotion identified in the service strategy will increase annual costs by \$1,075.

LEGAL, POLICY AND RISK IMPLICATIONS

Council has no discretion under the Local Government Act 1993 and associated legislation as to whether to levy and collect rates and charges, bank and invest funds or impose and collect many of its statutory fees. Discretionary fees invoiced using the sundry debtor's system collect income that far outweighs the cost of invoicing and collection.

If Council considers alternative options to the recommendations within the service strategy, the following risks should be considered:

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Reduction in staff numbers beyond that recommended may lead to an inability to perform statutory obligations	High	Recommended staffing levels	Yes
Reduction in staff numbers beyond that recommended may cause debt collection to suffer resulting in higher outstanding rates and sundry debts	High	Recommended staffing levels	Yes
Discontinuation of direct debit promotion may result in lower direct debit take up and consequently increased transaction costs	Medium	Direct debit promotion	Yes
Inadequate staffing may leave insufficient resources to properly manage external contracts	High	Recommended staffing levels	Yes

SUSTAINABILITY IMPLICATIONS

If Council considers alternative options to the recommendations within the Rates and Debtors service strategy, this may affect Council's ability to comply with its statutory obligations identified in the sustainability review. The proposed reduction in EFT is considered sustainable in terms of Council meeting its statutory obligations, continuing to maintain high levels of internal and external customer service and continuing to achieve sound results in rate and debt collections.

CONSULTATION

Consultation has been undertaken with stakeholders to determine:

- whether the staff reduction can be absorbed while maintaining the services, all of which are non-discretionary, and
- whether invoicing and debt collection services are meeting organisational needs.

Feedback from 36 internal customers has indicated that current service levels and delivery meet their requirements. Affected team members have expressed that a redistribution of tasks among the team is viable.

Benchmarking was undertaken with 25 group 4 and 5 councils. The results indicated that resourcing levels within the Revenue team were below the median, but above the level of those councils that are not also water supply authorities. The scope of services provided by each benchmarked council was not homogeneous and while Port Stephens Council's Revenue team does not levy water and sewer charges, it does perform the accounts receivable and cash investment functions that many other Revenue team's do not perform.

OPTIONS

- 1) Adopt the recommendations contained in the Sustainability Review – Rates and Debtors Service Strategy.
- 2) Amend the recommendations contained in the Sustainability Review – Rates and Debtors Service Strategy.
- 3) Reject the recommendations contained in the Sustainability Review – Rates and Debtors Service Strategy.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Rates and Debtors Service Strategy.

ITEM NO. 10

FILE NO: PSC2006-6848

CORPORATE RISK MANAGEMENT POLICY REVIEW

REPORT OF: ANNE SCHMARR - ORGANISATION DEVELOPMENT MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Corporate Risk Management policy adopted by Council on 25 May 2010, Minute No. 146;
- 2) Adopt the revised Corporate Risk Management policy attached to this report.

COUNCIL COMMITTEE MEETING – 8 MAY 2012
RECOMMENDATION:

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

ORDINARY COUNCIL MEETING – 29 MAY 2012

116	Councillor Ken Jordan Councillor Caroline De Lyall
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to revoke the existing Corporate Risk Management policy and seek to adopt an updated Corporate Risk Management policy to reflect minor changes in Council's organisation structure, updates to documents referenced in the policy and progress since the commencement of implementation of the Corporate Risk Management system. The Corporate Risk Management policy is critical to achieving item 5.6 of Council's Community Strategic Plan, *Develop and implement a corporate risk framework*.

In 2009, a Corporate Risk Management team was established to bring together the various disciplines of risk management into the Organisation Development section. Integrating work health and safety, risk management and claims management provided a more effective outcome for risk and safety management by ensuring a coordinated, corporate and systematic approach to risk. Since 2009, Council has been progressively developing, implementing and refining a Corporate Risk

Management system. The Corporate Risk Management policy is one of the key reference documents within this system.

The Corporate Risk Management policy also reflects on Council's image as it presents itself as a well-organised and capable organisation with a comprehensive, well-documented risk management system that demonstrates Council's regard for its duty of care to the community.

In summary, the changes to the draft revised Corporate Risk Management policy include:

Reference to ISO 31000:2009 updated to AS/NZS ISO 31000:2009.

Revisions reflect Council's progress in implementing risk management to date.

Updated reference to new Work Health & Safety Act 2011.

Review date has been updated.

Implementation responsibility has been altered to reflect the current organisation structure in the Corporate Risk Management team.

FINANCIAL/RESOURCE IMPLICATIONS

Sound project and program planning and implementation based on risk management principles will reduce the exposure of the community to losses. A more structured approach to managing the risks associated with provision of services and facilities will reduce the cost of claims and optimise the economic benefit to Council.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's proposed Corporate Risk Management system will be compliant with AS/NZS ISO 31000:2009 and the Local Government Act 1993 (NSW).

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Obsolete policy leading to low staff compliance and acceptance	Low	Adopt revised policy	Yes
Failure to continuously improve Corporate Risk Management system	Low	Adopt revised policy	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Part of Council's mission is to provide services and make decisions to enhance our quality of life, our economy and our natural environment. The identification, measurement and control of risks to protect the community, the Council and its

assets against loss will help to ensure the sustainability of Council services and facilities.

The principles of risk management require staff to make informed judgements concerning the level and cost of risk involved in achieving cost-effective outcomes.

Council's focus on environmental sustainability and addressing the impacts of climate change are supported by the Corporate Risk Management system that includes consideration of environmental impacts as part of the risk assessment process.

CONSULTATION

- 1) Enterprise Risk Management Committee.

OPTIONS

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

ATTACHMENTS

- 1) Revised Corporate Risk Management Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted: 25 May 2010
Minute No: 146
Adopted:
Minute No:
Amended:
Minute No:

FILE NO: PSC2006-6848

TITLE CORPORATE RISK MANAGEMENT

REPORT OF: ORGANISATION DEVELOPMENT MANAGER

BACKGROUND

Port Stephens Council is committed to managing risk on a systematic, organisation-wide basis consistent with ~~International Standard ISO 31000:2009 Risk Management~~. *AS/NZS ISO 31000:2009 Risk management – Principles and guidelines*. This approach will create sustainable value by both minimising risks to the achievement of our objectives and by identifying potential opportunities.

Delete: 'International Standard ISO 31000:2009 Risk Management'
Insert: 'AS/NZS ISO 31000:2009 Risk management – Principles and guidelines.'

Our corporate risk management system will comprehensively integrate all risks, including safety, environmental risks and business risks (financial, property, security, commercial, etc), into our decision making, business planning and reporting at all levels. A consistent, holistic approach to risk management strengthens our ability to deliver more efficient and effective services to our community.

Our system will also align with Council's Business Excellence Framework by facilitating continuous improvement.

OBJECTIVE

The purpose of this policy is to promote an integrated, holistic approach to corporate risk management and to ensure that all risks that could affect the achievement of our objectives are identified, assessed and treated to an acceptable level. The integration of corporate risk management into our decision-making process helps us to make informed choices for the benefit of Council, ~~our community~~ and our stakeholders.

Insert: "our community"

PRINCIPLES

- 1) Corporate Risk Management will be led by the Senior Leadership Team, ie. the General Manager, group managers and section managers with support from the Corporate Risk Management team. The Senior Leadership Team is committed to guiding effective risk management by the application of the principles detailed in ~~ISO 31000:2009 Risk Management, AS/NZS ISO 31000:2009 Risk management – Principles and guidelines.~~
- 2) Every staff member is responsible to implement and embed Corporate Risk Management by:
 - identifying, managing and monitoring risks in their areas of accountability;
 - communicating these areas of risk to their manager or supervisor; and by
 - taking measures to ensure their own safety, that of other employees, customers and other workers.

Delete: 'International Standard ISO 31000:2009 Risk Management'
Insert: "AS/NZS ISO 31000:2009 Risk management – Principles and guidelines."

3) The key steps for implementing Corporate Risk Management across the organisation include:

- i. Establishing ~~Corporate~~ **and maintaining** Risk Registers
- ii. Establishing ~~Group~~ **and supporting an Enterprise Risk Management Committee and Group** ~~Corporate~~ Risk Management Committees
- iii. ~~Developing a~~ **implementing the** communication strategy for the Corporate Risk Management Framework
- iv. ~~Reporting on Cost of Risk~~
- v. Completing the development **and implementation** of ~~an Occupational~~ **a Work** Health and Safety Management System

- i. Delete 'Corporate'; Insert: 'and maintaining'
- ii. Delete: 'Group', Insert: 'supporting an Enterprise Risk Management Committee and Group', Delete: 'Corporate'
- iii. Delete: 'Developing a', Insert: 'implementing the'
- iv. Delete: 'Reporting on Cost of Risk'
- v. Insert: 'and implementation', Delete: 'an Occupational', Insert: 'a Work'

4) By implementing Corporate Risk Management throughout Council, we will be better positioned to meet our objectives and deliver services and infrastructure in a way that is sustainable and meets our customers' needs.

POLICY STATEMENT

Port Stephens Council is committed to developing an effective Corporate Risk Management system that clearly considers all major risks integrated into one common framework. Our system will focus on continually improving comprehensive risk management processes consistent with ~~ISO 31000:2009 Risk Management~~ **AS/NZS ISO 31000:2009 Risk management – Principles and guidelines.**

Delete: 'ISO 31000:2009 Risk Management' insert: 'AS/NZS ISO 31000:2009 Risk management – Principles and guidelines'

Council is committed to empowering employees to assume accountability and responsibility for risk management in the workplace by creating and promoting a culture of participation and by providing a robust process to monitor and review the effectiveness of risk management across Council.

RELATED POLICIES

~~OH&S Management Directive~~
~~Work Health & Safety management directive~~
~~Work Health & Safety statement of commitment~~

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Our mission includes the provision of services and the making of decisions to enhance our quality of life, our economy and our natural environment. The identification, measurement and control of risks to protect the community, the Council and its assets against loss helps to ensure the sustainability of Council services and facilities and ensure the safety of residents, visitors and employees alike.

ECONOMIC IMPLICATIONS

The principles of risk management require staff to make informed judgements based on best available information concerning the level and cost of risk involved in achieving cost-effective outcomes.

Delete: 'OH&S Management Directive'
Insert: 'Work Health & Safety Management Directive', insert 'Work Health & Safety Statement of Commitment'

ENVIRONMENTAL IMPLICATIONS

Our focus on environmental sustainability is supported by the Corporate Risk Management system that includes consideration of environmental impacts as part of the risk assessment process.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act, 1993
~~NSW Occupational Health & Safety Act, 2000~~
~~Work Health & Safety Act, 2011~~
Civil Liability Act, 2002

IMPLEMENTATION RESPONSIBILITY

Implementation of this policy is the responsibility of the ~~Corporate Risk Manager~~ ~~Risk Management Coordinator~~.

REVIEW DATE

1 April 2012
1 April 2014

Delete: 'NSW Occupational Health & Safety Act, 2000'
Insert: 'Work Health & Safety Act, 2011'

Delete: 'Corporate Risk Manager'
Insert: 'Risk Management Coordinator'

Delete: '1 April 2012'
Insert: '1 April 2014'

ITEM NO. 11

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 3 APRIL 2012

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the recommendations contained in the Minutes of the Local Traffic Committee Meeting held on 3rd April 2012.
-

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Geoff Dingle</p>
	<p>That the recommendation be adopted.</p>

MATTER ARISING

	<p>Councillor John Nell Councillor Bruce MacKenzie</p>
	<p>That Council be provided with a report on the effectiveness of the speed humps in Wallawa Road, as motorists are experiencing problems when travelling over the speed humps.</p>

ORDINARY COUNCIL MEETING – 29 MAY 2012

117	<p>Councillor John Nell Councillor Ken Jordan</p>
	<p>It was resolved that the recommendation be adopted.</p>

MATTER ARISING

118	<p>Councillor John Nell Councillor Ken Jordan</p>
	<p>It was resolved that Council be provided with a report on the effectiveness of the speed humps in Wallawa Road, as motorists are experiencing problems when travelling over the speed humps.</p>

BACKGROUND

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

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$41 000 (\$25 000 grant from the RMS and General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. This allocation has remained unchanged since the 2007/08 financial year. The construction of capital works such as traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding and are to be listed within Council's "Forward Works Plan" for consideration in the annual budget process.

The full annual Local Traffic Committee budget allocation has been spent for 2011/2012 requiring that Traffic Committee recommendations will have to be deferred to the next financial year.

LEGAL, POLICY AND RISK IMPLICATIONS

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

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Recommendations may not meet community expectations	Medium	Ensure proper consultation is carried out when required, prior to meetings	Yes
Recommendations may not meet required standards and guidelines	Medium	Traffic Engineer to ensure that all relevant standards and guidelines are applied	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

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

OPTIONS

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

ATTACHMENTS

- 1) Local Traffic Committee Minutes – 3/4/2012.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 3RD APRIL 2012
AT 9:30AM**

Present:

Ms Michelle Mexon representing Craig Baumann MP, Cr Bob Westbury – Mayor, Cr Geoff Dingle, Mr Bill Butler, Mr Nick Trejevski – RMS, Snr Const John Simmons - NSW Police, Mr Mark Newling - Port Stephens Coaches, Mr Joe Gleeson (Chairperson), Mr Graham Orr, Ms Lisa Lovegrove, Ms Michelle Page – Port Stephens Council

Apologies:

Cr Peter Kafer, Mr John Meldrum – Hunter Valley Buses, Mr Dave Davies – Busways,

A. ADOPTION OF MINUTES OF MEETING HELD 6TH MARCH, 2012

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

B. BUSINESS ARISING FROM PREVIOUS MEETING

C. LISTED MATTERS

D. INFORMAL MATTERS

E. GENERAL BUSINESS

**PORT STEPHENS
LOCAL TRAFFIC COMMITTEE AGENDA**

**INDEX OF LISTED MATTERS
TUESDAY 3RD APRIL, 2012**

- A. ADOPTION OF THE MINUTES OF 6TH MARCH, 2012**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- C. LISTED MATTERS**
- 09_04/12 CLOSEBOURNE WAY RAYMOND TERRACE - REQUEST FOR A STOP SIGN AT THE INTERSECTION OF MOUNT HALL ROAD**
- 10_04/12 SALAMANDER WAY SALAMANDER BAY - REQUEST FOR ADDITIONAL BUS STOPS AT ST PHILIPS SCHOOL**
- 11_04/12 NELSON BAY ROAD ANNA BAY - REQUEST FOR PARKING RESTRICTIONS IN THE CAR PARK AT ANNA BAY OVAL**
- D. INFORMAL MATTERS**
- 505_04/12 NELSON BAY ROAD ANNA BAY – CONCEPT PLAN FOR A BUS INTERCHANGE AS PART OF THE NELSON BAY ROAD UPGRADE**
- 506_04/12 ROADS PORT STEPHENS - UPDATE ON SPEED ZONE REVIEW**
- E. GENERAL BUSINESS**

C. Listed Matters

Item: 09_04/12

CLOSEBOURNE WAY RAYMOND TERRACE - REQUEST FOR A STOP SIGN AT THE INTERSECTION OF MOUNT HALL ROAD

Requested by: A resident
File: 149164-2012
Background:

The resident of the corner property has difficulty getting out of her driveway safely and says that the expected increase in traffic from the new residents in the estate will only make it worse.

Comment:

Traffic Inspection Committee members noted that the solid fences along the side boundary make it very difficult to see any on-coming traffic and the warrant for a stop sign is met. The best advice is for the resident to turn around within the property to ensure that they are exiting in a forward direction.

Legislation, Standards, Guidelines and Delegation:

ARR Part 7 Div.1 – Rule 67 – Stopping and giving way at a stop sign or stop line at an intersection without traffic lights
AS 1742.2 – Manual of uniform traffic control devices – RMS Supplement
RMS Regulatory Signs Manual – R1-1
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

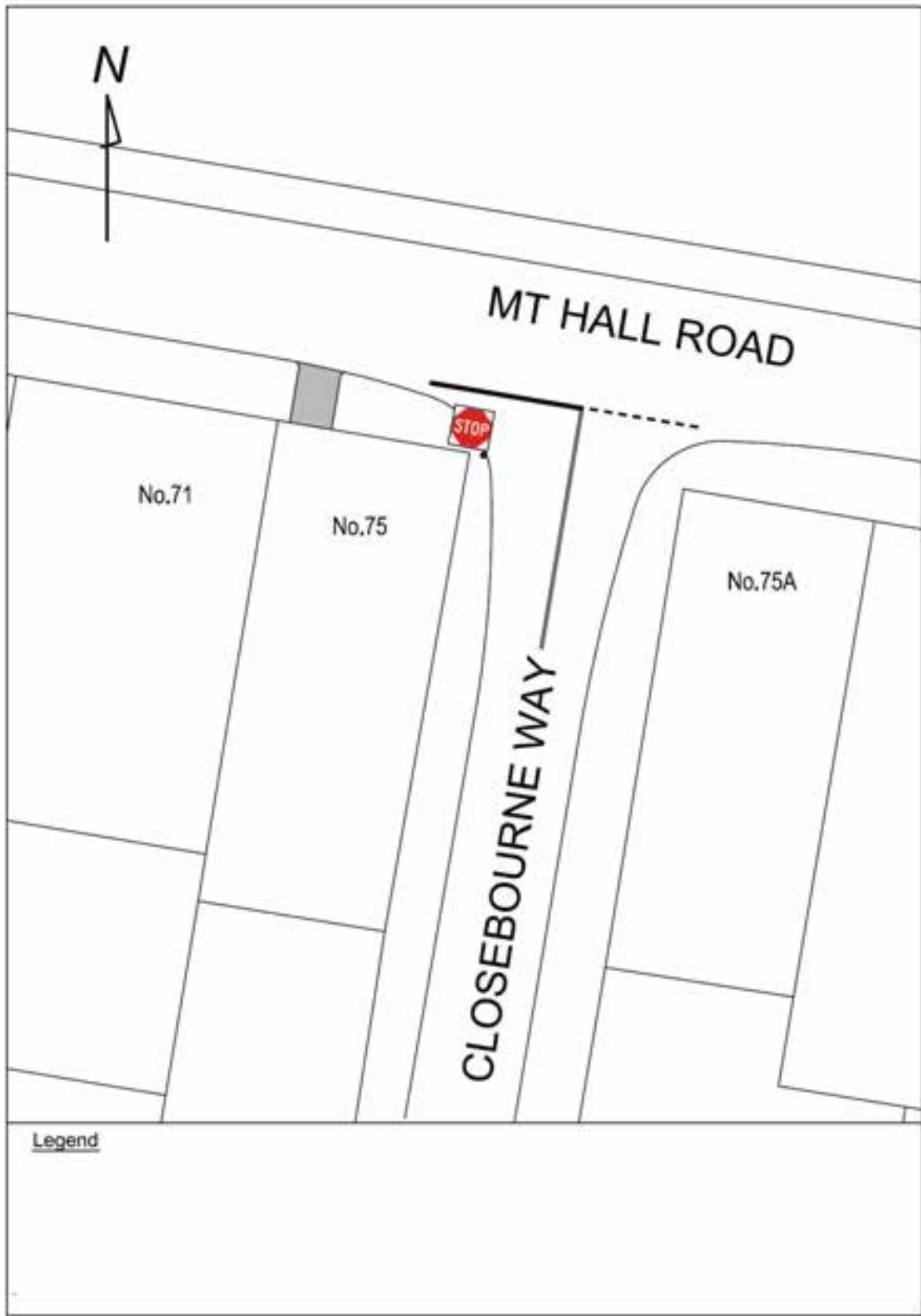
Recommendation to the Committee:

Install a 'Stop' sign and TF linemarking at the intersection of Closebourne Way and Mount Hall Road, Raymond Terrace as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

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



Legend

Item: 10_04/12

SALAMANDER WAY SALAMANDER BAY - REQUEST FOR ADDITIONAL BUS STOPS AT ST PHILIPS SCHOOL

Requested by: Port Stephens Coaches

File:

Background:

Traffic congestion, especially in the morning peak times, is making it increasingly difficult for buses to enter and exit the school bus zones within St Philips school. By dropping off on Salamander Way the buses can avoid the worst congestion within the school grounds and more easily keep to schedule.

Comment:

Traffic Inspection Committee members noted that there is ample room for a bus stop to the east of the existing part-time No Stopping. This area is currently used by parents, mainly as a pick-up area in the afternoons however it is used less regularly in the mornings for drop-off as well. This could be a bus stop in the mornings on school days only. The children's crossing has wide kerb extensions and a crossing supervisor.

Legislation, Standards, Guidelines and Delegation:

ARR Part 12 Div.5 – Rule 183 – Stopping in a bus zone

AS 1742.2 – Manual of uniform traffic control devices – RMS Supplement

RMS Regulatory Signs Manual – R5-20

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

Recommendation to the Committee:

Install a part-time bus zone in Salamander Way, Salamander Bay, as shown on the attached sketch, Annexure A. The bus zone is to operate between the hours of 8.00 - 9.30am on school days only.

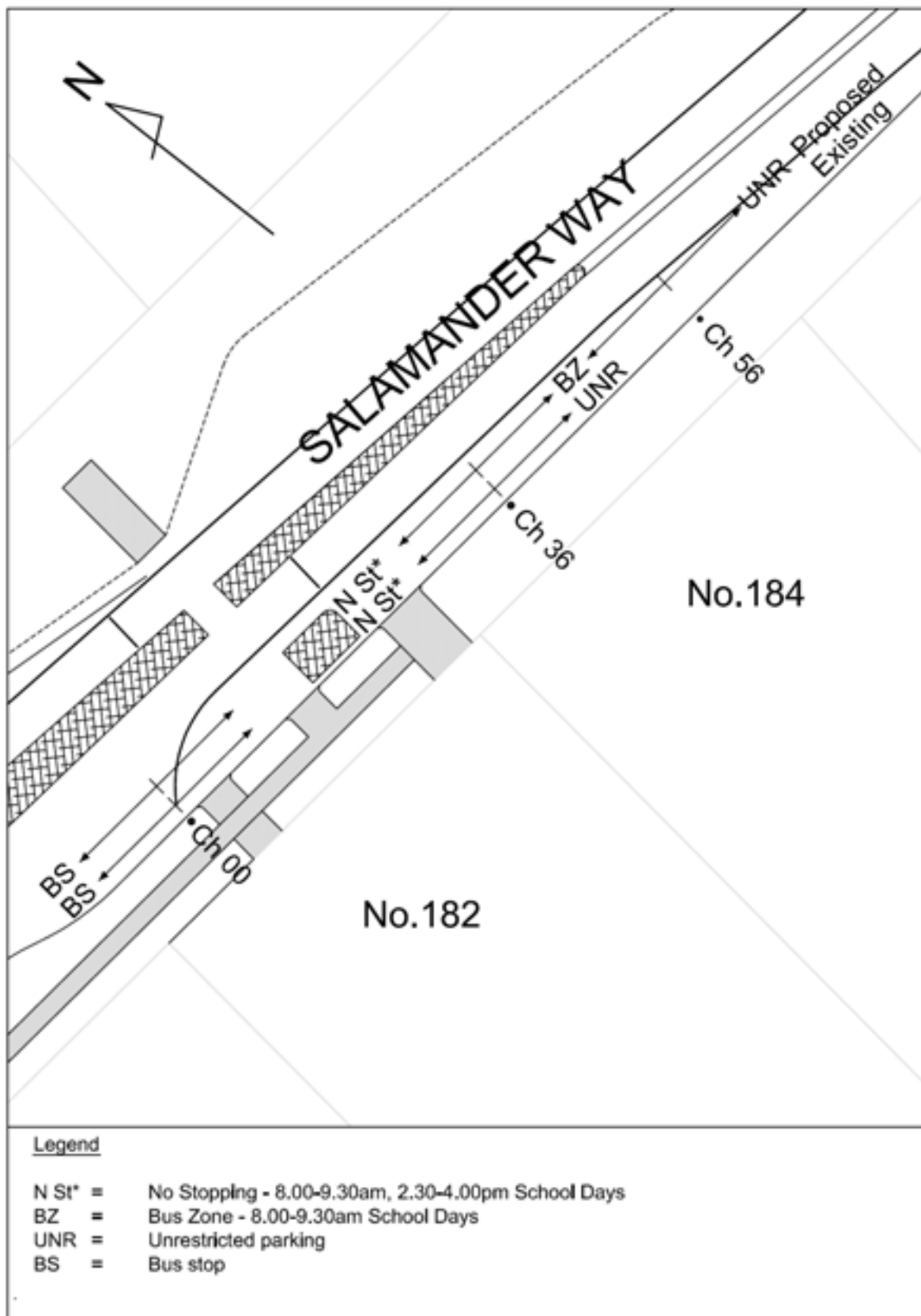
Discussion:

Port Stephens Coaches representative commented that St Philip's had grown substantially over the years to over 750 students now. The internal road system worked reasonably well but was unable to cope with the busy morning drop-off. Buses had difficulty getting parallel to kerb for drop-off and buses and cars all trying to manoeuvre on the roundabout was a hazardous mix. Buses from Anna Bay do not have to enter the school to drop-off and could save time and ease congestion by staying on Salamander Way.

Council's Road Safety Officer stressed the need for consultation with the school with regard to adequate supervision of students being dropped off on Salamander Way.

Support for the recommendation:

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



Item: 11_04/12

NELSON BAY ROAD ANNA BAY - REQUEST FOR PARKING RESTRICTIONS IN THE CAR PARK AT ANNA BAY OVAL

Requested by: Port Stephens Coaches

File:

Background:

The parking area at the old Anna Bay oval has been used for some time as a bus interchange area for Port Stephens Coaches. It is an ideal location being removed from the busy road with access to the roundabout.

The area has also become very popular with commuters as a car-pooling location with the manner of parking making it difficult at times for the buses to manoeuvre safely within the car park.

Port Stephens Coaches has requested some parking restrictions so that sufficient area is retained to allow the buses to manoeuvre safely.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule 167 – No stopping signs

RTA signs database – R5-400

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

Recommendation to the Committee:

Install 'No Stopping' signs in the car park area at Anna Bay, as shown on the attached sketch, Annexure A.

Discussion:

Port Stephens Coaches representative commented that there were up to 6-7 buses simultaneously using the area during the afternoon interchange. The buses need to be able to manoeuvre and park safely next to each other.

Cr Dingle noted that this is an identified park & ride location and that there is a need to formalise the area with proper planning, signposting and linemarking to adequately cater for the expected increase in usage of the coming years. In addition there is a need for scheduling of regular maintenance.

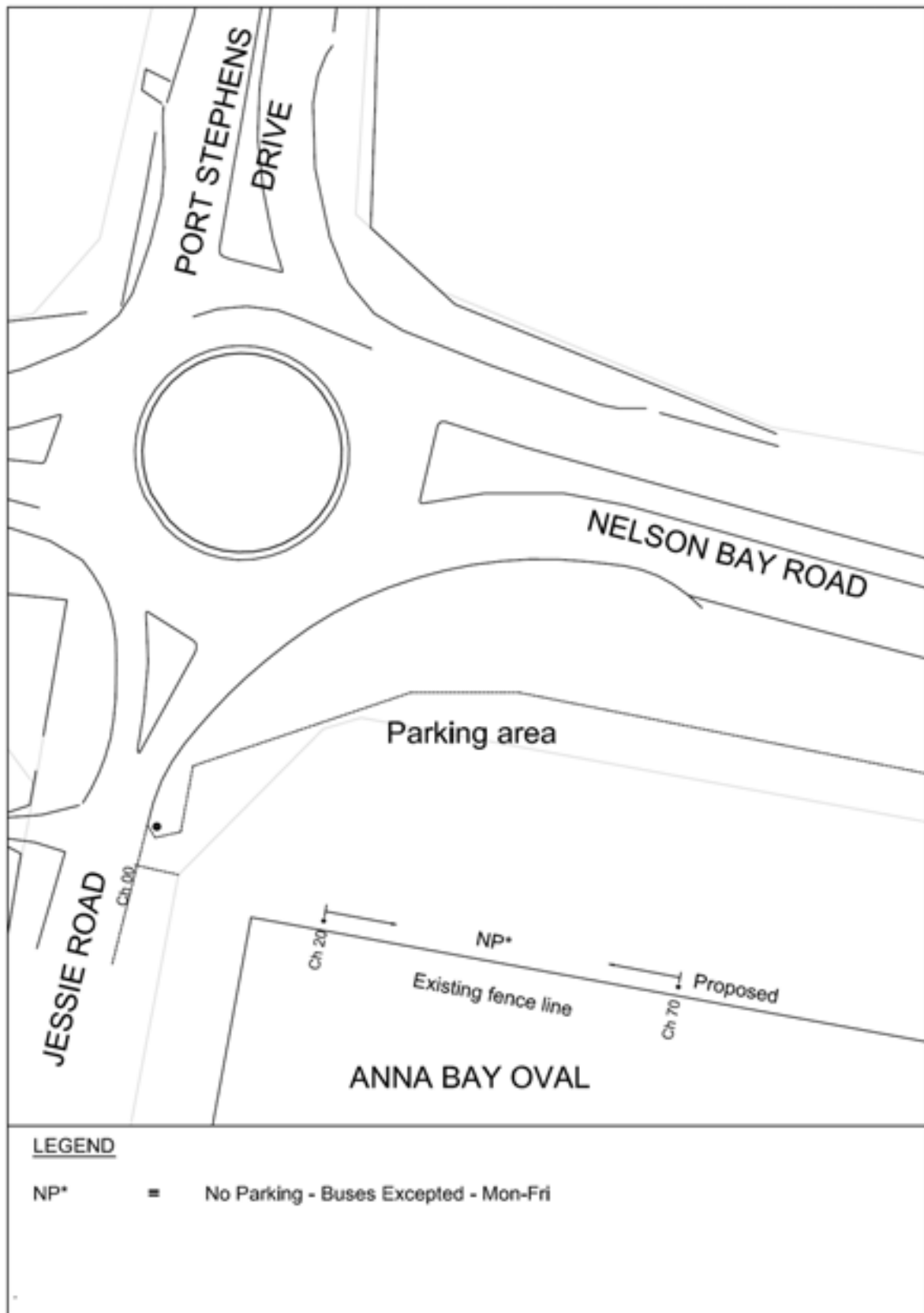
Traffic Committee members noted that 'No Stopping' is not the appropriate restriction and that buses need to be able to park in the zone. The recommendation has therefore been changed.

Committee's recommendation:

Install 'No Parking – Buses excepted – Mon-Fri' signs in the car park area at Anna Bay, as shown on the attached sketch, Annexure A.

Support for the recommendation:

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



D. Informal Items

Item: 504_04/12

NELSON BAY ROAD ANNA BAY – CONCEPT PLAN FOR A BUS INTERCHANGE AS PART OF THE NELSON BAY ROAD UPGRADE

Requested by: Port Stephens Council

File:

Background:

Plans are currently being prepared by Roads and Maritime Services for the upgrading of Nelson Bay Road from the existing dual carriageway at Bob's Farm to Port Stephens Drive, Anna Bay.

Port Stephens Council is seeking to ensure that access is maintained to a viable bus interchange area adjacent to the Port Stephens Drive roundabout. A section of the existing road pavement will be made redundant by the new road and this could be used for bus interchange with minor modification.

There is an identified need for bus facilities at this location as demonstrated by the current bus interchanges and the number of people already car-pooling at the Anna Bay oval. Such a facility would also be in accord with the following state and regional transport plans:

NSW State Plan – NSW 2021

Goal 8 – 'Grow patronage on public transport by making it a more attractive choice'

Target - Increase the share of commuter trips made by public transport – Lower Hunter - to and from Newcastle CBD during peak hours to 20% by 2016'

Lower Hunter Integrated Transport Strategy – a Concerted Forward Direction

6. Quality Infrastructure

6.1 Accessible and Convenient

Convenient and easy access for passengers, where and when it is needed is a precondition for successfully converting travellers from motor vehicles to public transport. Easy walking distance to any transport node is critical in urban areas whilst in non urban areas distance can be somewhat greater without compromising utilisation.

The design of key interchange locations requires consideration of how travellers may efficiently and safely access the transport node to embark upon their journey. Walking paths, cycle ways and car parking are key considerations to encourage travellers to take up public transport and vacate private vehicles. Disability and aged access consideration and choice of mode is required, particularly at terminating locations.

Strategically located "Park-and-Ride" facilities are critical to successful traveller take-up of transport capability. "Park-and-Ride" facilities should be introduced at locations within the geographic area coinciding with key and minor interchange locations.

Comment:

A concept plan is attached as Annexure A

Committee's advice:

For discussion

Discussion:

Traffic Committee members agreed that this proposal represents a good use of what will become a redundant part of road pavement. While the existing interchange at the old Anna Bay Oval is ideally located with access to the Port Stephens Drive roundabout, it will require significant funding to achieve the desired level of infrastructure facility. The proposed redundant road area offers a hard-stand area for parking and passenger drop-off, with access to proposed bus bays on the new divided Nelson Bay Road and will require minimal funds to achieve a worthwhile facility.

The Anna Bay oval interchange will remain as the focus for long-term planning but traffic committee is happy to endorse the proposed bus interchange as an opportunity to improve transport facilities without major cost to Council.



Item: 506_04/12

ROADS PORT STEPHENS - UPDATE ON SPEED ZONE REVIEW

Requested by: Port Stephens Council

File:

Background:

Following the last state election, the NSW Government committed to completing speed zone reviews for the top 100 roads identified through the Safer Roads NSW website by March 2012. The speed zone reviews for the top 100 roads are now complete and Council is seeking clarification from Roads and Maritime Services as to the implications for Port Stephens roads.

Comment:

Committee's advice:

For discussion

Discussion:

The RMS representatives gave a brief update on the speed zone review process, advising that all information is now available on the Safer Roads website. <https://www.saferroadsnsw.com.au/info.aspx>
There will be some minor changes to Port Stephens LGA roads however the minimal changes that have been approved indicates that existing speed zones are generally correct.

E. General Business

Item: 605_04/12

SUNSET BOULEVARD SOLDIERS POINT – COMPLAINT REGARDING PARKING CONGESTION IMPACTING ON BUS SERVICES

Requested by: Mark Newling – Port Stephens Coaches

File:

Background:

Sunset Boulevard is a very narrow street with no kerb and gutter. The Ridgeway Avenue end becomes very congested with vehicles parked to access the Marina and other developments in the area. Buses have been unable to complete the right turn out of Sunset onto Ridgeway due to cars being parked around the corner and have had to reverse along Sunset to take a different street.

Discussion:

It was noted that there are parking restrictions in place around the corner of Sunset Boulevard and that these need to be enforced to allow safe bus access.

Committees Advice:

Refer to Council's Rangers for enforcement of parking restrictions especially at peak times such as long weekends and holiday periods.

Item: 606_04/12

JAMES PATTERSON STREET ANNA BAY - PARKING CONGESTION AT BIRUBI HEADLAND

Requested by: Mark Newling – Port Stephens Coaches

File:

Background:

Similar to the previous item, at peak holiday times the headland becomes very congested with bus access being severely restricted at times.

Discussion:

It was noted by Committee members that parking restrictions are in place at critical locations on the Birubi headland and that enforcement is again the issue.

Committees Advice:

Refer to Council's Rangers for enforcement of parking restrictions especially at peak times such as long weekends and holiday periods.

Item: 607_04/12

NELSON BAY ROAD FERN BAY – LACK OF TRAFFIC INFRASTRUCTURE PROVIDED BY BAYWAY VILLAGE DEVELOPMENT

Requested by: Mark Newling – Port Stephens Coaches

File:

Background:

Bayway village at Fern Bay has grown significantly over the years with approximately 1000 people residing there now. There has been no infrastructure provided by the development to improve safety or to assist in accessing transport to and from the village.

Discussion:

It was noted by Committee members that this is an example of poor planning with the developer able to avoid having to pay for the required infrastructure. This cost then falls to other ratepayers and government bodies to try to retro-fit pedestrian and transport facilities for the safety of village residents.

Committees Advice:

That any future expansion of development at Bayway Village be required to contribute to road and transport facilities to ensure the safety of residents.

Item: 608_04/12

FERODALE ROAD MEDOWIE – COMMUNITY CONCERN REGARDING PROPOSED ROUNDABOUT AT PEPPERTREE ROAD

Requested by: Cr Geoff Dingle

File:

Background:

The Woolworths development at Medowie was conditioned to provide a single lane roundabout at the above intersection as a means of improving traffic flow and road safety. Local residents and business owners have approached Cr Dingle with regard to the design of the roundabout and concerns that it will result in increased congestion and impact on lifestyle and amenity for Medowie residents.

Discussion:

It was noted by Committee members that the site is very constrained with a narrow road reserve on Ferodale Road making it impossible to fit any wider traffic facility. A dual lane roundabout will require property acquisition and relocation of services and would involve significant input of funds from Council. Ferodale Road is only a single

lane road in each direction with numerous driveway entrances and turn lanes that will be rationalized by a roundabout.

Committees Advice:

Further discussions are required with Council's Development engineers and planners regarding any possible changes to the works required under the conditions of consent for the Medowie Woolworths development.

Item: 609_04/12

MEDOWIE ROAD FERODALE - CONCERN REGARDING HIGH NUMBER OF REPORTED MOTOR VEHICLE CRASHES AT THE PACIFIC HIGHWAY INTERSECTION

Requested by: NSW Police

File:

Background:

Police have raised concerns that recent crash data indicates an unusually high number of crashes occurring at the above intersection. The crashes predominantly involve drivers turning out of Medowie Road being hit by southbound traffic on the highway.

Discussion:

Traffic Committee members noted that concerns have been raised previously about this intersection especially with regard to the short length of deceleration lane for vehicles turning left from the highway into Medowie Road. It was discussed that this could also be contributing to the current spate of crashes with drivers unable to see approaching vehicles early enough due to them being blocked by left-turning vehicles.

Committees Advice:

Refer to Roads and Maritime Services for investigation.

ITEM NO. 12

FILE NO: PSC2011-04365

SUSTAINABILITY REVIEW – PUBLIC LIBRARY SERVICES

REPORT OF: STEVEN BERNASCONI - COMMUNITY & RECREATION SERVICES MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 2) Note the information contained in the Sustainability Review – Public Library Services Service Strategy;
 - 3) Endorse the current structure and service delivery model of Port Stephens Library, and the commitment to re-evaluate the current model in line with a review of the Newcastle Region Co-operative Library Agreement in 2014;
 - 4) Endorse a review of the mobile library service delivery model prior to the end of the next term of Council;
 - 5) Acknowledge the changes in service delivery and subsequent savings made by Library Services in 2010/2011.
-

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor Peter Kafer Councillor Bob Westbury</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 29 MAY 2012

119	<p>Councillor Peter Kafer Councillor Ken Jordan</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 Public Library Services and seek endorsement of the recommendations contained in the Public Library Services Service Strategy.

The key tool used to measure the delivery of library services is the document '**Beyond a Quality Service: Strengthening the Social Fabric – Standards and Guidelines for Australian Public Libraries**', commissioned by the Australian Library and Information Association (ALIA) and the ALIA Public Libraries Advisory Committee (PLAC),

published in 2011. This document offers the most comprehensive review of service levels for public library services across Australia.

The service links to the Community Strategic Plan 2021:

Children and Young People

Children and young people have safe places to play, learn and grow.

Delivery Program 1.4 Plan and provide appropriate facilities, services and opportunities for children and young people.

Operational Plan 1.4.1 Provide access to a range of social, development and educational activities and care programs for children and young people through the Children's Services, Youth Services and Library Services programs

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

Operational Plan 2.4.2 Promote heritage research and documentation through use of library assets and provide avenues for the community to research and conserve local history and family history.

By way of background, the Sustainability Review currently undertaken by Public Library Services comprised three key stages:

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

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

ADOPTION OF THE LIBRARY ACT 1939

Port Stephens Council opened its first public library (Raymond Terrace) on 5th April 1944 and by doing so become obliged to comply with the Library Act 1939.

LIBRARY BRANCHES

Port Stephens Library now comprises four branches: Raymond Terrace, located in the centre of the LGA and in close proximity to Council's administration centre, Tomaree, located at Salamander Bay on the Tomaree Peninsula in the eastern area of the LGA, a mobile library which visits 15 locations throughout the LGA, and a volunteer run community library located at Lemon Tree Passage.

Port Stephens Library participates in a Co-operative Library Agreement administered by Newcastle Region Library. The Agreement covers compliance with Region Library policies and procedures and purchase of technical services, reference and systems support. The Agreement, originally implemented in 1988, was reviewed in 1993 and resulted in the transfer of responsibility for staff and facilities to Port Stephens Council in 1994. The Agreement operates for a period of 4 years and was last reviewed in 2010. A period of 12 months notice is required for withdrawal from the Agreement. Port Stephens Library continues to benefit from access to the regional collection, technical and reference services and systems support. The benefit in dollar terms alone from this regional approach is in the order of \$110,000 per year for Port Stephens Council compared to operating in isolation.

Raymond Terrace Library

Raymond Terrace Library was first established April 1944. It currently occupies an adapted two storey building, which was extended in 1965 and has undergone a number of renovations between 1995 and 2010 to cater to the demands of increased usage. Raymond Terrace Library is also the base for mobile library services.

It has become apparent over these years that the existing Raymond Terrace Library building is a safety and business risk to Council and is no longer a suitable building for public libraries in these times. Recent work has begun on a business case for the relocation of this library to the now vacant building next to the Council Administration Building in Sturgeon Street (mostly recently let to the NSW Police).

Tomaree Library

Tomaree Library was constructed as a purpose-built building and opened in March 2000 replacing a small library branch located in Nelson Bay, which was established in 1971. The northern side of the building (Tomaree Library) was designed to join the existing southern side, which at that time contained several community rooms. The single building as it exists today is known as the Tomaree Library and Community Centre.

Mobile Library

Originally established in 1997, the mobile library provides an opportunity to access a library for the geographically isolated communities in the Port Stephens area. The mobile library service operates on a fortnightly timetable making twenty five stops at fifteen different locations throughout the LGA from Fern Bay to Shoal Bay, Mallabula to Karuah and west to Seaham and Wallalong.

The primary user group of the mobile service are residents of the Port Stephens LGA who reside in areas where access to a fixed branch library is not possible due to limited public transport facilities, domestic circumstances or restricted mobility due to age or disability. The mobile library is not restricted solely to those who live in the outlying areas of Port Stephens, but is available for access by all members of the community. Annual customer satisfaction surveys confirm that the mobile library is a

highly valued asset and should be retained. The existing mobile library was purchased in 2009 and is anticipated to have a lifespan of approximately 15 years.

Tilligerry Community Library

Tilligerry Community Library was established in 1982. The service is run by an enthusiastic group of volunteers providing a small library collection and a social meeting space for the community at very little cost to Council. Usage and support of this facility are monitored on an ongoing basis.

In March 2008 an agreement was put in place for Tilligerry Adult Community Education (TACE) to co-locate with the community Library. Under the current agreement TACE operates for 17 hour per week during school terms. The agreement expires on 31 August 2012 and is expected to continue pending ongoing funding.

In November 2010 a further agreement was reached for the Tilligerry Community Association (TCA) to also occupy a space within the community library for 3 hours per week during school terms. This agreement is currently in place until November 2012, and again is expected to continue pending ongoing funding.

OPENING HOURS

Raymond Terrace and Tomaree Library each open for a total of 49 hours per week from 9:30am – 6:00pm Monday to Friday and Saturday from 9:30am-12:00pm. The Mobile Library operates on a fortnightly timetable opening 52.5 hours per fortnight and visits 15 locations throughout the Port Stephens LGA. Tilligerry Community Library opens for a total of 12 hours per week from 10:00am – 12:00pm Monday to Saturday.

RANGE OF SERVICES

Port Stephens is a member of the Newcastle Region Co-operative Library Service and provides an extensive range of services, including:

- Information services – print, digital and online
- Lending materials including collections of books, magazines, CDs, DVDs, audio-books, e-books and a variety of electronic resources to meet the needs of the wide range of library customers
- Reader advisory services
- 24 x 7 access through on-line services
- Access to technology for information and learning (Internet and PC access)
- Training in use of technology and information literacy
- Interlibrary Loans
- Specialised material and delivery services for the housebound and people with disabilities
- Materials in Languages Other Than English (LOTE) to match the community profile
- Support for the recording and preservation of local history resources and research facilities
- Programs, Activities and Special Events

- Access to technology and online resources
- Community space for meetings, exhibitions and events
- Children's programs, including holiday programs for children aged 5-12 years, story-time for children aged 0-5 years and Read & Rhyme Time for children aged 0-2 years
- Youth programs such as themed workshops and activities for youth aged 12-17 years
- Adult programs including author visits, book clubs, knitting groups and other activities
- Access to fax, scanning, photocopying, internet (including wireless) and email facilities
- Resources for the hearing and sight impaired including Audio Navigator Readers
- Research and homework assistance.

On-line services are also well developed. The library has an excellent presence on the web, where a range of services are available including an e-reference service, remote access to the catalogue, as well as free access to online databases, music and eBooks.

ROLE & PURPOSE OF PUBLIC LIBRARIES

Public Libraries support the information, education, cultural and recreational needs of local communities.

- Public libraries offer universal free access to information, knowledge and ideas
- They support formal and informal learning, especially literacy through all stages of life
- They provide a place for people to meet, share and be inspired
- Programs, events and collections are recreational and fun
- Public libraries house, protect and promote community heritage
- By providing access to technology, they address the digital divide.

The Port Stephens Library charter is "*Start here, go anywhere...*" Our branches provide a focal point for community activity. They are welcoming spaces, offering opportunities for social interaction and connection. A diverse range of programs to inform, educate and entertain are available, encouraging community participation and creativity. Equitable, unbiased access to information, leisure and technology resources are provided, facilitating independent decision-making, lifelong learning and information literacy.

Our libraries offer a wide range of collections, services, and programs for all groups. They are safe and trusted public spaces where everyone is welcome; they strengthen the social fabric. Library staff are knowledgeable about their services and collections. They have a strong customer service orientation and are skilled at using and interpreting information technology and products for their customers. Port Stephens libraries are free. In providing unfettered access to information and ideas they are an important foundation of democracy. They build safer, stronger and sustainable communities.

Currently 27,103 people or 40% of the population are members of Port Stephens Library. In 2010/2011 256,161 people visited our library branches borrowing 445,976 items. A total of 6176 people attended 352 programs, 27,160 people used the Internet and 2749 new members registered as library users.

Port Stephens Library has a strong, positive image, forming relationships with other Council sections to develop and deliver innovative services. Partnerships with community groups also contribute to vital services targeted towards specific audiences. Library Services provides an important frontline service for Council through equitable access to a range of resources, facilities, programs, activities, events and experiences. The Library is a place where the community can connect with the informational, educational and recreational resources they need. It is an important hub for community activity, hosting regular adult programs, children's activities and special events, providing spaces for social interaction and community learning, as well as opportunities for connection with cultural activities.

COUNCIL PROVISION OF A PUBLIC LIBRARY SERVICE

There is no legal requirement for Council to provide a public library service and Council does not derive a financial benefit from operating a public library service. However under the current Community Strategic Plan there is a requirement for Council to operationally control the service. Traditionally, public library services in Australia have been operated by local government and there is no current market for the private provision of public library services.

LIBRARY RESOURCES

Operating Expenditure	Total: \$2,096,556
Capital Expenditure	\$277,500
External Income	NSW Library Subsidy \$182,443 Federal Grants \$69,000 Operating Income – Community Centre \$104,030 Library Operations \$78,680 Total: \$434,153
General Revenue	Total: \$1,662,403
Staffing (EFT)	16.08

SERVICE REVIEW FINDINGS

Benchmarking

Port Stephens Library Service was benchmarked against the 12 Standards contained in the 2011 *National Standards and Guidelines for Australian Public Libraries* document.

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The standards and guidelines publication is an evidence-based guide for the development of public library services in Australia and uses the National and State Libraries Australasia (NSLA) annual collation of state and territory statistics as its evidence base.

This document provides a framework for service assessment and continuous improvement, and is a practical tool for comparison among library services. The standards and guidelines assist public libraries, their funding bodies, stakeholders and other interested parties to:

- Evaluate current services;
- Set targets for improvement;
- Develop continuous improvement in library service delivery;
- Plan for future needs; and
- Provide a framework for equitable service delivery across Australia.

The distinction between standards and guidelines is that standards are quality levels and goals for attainment – a baseline target which is a minimum for libraries to aim at and an aspirational target for enhanced service delivery. Guidelines document best practice. They are principles for developing levels of performance which lead to quality library services.

This document has been used as the benchmark as it offers the most current and comprehensive review of service levels for public library services across Australia.

Service item		Benchmarking Details	
Standard	Scope	Targets	Port Stephens Council Library Services 2010/2011
S1. Standard for library expenditure per capita per annum (excluding library materials)	Public library expenditure per capita per annum (excluding library materials):	Baseline target: \$35 per capita per annum Enhanced target: \$39 per capita per annum	\$28.83 per capita per annum
S2. Standard for membership as a percentage of population	Per cent of eligible population who are library members	Baseline: 46% Enhanced: 51%	40%
S3. Standard for visits per capita per annum	Customer visits (physical visits) per capita to libraries.	Baseline: 5.1 Enhanced: 6.1	4.2
S4. Standard for number of staff	Minimum number of staff members (FTE) per population served	Baseline: 1 staff member (FTE) per 3,000 population or part thereof. Enhanced: 1 staff member (FTE) per 2,500 population or part	1 FTE per 4,196 population

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		thereof.	
S5. Standard for number of qualified staff	Minimum number of qualified staff members (FTE) per population served	Baseline: 1 librarian/qualified staff member (FTE) per 10,000 population or part thereof. Enhanced: 1.2 librarians/qualified staff members (FTE) per 10,000 population or part thereof.	1 FTE per 21,821 population
S6. Standard for library materials expenditure per capita	Expenditure on library materials per capita per annum.	Baseline: \$5.40 per capita per annum Enhanced: \$6.10 per capita per annum	\$2.89
S7. Standard for collection items per capita	Scope: 'Collection items' means 'library materials' (stock).	Baseline: 2 per capita Enhanced: 2.2 per capita	1.47
S8. Standard for age of collection (last five years)	Scope: Percentage of collection purchased in last five years	Baseline: 50% of collection items purchased in last five years Enhanced: 58% of collection items purchased in last 5 years	43%
S9. Circulation (loans) per capita	Scope: Loans per head of population	Baseline: 8.4 Enhanced: 10.3	6.5
S10. Standard for turnover of stock (loans per volume)	Scope: Loans per volume (collection item) held	Baseline: 4.4 Enhanced: 5.4	4.4
S11. Standard for provision of Internet computers	Scope: Personal computers for public access to the Internet	Baseline: 1 PC for access to the Internet per 3,000 population or part thereof. Enhanced: 1 PC for access to the Internet for every 2,000 population or part thereof.	1 per 3,637 population

<p>S12. Standard for customer satisfaction</p>	<p>Scope: A single, simple measure of satisfaction with library services, which libraries can use for comparison with each other, or for identifying trends over time.</p>	<p>Baseline: 95% per cent of library customers view their library service as 'very good' or 'good' in response to the question. Enhanced: 98% of library customers</p>	<p style="text-align: center;">92%</p>
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MOBILE LIBRARY

Included in the Standards and Guidelines for Australian Public Libraries document is a best practice guideline for the development and delivery of a quality mobile library service.

The objective of Guideline 12 is to provide a public library service via a specially designed and equipped vehicle to those people who cannot reach a fixed service point or central library.

The general guidelines for service delivery from mobile libraries are:

- Access is provided via the mobile library to a representative range of the library's services, collections and programs, including access to library technology.
- The mobile library's schedule and opening hours are appropriate for customers and locations.
- Sites are chosen and reviewed according to criteria developed by the library service with reference to published guidelines.
- The mobile library size and vehicle type is appropriate for the services and outreach programs delivered from it, and for the access constraints of the locations it services.
- The mobile library is designed and configured for ease of access and satisfies relevant occupational health and safety requirements.
- Mobile library drivers are appropriately licensed for the type of vehicle employed.
- Mobile library drivers/staff are knowledgeable about the library's collections, services and procedures, and occupational health and safety requirements.
- Sufficient staff are available to meet demand at high activity stops.
- Sufficient backup staff, qualified to drive the vehicle and experienced in library service delivery, are available to maintain continuity of service.
- Mobile library staff participate in training and professional development programs.
- The mobile library vehicle is maintained and replaced according to a planned schedule.

While Port Stephens mobile library meets the above guidelines, an additional benchmarking exercise was undertaken to assess the level of service delivery by our

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mobile library service against others of the same size in New South Wales, Victoria and Queensland, and who service a similar geographic area.

The results are as follows:

2010/2011 Mobile Library Data	PORT STEPHENS LIBRARY	RIVERINA REGIONAL LIBRARY	RICHMOND-TWEED LIBRARY	SWAN HILL LIBRARY	MORNINGTON PENINSULA LIBRARY	SUNSHINE COAST LIBRARY
Number of stops per fortnight	25	28	18	27	32	77
Staffing levels (FTE)	2.4	1.2	1.26	1.57	2	4.96
Hours open per fortnight	52.5	52.5	42.75	47	56.5	80.3
Number of items held on vehicle	8200	8200	7000	7000	9526	24,800
Number of items loaned	56,709	28,325	53,803	41,929	74,669	188,500
Internet Usage (Public Access PCs)	2	2	2	2	1	5
Visits	17,062	15,000	23,810	18,397	34,413	111,800
New registrations/members	272	168	n/a	288	367	644
Number of programs/activities	95	Nil	Nil	Occasional story-time sessions	11	Nil
Type of vehicle	Semi Trailer + Prime Mover	Semi Trailer + Prime Mover	Semi Trailer + Prime Mover	Semi Trailer + Prime Mover	Semi Trailer + Prime Mover	3 x Semi Trailer + Prime Mover

*** NOTES:**

- Other services employ fewer permanent or part-time staff, instead relying on additional casual staff.
- Port Stephens Mobile Library staffing levels of 2.4 FTE include time spent by the Mobile Library Team Leader on whole of library management activities. Staffing levels at the majority of other mobile libraries (excluding Sunshine Coast) reflect driver/operator time only.
- Sunshine Coast Libraries have three mobile libraries (north, central, south) servicing the Sunshine Coast. The figures are a combination of statistical data from all 3 service points.

INTERNAL EFFICIENCY OPTIONS

During the 2010/2011 financial year Library services undertook the following measures to create a number of internal efficiencies:

Library Opening Hours

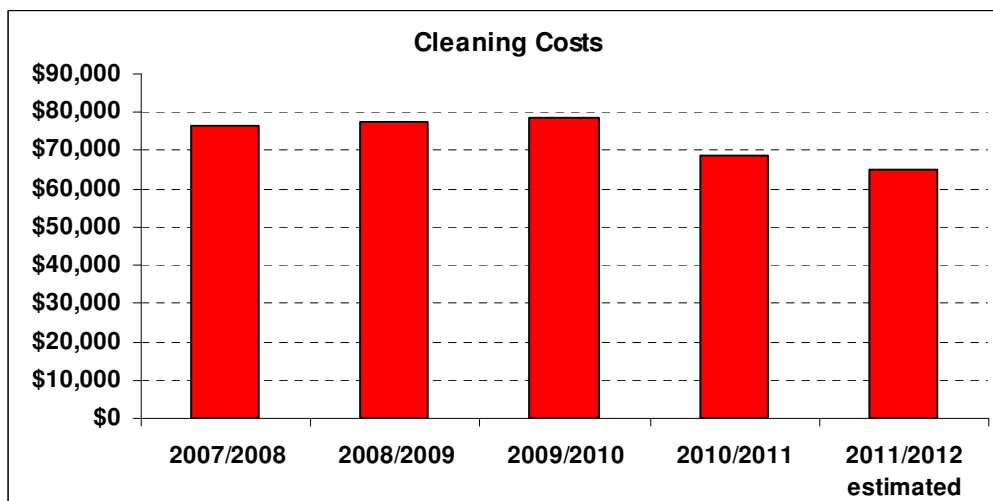
Commencing in August 2010 - library opening hours were reduced by a total of 12 hours per week resulting in salary savings of \$74,093.



* Note: - Increase from 2007/2008 to 2008/2009 reflects an increase in staff establishment hours at Tomaree & the Mobile Library. The slight increase in 2011/2012 reflects an enterprise agreement pay rise of 2.5%

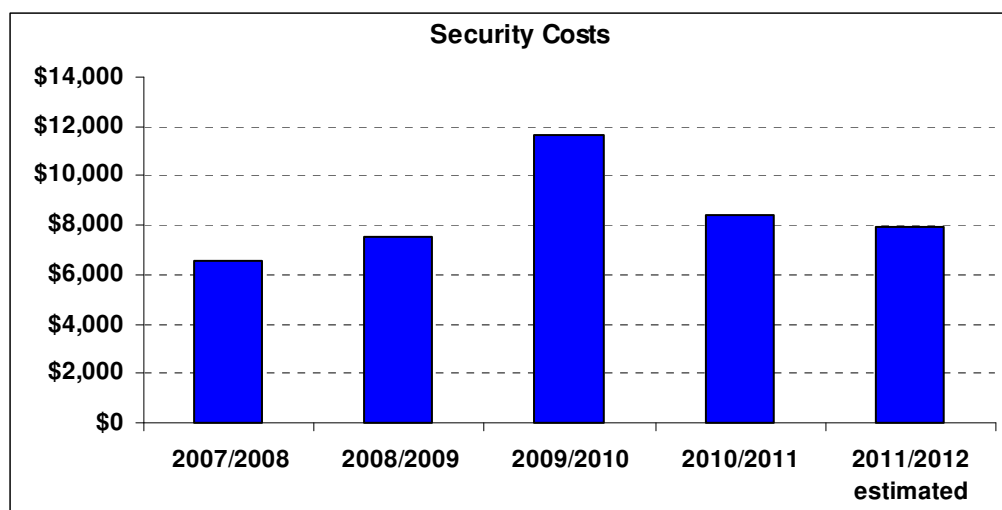
Cleaning Hours

The number of cleaning hours at Tomaree Library & Community centre was reduced resulting in savings of \$10,061.



Security Patrols

The number of security patrols at Raymond Terrace & Tomaree Library was reduced resulting in savings of \$4405.



* Note: Additional security costs in 2009/2010 were due to extra guards/patrols as a result of vandalism & graffiti to library buildings, and a special 'stories in the park' children's literacy event in 2010.

Water Cooling System

A water cooling system was removed from Tomaree Library & Community Centre resulting in savings of \$1200.

Total savings made by Library Services in 2010/2011 were \$89,759. These savings are ongoing.

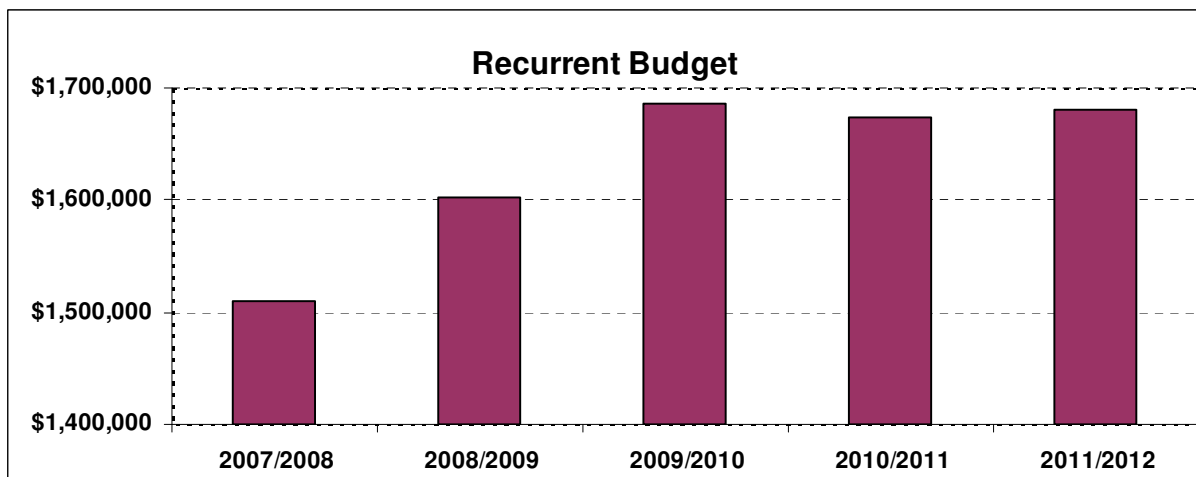
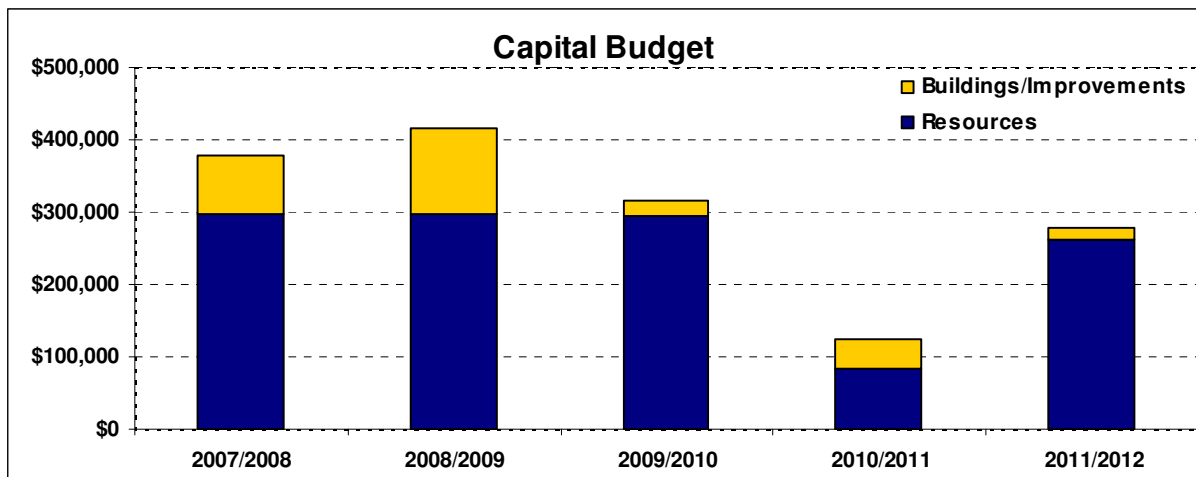
Capital Budget Allocation

In addition, in 2010/2011 Library Services received a greatly reduced capital budget allocation to purchase collection resources. This resulted in a one off reduction in the capital budget of \$185,000.

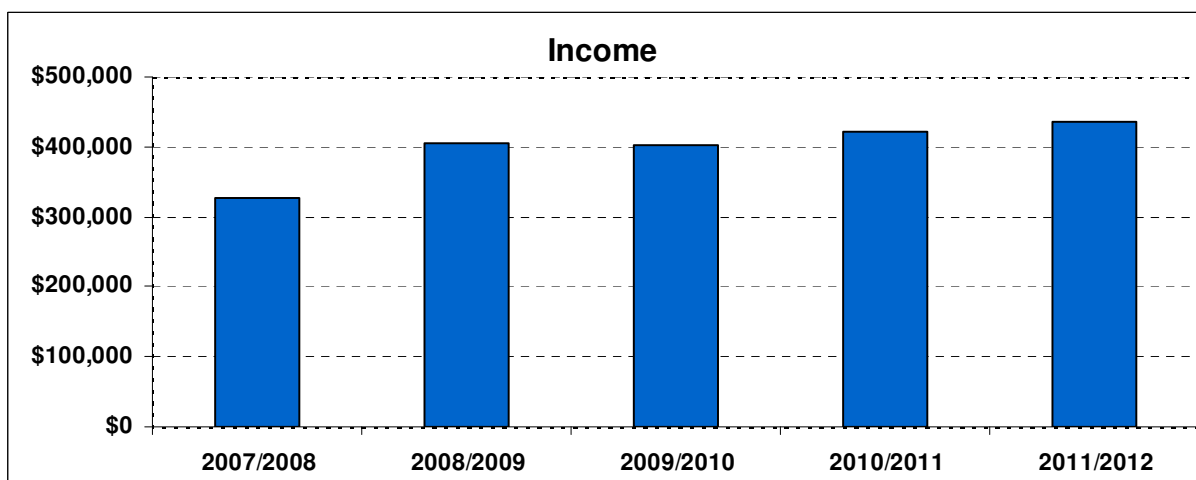
In 2010/2011 Library Services received a resources budget of \$30,000. In March 2011 an additional \$75,000 was allocated, bringing the total resources budget for 2010/2011 to \$105,000.

At the end of the 2010/2011 financial year further savings from both the capital and recurrent budgets totalling an amount of \$92,228 were returned to Council.

*** Total savings made by library services in 2010/2011, including the reduced budget allocation, were \$274,759**



* Note: 2007/2008 Recurrent figures are unusually low due to a decision that year to move a portion of the Newcastle Region Library allocation from operational to capital.



ALTERNATE SERVICE DELIVERY OPTIONS

Sharing services and resources with other councils

Port Stephens currently forms part of a Regional Library Group, which consists of four partnering Councils – Newcastle, Dungog, Gloucester & Port Stephens. Membership of this co-operative is based on a supportive relationship between the participating Councils who believe that this delivery model provides a benefit to the community that is far greater than delivering services alone could achieve.

Port Stephens also forms part of the Central East Zone of the Public Libraries NSW Group. Participating Libraries include Port Stephens, Maitland, Cessnock, Gosford, Maitland, Upper Hunter, Singleton & Muswellbrook.

Strategic Relationships (Hunter Councils)

Port Stephens is a member of the Hunter & Central Coast Public Library Network. This network includes Library Managers from member libraries who participate in the Central East Zone Group with the addition of Library Managers from Newcastle, Lake Macquarie and Wyong Library Services.

Alternative Library Service Delivery Options

Library Services is not aware of a model for the private management of Public Library Services in Australia at this time.

Joint Ventures or Public Private Partnerships

A number of private and community groups currently use our community facilities, in particular the Tomaree Library & Community Centre. In place are a number of lease agreements, arrangements for private usage of facilities and partnership programs with local businesses e.g. author visits made possible by collaboration with local bookshops and sponsorship of programs and events by local businesses such as The Marketplace, K-Mart, Sunset Books, Muffin Break & Brumby's Bakery.

Community Run Services or Enterprises

Formal agreements have been established with the community groups who provide specialist services within our library framework. These include:

- Raymond Terrace & District Historical Society;
- Tomaree Family History Group;
- Port Stephens Historical Society;
- Tilligerry Community Library;
- Tilligerry Adult Education;
- Tilligerry Community Association.

Outsource Service or Activities to External Providers

As part of the Co-operative Library Agreement a number of functions are outsourced to Newcastle Region Library including acquisitions, cataloguing and Library IT systems support and maintenance. Our key metrics show that there are considerable savings to Port Stephens Council by being involved in the Co-operative Library Agreement. The benefit in dollar terms alone from this regional approach is in the order of \$110,000 per year for Port Stephens Council compared to operating in isolation.

The majority of library programs and activities are delivered by PSC staff in-house, however some performers and entertainers are engaged to deliver unique or special programs and activities during busy school holiday periods.

New Business Enterprises

At this stage Library Services is not in a position to give consideration to new enterprises. The focus will be on consolidating our current operations and consideration will be given to future business opportunities when funds are available for investment in such activities.

FUNDING EFFICIENCY OPTIONS

Under the requirements of the Library Act 1939 basic public library services must be provided free of charge. Library Services can and have established service user fees and charges for those services that are considered under the terms of the Act to be more than a basic service of a public library.

User charges are reviewed each year and increased in line with Port Stephens Council budget guidelines. A number of fees must be set in conjunction with the Co-operative Library Agreement and are determined by Newcastle Region Library Service.

CHALLENGES FOR LIBRARY SERVICES

Despite operating well below the minimum ALIA Public Library Standards, Port Stephens Library provides a wide range of services at a high level which, given staffing constraints, means that a lot is done very effectively with minimum resources. Best Practice models in library service delivery demonstrate that libraries attracting non-users and retaining existing users are those that are engaging with the community and developing and delivering programs that enhance lifelong learning and social cohesion.

Annual Library Customer Satisfaction Surveys and Annual Council Customer Surveys continue to show that the community places a high value on library services. The library is seen as providing an essential service, a safe and neutral space in the community and they are viewed as central community hubs. Comments also stress the importance of the library in playing a key role in the development of informed, learning and empowered communities, providing access to education, information

and recreation opportunities. The value of the library in bringing people together, particularly through outreach activities was also highlighted.

It is widely acknowledged within the library industry that public libraries throughout the western world face similar challenges; tight budgets, rapid technological change, ageing populations, shortage of qualified staff and increasingly expensive collection and building maintenance. All this, coupled with high community demand adds up to doing more with less. The challenge for Port Stephens Library Service will be to continue operating an efficient and effective service that is highly valued by the community, within existing resources, and while trying to meet at least the baseline minimum target as set out in the National Public Library Standards.

In order to remain current and relevant, reflecting the requirements and aspirations of our community, Port Stephens Library must continue to:

- 1) Provide a cultural hub and focal point for the community;
- 2) Be functional and multipurpose accommodating a range of activities and uses;
- 3) Enable access to the latest in technology in a user-friendly manner;
- 4) Attract a wide range of users providing areas for relaxation, research, leisure and learning;
- 5) Remain efficient and effective in the delivery of services;
- 6) Develop from a co-operative approach between all stakeholders to ensure that the changing needs of the community are met.

Raymond Terrace Library

There is a critical need to replace Raymond Terrace Library. A number of issues relating to the existing facility have been identified with the primary focus on lack of space, lack of adequate parking, inability to house an adequate collection, lack of facilities and spaces, such as adequate technology and meeting/ study rooms and the inability to conduct outreach programming.

FINANCIAL/RESOURCE IMPLICATIONS

Based on the recommendations of this report there are no specific savings identified as a part of this review. However, there will be ongoing minor operational savings in Library Services as a result of the implementation of recommendations flowing from the sustainability reviews of other Council services that provide services to libraries.

Total savings made by library services in 2010/2011, including the one off reduced capital budget allocation, were \$274,759. The operational savings component consisted of reductions in salaries from reduced opening hours, the removal of the water cooling system at Tomaree Library and Community Centre plus reductions in cleaning and security services. The ongoing effect of these service reductions made in 2010/11 has, as a minimum, an ongoing annual financial saving of \$89,759.

LEGAL, POLICY AND RISK IMPLICATIONS

There is no legal requirement for Local Government to provide a public library service, however if a decision is made in favour of providing a library service, Council is eligible to receive an annual subsidy and is bound to comply with the requirements of the Library Act 1939 and Library Regulation 2000.

It is clear from the data provided that Council delivers a highly valued public library service in an extremely efficient way.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Reputational risk if Council failed to continue to deliver a Public Library Service	High	Continue the operation of the current library services delivery model	Yes
Financial risk of reduction in NSW Library Subsidy if Council falls further below the industry standard	Low	Continue the operation of the current library services delivery model	Yes
Safety risk of continued operation from existing Raymond Terrace Library location at Port Stephens Street Raymond Terrace	Medium	Pursue strategy to obtain grants to assist with business case to relocate Raymond Terrace Library to Sturgeon Street Raymond Terrace	Yes
Financial risk if regional cooperative agreement cancels membership based on lack of commitment to capital development of resources	Medium	Continue to fund annually the capital expenditure for library resources	Yes
Financial risk if regional cooperative agreement fails due to reasons beyond Council control (e.g. dysfunctional relationships or poor processes)	Low	Continue to play an active role in maintaining relationships within the regional cooperative and clarify and streamline processes	Yes

Should Council adopt a recommendation to reduce or cease the internal provision of this service then the conditions of the Port Stephens Council Enterprise Agreement Clause 28 will come into effect. This clause establishes Council's duty to notify affected staff and relevant Unions regarding an intention to introduce major changes to programs, sets out the duties of the parties, establishes procedures to be followed and conditions relating to staff redeployment or redundancies. Redundancies could incur costs of up to 39 weeks ordinary pay for each employee displaced.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Public libraries play a vital role in their communities. Their relevance is evident in high levels of use and attraction to a broad range of users from all ages and backgrounds. They provide free and unlimited access to information, allowing constructive participation in a democratic society, assisting with lifelong learning, independent decision-making and cultural development.

Libraries create social capital through the provision of a welcoming, neutral community space for meetings, training, social interaction, as well as opportunities for formal and informal learning. The community benefits from equitable access to information and advice, including access to digital information. Additionally, the library contributes significantly to the development of literacy skills, starting with babies and continuing through adulthood.

Recent studies show that creative and diverse communities who support lifelong - learning are economically successful in the long term.

Libraries are an excellent example of the effective use and ongoing re-use of resources. They provide a local collection of books, magazines, CDs, DVDs, audio-books, e-books and a variety of electronic resources as well as access to resources on a global scale.

CONSULTATION

- 1) Library Services Manager;
- 2) Sustainability Review Team (Library Services Manager, Raymond Terrace Branch Librarian, Tomaree Library & Community Centre Branch Librarian, Mobile Library Team Leader & Library Administration Officer);
- 3) Group Manager Facilities & Services, Business Excellence Coordinator, Business Improvement Manager;
- 4) Consultation was carried out with customers and stakeholders as part of Library Services Annual Customer Satisfaction Survey and Council's Community Survey.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Public Library Services Service Strategy;
- 2) Sustainability Review – Public Library Services Service Strategy Annexure.

ITEM NO. 13

FILE NO: A2004-0125

APPOINTMENT OF ACTING GENERAL MANAGER

REPORT OF: PETER GESLING – GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Appoint the three (3) Group Manager's (Development Services, Facilities & Services and Corporate Services) as Acting General Manager's on a rotational basis, in the absence of the General Manager;
- 2) The Mayor and General Manager be authorised to establish a rotational calendar for the Acting General Manager's role.

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor John Nell Councillor Ken Jordan</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 29 MAY 2012

120	<p>Councillor Ken Jordan Councillor Caroline De Lyall</p>
	<p>It was resolved that the recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to request Council to re-appointment the three (3) Group Manager's as acting General Manager's in my absence. Given the recent changes to the organisation structure Council is required to re-appointment the roles to act as General Manager. The only change relates to the former Sustainable Planning role which is now the Development Services Group Manager.

Pursuant to Section 334 of the *Local Government Act 1993*, the role of General Manager is the only role Council can appoint. Council cannot delegate this function to any other body or person. A person may also be temporarily appointed to the role should be General Manager be absent or sick (Section 335), provided it is no longer than 12 months.

It is recommended to Council that the three (3) Group Managers (Development Services, Facilities & Services and Corporate Services) be appointed to the role on a rotational basis, once every three (3) months, in the absence of the General Manager.

FINANCIAL/RESOURCE IMPLICATIONS

All financial implications are accounted for in the current budget.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
That the acting General Manager is not appropriately appointed and Council therefore being in breach of the Local Government Act	Low	Adoption of this report.	Yes.

LEGAL, POLICY AND RISK IMPLICATIONS

Section 334 & 335 of the Local Government 1993 requires Council to appoint a person to the role of General Manager, either in a full time or temporary capacity.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

1) Executive Officer.

OPTIONS

Adopt the recommendation;
Amended the recommendation;
Reject the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 14

FILE NO: A2004-0284

REVIEW OF THE CODE OF MEETING PRACTICE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT:

- 1) Revoke the previous Code of Meeting Practice dated 28 February 2012, Min No. 022;
 - 2) Adopt the revised Code of Meeting Practice as exhibited.
-

COUNCIL COMMITTEE MEETING – 8 MAY 2012**RECOMMENDATION:**

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

ORDINARY COUNCIL MEETING – 29 MAY 2012

121	Councillor Steve Tucker Councillor Frank Ward
	It was resolved that the recommendation be adopted.

BACKGROUND

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

Council at its meeting on 28 February 2012, resolved to place the Code of Meeting Practice on public exhibition. Public exhibition was from 15 March to 13 April 2012. No submissions were received.

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

FINANCIAL/RESOURCE IMPLICATIONS

The Code will be implemented within current human resources.

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

LEGAL AND POLICY IMPLICATIONS

The Risk Matrix identifies those risks associated with the adoption of the Code of Meeting Practice.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Breach of Local Government Act 1993, if Council does not adopt a Code of Meeting Practice in accordance with the Act and Regulations.	Low	Adopt the amended Code	Yes

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

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

OPTIONS

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

ATTACHMENTS

- 1) Summary of the amendments to the Code as previously provided to Council.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

SUMMARY OF AMENDMENTS TO THE CODE OF MEETING PRACTICE

Page Number	Amendment
5	Delete reference to 1998 and 1999 Regulations which have been replaced
8	Insert "2005" at Clause 2.1a
9	Insert "2005" at Clause 2.1d
9	Insert additional wording to include website
12	Insert "2005" at Clause 3.2e
13	Insert "2005" at Clause 3.4a
13	Insert "2005" at Clause 3.5
14	Delete reference to Executive Manager and insert Executive Officer
18	Insert "2005" at Clause 4.8
18	Insert "2005" at Clause 4.9(2)
20	Clause 5.2 – change meeting cycle from 1 st and 3 rd to 2 nd Tuesday
20	Delete reference to (2) public access nights
21	Insert "2005" at Clause 6 (5)
23	Insert "2005" at Clause 6.1 (5)
23	Insert "2005" at Clause 6.2 (3)
24	Insert "2005" at Clause 6.3 (c)
25	Insert "2005" at Clause 6.4
26	Insert "2005" at Clause 7
26	Delete reference to a councillor speaking to a notice of motion where an objection is raised by another councillor. This is not required as a councillor has a right to speak on any motion before the Chair.
27	Insert "2005" at Clause 7.5
27	Insert "2005" at Clause 7.7 (3)
28	Insert "2005" at Clause 7.9 (d)
29	Insert "2005" at Clause 7.10 (e)
30	Insert "2005" at Clause 7.11 (e)
31	Insert "2005" at Clause 8.1 (b)
31	Insert "2005" at Clause 8.2 (a)
32	Insert "2005" at Clause 8.3
32	Insert "2005" at Clause 8.4 (2)
32	8.5 - Delete reference to Section 12 of the Local Government Act as it has been repealed and replace with reference to the Government Information (Public Access) Act 2009
34	Reword Clause 8.7 (2) a)
36	Insert "2005" at Clause 9.1 (d)
37	Insert "2005" at Clause 9.2 (c)
37	Insert "2005" at Clause 9.3 (b)
37	Insert "2005" at Clause 9.4
38	Insert "2005" at Clause 10.1 (3)
38	10.2 (b)

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

Page Number	Amendment
39	Insert "2005" at Clause 10.3 (c)
39	Insert "2005" at Clause 10.4 (a)
39	Insert "2005" at Clause 10.5. (2)
39	Insert "2005" at Clause 10.6 (a)
40	Insert "2005" at Clause 10.7 (a)
40	Insert "2005" at Clause 10.8 (c)
40	Insert "2005" at Clause 10.9 (c)
41	Insert "2005" at Clause 10.10 (b)
41	Insert "2005" at Clause 10.11 (3) (b)
41	Insert "2005" at Clause 10.12
41	Insert "2005" at Clause 10.13 (2)
42	Delete the word "if" and insert the word "is"
43	Delete 11.5 and transfer to 11.13. This is to remove any confusion between pecuniary and non pecuniary interests
43	Re-number clause 11.6 to 11.5
44	Re-number clause 11.7 to 11.6
44	Change the refer to clause 11.7.1 to 11.6.1 under current clause 11.7
44	Delete wording "and non pecuniary interest"
45	Re-number clause 11.8 to 11.7
45	Re-number clause 11.8.1 to 11.7.1
45	Re-number clause 11.8.2 to 11.7.2
45	Re-number clause 11.9 to 11.8
45	Re-number clause 11.10 to 11.9
45	Delete reference to clause 11.3 in current clause 11.10 and replace with reference to section 451 or 456 of the Act and include (LGA Cl 457)
45	Re-number clause 11.11 to 11.10
46	Re-number clause 11.12 to 11.11.
46	Insert the word "pecuniary" in current clause 11.12
46	Insert "pecuniary" at 11.11 (a)
47	Re-number clause 11.13 to 11.12
48	Insert clause 11.13 transferred from 11.5
48	Insert clause 11.14
49	Insert "2005" at Clause 12 (e)
50	Insert "2005" at Clause 13
51	Delete reference to Section 12 of the Local Government Act as it has been repealed
51	Insert reference to the Government Information (Public Access) Act 2009
53	Insert the wording "less than significant"
55	Delete the definition of non pecuniary as shaded in grey
55	Insert new definition as shown in blue text
56	Delete grey shaded areas in "Closed Session" and insert the blue text
57	Insert the words "significant" and "less than significant non pecuniary interest"

ITEM NO. 15

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 – Cr Dingle – Raymond Terrace Neighbourhood Centre - Donation to cover the costs of an occupation certificate issued by Council as a result of the Centre's recent relocation to new premises - \$127.00.

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor Geoff Dingle Councillor Caroline De Lyall</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 29 MAY 2012

122	<p>Councillor Steve Tucker 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:

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:-

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

Raymond Terrace Neighbourhood Centre	Donation to cover the costs of an occupation certificate issued by Council as a result of the Centre's recent relocation to new premises	\$127.00
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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. 16

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 8 May 2012.

No:	Report Title	Page:
1	2012 LGSA TOURISM CONFERENCE - GUNNEDAH	
2	2012 ALGWA CONFERENCE – DUBBO	
3	ACCESSING INFORMATION	
4	HOLIDAY RENTAL CODE OF CONDUCT	
5	ABORIGINAL STRATEGIC COMMITTEE	

COUNCIL COMMITTEE MEETING – 8 MAY 2012
RECOMMENDATION:

	Councillor Bob Westbury Councillor Peter Kafer
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 29 MAY 2012

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

COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

2012 LGSA TOURISM CONFERENCE - GUNNEDAH

**REPORT OF: ANDREW POWRIE – ACTING BUSINESS AND COMMUNITY RELATIONS
MANAGER**
GROUP: DEVELOPMENT SERVICES
FILE: PSC2006-2327

BACKGROUND

The purpose of this report is to provide an overview of the Conference.

Monday 12th March – Wednesday 14th March 2012

Attendees: Mayor Bob Westbury, Andrew Powrie (Economic Development & Tourism Manager) and Kim Latham (Visitor Information & Event Coordinator).

Conference Overview

The LGSA Tourism Conference is the only conference that addresses tourism issues pertinent to Mayors, Councillors, Council management and professionals. The conference is structured to facilitate:

- Learning's from real local government case studies;
- Networking with other elected members and tourism professionals;
- The opportunity to talk directly with staff from Tourism NSW and the directors of the Tourism Industry Council;
- Attend site inspections relative to the program.

The LGSA Conference provided excellent speakers who addressed many issues relevant to the tourism industry and local government's role in the process.

Key forums included:

Tourism Keynote Address - Sandra Chipchase, CEO of Destinations NSW

Destinations NSW is the state body that oversees the promotion of NSW as a tourist destination for both domestic and overseas markets.

Sandra addressed the need for all regional tourist destinations to increase their profiles and identify their unique selling point (USP). Destination New South Wales has a goal of doubling visitor overnight stays in NSW by 2020.

**Neil McGarry, Director, Economic Development – Liverpool Plains Shire Council
The impact of industry on our economy and how to manage the conflict**

This presentation was relevant to the Port Stephens tourism industry. Our economy, especially on the Tomaree Peninsula, is very dependant on the tourist dollar. Restaurants and retailers in general exist largely because of this industry and rely on the spike they experience during our tourist seasons to sustain them throughout the year.

Our residents benefit from tourism businesses that attract people to our area; yet conflict exists from time to time between residents and event / tourism operators when high visitor numbers creating competition with local residents to access services.

Topic - "Measuring visitor satisfaction and success" conducted by a panel of industry experts

This forum highlighted the need for destinations particularly regional locations to enhance their product and customer service levels to encourage longer stays by visitors. It provided information and tools that can be used to address quality issues to ensure our destination is seen as value for money with the product to attract tourists to stay and spend!

The forum highlighted the importance of customer feedback and encouraged all tour operators to participate in this process.

Port Stephens is in competition with all other metropolitan and regional centres chasing the tourist dollar, whether domestic or international. If our accommodation, tour choices and overall service levels are not up to standard visitors may stay for shorter periods. The message from this forum was clear, better product and customer service will ensure our market share grows thus ensuring a larger economic impact to our region.

Overall the LGSA Conference provided ideas, contacts and great content.

Following is the Conference Program.

ATTACHMENTS

- 1) Official Conference Program.

ATTACHMENT 1

Conference Program

Conference MC: Mandy Nolan, Correct at the time of printing, changes may occur.

Monday 12 March	
Pre Conference Seminars	
12.00pm - 5.00pm	Registration opens at Gunnedah Civic Centre
2.00pm - 5.00pm	Tourism Managers Exchange (free optional session) TIC forum for discussion with tourism operators, supported by Destination NSW
2.00pm - 5.00pm	Check In and explore Gunnedah Your opportunity to visit town as a tourist and eat and shop locally
6.00pm - 9.00pm	Welcome Reception and Barefoot Bowls at the Gunnedah Services and Bowling Club. Welcome from Cr Keith Rhoades AFSM President LGA, BBQ Dinner included Delegate registration will be available at this event.

Tuesday 13 March		
6.30am - 7.45am	Sunrise Tour Koala Spotting Tour - guided walk through Gunnedah's Bindea Walking Track in the bush setting of Porcupine Hill,	Optional event organised by Gunnedah Shire Council. Needs to be pre-booked and transfers from your accommodation have been arranged.
8.15am	Trade Exhibition opens	
8.50am	Humour and Housekeeping	Mandy Nolan
9.00am	Welcome to Country	Mr Wayne Griffiths, Elder of the Kamilaroi Tribe
	Welcome to Gunnedah	Cr Adam Marshall, Mayor, Gunnedah Shire Council
9.10am	President's Welcome	Cr Ray Donald, President, Shires Association of NSW
9.20am	Tourism Keynote Address	Sandra Chipchase, CEO, Destination NSW
10.10am	Morning Tea Sponsored by Australian Seniors Publications	
10.40am	Tourism Keynote Address	Penny Burke, Director, Author, Speaker and Brand Advertiser
11.30am	How does an industry impact on a town and its economy? How do you manage the conflict?	Neil McGarry, Director, Economic Development, Liverpool Plains Shire Council
12.00pm	How does Tourism and Mining sit side by side? What are the challenges and benefits?	Panel discussion chaired by: Cr Bruce Miller, Immediate Past President, Shires Association of NSW Cr Adam Marshall, Mayor of Gunnedah Shire Council Geoff Bailey, Economics Manager, Tourism Research Australia Sam Crafter, Manager Community and Government Relations NSW, Santos Limited

Conference Program con't

Tuesday 13 March		
1.00pm	Lunch Sponsored by Australian Seniors Publications	
2.00pm	Site Visit and guided tour including Afternoon Tea: This tour will take all delegates to the Waterways Wildlife Park, Indigenous Tourism: Cumbo Gunnerah Gallery, the Wallaby Trap with local Elders, and Gunnedah's Water Tower Museum, a volunteer operated museum housing historical memorabilia in three rotating groups.	The conference goes on tour.
5.00pm	Bus Transfer return to accommodation	
7.30pm	Conference Dinner Starry Starry Night (Big Sky Country) Quirang Country Gardens Function and Conference Centre) sponsored by CountryLink.	
10.30pm	Bus Transfers return to accommodation	
Wednesday 14 March		
8.15am	Trade Exhibition opens	
9.00am	Destination Planning: national perspectives and local agendas	Tracey Valenzisi, Executive Director, Australian Regional Tourism Network and John Bates, Group Manager, Department of Trade & Investment, Regional Infrastructure and Services
9.40am	The opportunity of change: using a Destination Management Plan to drive profound reform	Simon McArthur, Manager Tourism & Economic Development Services, City of Newcastle
10.10am	Tourism Participation within NSW Local Governments - Survey Results	Neisha Turner, Student Industry Project, UTS, Bachelor Of Management in Tourism
10.25am	Product Review	Scott Hampson, Business Development, Bookeasy
10.35am	Morning Tea Sponsored by Bookeasy	
Topic Stream 1		
11.00am – 1.00pm	Topic streams and case studies: Meeting or Changing Expectations: Understanding the market and getting it right!	
11.00am - 11.30am	Nailing the Market: Active Attractions vs Me-too Museums	Neil Druce, Managing Director, Junee Licorice and Chocolate Factory
11.30am – 12.00pm	Aligning Everything we do to the customer.	Graham Perry, CEO, Inland NSW Tourism
12.00pm – 12.30pm	"A Whole New Ballgame?" – Are traditional recreation/leisure patterns changing and affecting how all businesses must approach tourism? A case study in changing expectations and possible responses.	Dan Cove, Manager Cave Operations, Jenolan Caves

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

11.00am – 1.00pm (con't) 12.30pm – 1.00pm	Changing Visitor Expectations: Are You Being Served? Research on current consumer tourism perceptions, the factors influencing satisfaction of service quality and a case study of a tourism business that 'got it right!'	John Larkin, Managing Director, Aurora Research
Topic Stream 2		
11.00am – 1.00pm 11.00am – 12.00pm 12.00pm – 12.30pm 12.30pm – 1.00pm	How do you Measure Visitor Satisfaction? How do you find out what a visitor thinks about your destination? Measure for Success 'Understanding your Animal Attraction...' Visitor research and evaluation for any destination...	Panel: Richard Munro, CEO, Accommodation Association of Australia Carol Giuseppe, Director, Tourism Accommodation Australia Chris Pattas, Group GM, Sales and Marketing, AAA Tourism Ray Jeffery, Director KPI Hospitality Services Matt Fuller, General Manager, Taronga Western Plains Zoo and Chris Rumble – Vision XS, Principal Consultant South Africa and Australia
Topic Stream 3		
11.00am – 1.00pm 11.00am – 11.30am 11.30am – 12.00pm 12.00pm – 12.30pm 12.30pm – 1.00pm	Engaging the Community - Building access and availability with volunteers and getting the community on board. CMCA Rally Deniliquin: Making your visitors your ambassadors Volunteering: an innovative program Connections, coaches, coleslaw and collateral Agquip case study – Home Hosting program	Greg Lawrence, Manager, Economic Development and Tourism, Deniliquin Shire Council Fiona Ferguson, Manager, Age of Fishes Museum, Ganowindra Ivan Skaines, Economic Development & Tourism Co-ordinator, Dungog Shire Council Chris Frand, Manager Economic Development and Tourism, Gunnedah Shire Council
1.00pm	Resolutions and close	
1.30pm	Lunch Sponsored by Bookeasy	
2.30pm	End of conference	
3.00pm	Leave for transfers to airport for flights out of Tamworth at 5.05pm return to Sydney	

INFORMATION ITEM NO. 2

2012 ALGWA CONFERENCE - DUBBO

**REPORT OF: ANDREW POWRIE – ACTING BUSINESS AND COMMUNITY RELATIONS
MANAGER**

GROUP: DEVELOPMENT SERVICES

FILE: PSC2012-00018

BACKGROUND

The purpose of this report is to provide an overview of the conference.

Thursday 22nd March – Sunday 25th March 2012

Attendees: Councillor Glenys Francis, Councillor Caroline De Lyall, Kim Latham (Visitor Information & Event Coordinator).

Conference Overview

Along with Councillors De Lyall and Francis, Kim Latham attended the Australian Local Government Women's Association Conference as both a delegate and exhibitor, profiling Port Stephens as a potential location for the 2014 Conference.

Port Stephens was one of 7 bidding councils for the 2014 Regional ALGWA Conference. As well as fronting an exhibitor stand to promote our region with the support of the other attendees, Kim formally presented to the Conference delegates, along with the 6 other bidding councils.

The ALGWA delegates voted on their preferred council to host the 2014 Conference, with Broken Hill being the selected council/region.

Notwithstanding Port Stephen's unsuccessful 2014 Conference hosting application, the Conference content was very informative and addressed issues faced by Council staff and women working in Council roles.

The delegates were primarily councillors. The ALGWA Committee are focused on encouraging more council female staff to join Councillors in attending this Conference in the future.

Overall the ALGWA Conference provided ideas, contacts and great content.

ATTACHMENTS

- 1) Official Conference Program.

ATTACHMENT 1

Conference program

The Conference will be held at Dubbo Regional Theatre and Convention Centre, Darling Street, Dubbo (including registration and all sessions).

Day one	Thursday 22 March
3.00pm - 5.00pm	Registrations Open - Dubbo Regional Theatre and Convention Centre
5.30pm - 7.30pm	Mayor's Welcome Reception - Old Dubbo Gaol
8.00pm - 10.00pm	Optional Petula Clark in Concert - Dubbo Regional Theatre and Convention Centre (Not included in registration fee)

Petula Clark

The legendary film and theatre music star and two-time Grammy Award winner Petula Clark returns for an Australian tour in March 2012. Internationally known for her popular upbeat hits that included *Downtown*, *I Know A Place*, *My Love*, *Colour My World*, *A Sign Of The Times*, *Don't Sleep In The Subway*, *This Is My Song* (written for her by the great Charles Chaplin) and many others.

Day two	Friday 23 March
8.00am - 9.00am	Registrations
9.00am - 9.15am	Welcome to Country - Diane McNeboe
9.15am - 9.30am	President, Australian Local Government Women's Association (NSW) - Cllr Julie Griffiths
9.30am - 9.45am	Mayor of Dubbo - Cllr Mathew Dickerson
9.45am - 10.15am	Department of Planning and Infrastructure - Rachel Cumming (TBC) Local Environmental Plans - State Government perspective
10.15am - 10.45am	Morning tea
10.45am	Nominations close for Office Bearers/Voting for Office Bearers commences
10.45am - 11.00am	Returning Officer announces nominations for executives
11.00am - 11.30am	Minister for Local Government - The Honourable Minister Don Page
11.30am - 12.00pm	CEO, Destination NSW - Sandra Chipchase (TBC) Executive Officer, Association of Mining Related Councils'
12.00pm - 12.30pm	Margaret McDonald - Hill <i>Reflections from a Glass Ceiling</i>
12.30pm - 1.30pm	Lunch
1.30pm	Voting for Office Bearers closes
1.30pm - 2.30pm	First State Super - Jean Turner Chapman <i>"Close the Gender Gap"</i>
2.30pm - 3.00pm	Leadership Coach and Author - Kerrie Phipps <i>Insightful Leadership</i>
3.00pm	Office Bearers declared / Nominations for Executive Committee opens
3.00pm - 3.30pm	Afternoon tea
3.30pm - 4.30pm	Open Forum - facilitated by Kerrie Phipps (Hot Spot)
4.30pm	Nominations for Executive Committee close
4.30pm - 5.00pm	Introduction of candidates for Executive Committee
5.00pm	Close of Day 2
7.00pm	Casual Dinner - Taronga Western Plains Zoo

Conference program continued overleaf





Conference program (continued)

Day three	Saturday 24 March
8.00am	Voting for Executive Committee commences
9.00am – 9.15am	President, Australian Local Government Women's Association (NSW) -Cllr Julie Griffiths
9.15am – 9.45am	Director Environmental Services, Dubbo City Council - Melissa Watkins Dubbo 2036 - Community Strategic Plan
9.45am – 10.15am	Manager Marketing and Communications, Dubbo City Council Natasha Comber Creating a brand - creating opportunities
10.15am – 10.45am	Morning tea
10.45am	Voting for candidates closes - 10.45am
10.45am – 11.15am	Economic Development Manager, Bathurst City Council Gretchen Armitage Evocities - Local Government Collaborative - The City Change
11.15am – 12.15pm	Presentations - Bidding Councils for the 2014 Conference
12.15pm – 1.15pm	Army Reserve - Sergeant Warwick Campbell Explosive Demonstration
1.15pm – 2.15pm	Lunch
2.15pm	Voting for Executive Committee closes / Voting for 2014 Meet Council closes
2.15pm – 3.15pm	Director, Boseweb Systems - Leanne Sullivan The Social Media Explosion
3.15pm – 3.45pm	Open Forum - Facilitated by Leanne Sullivan and Natasha Comber (Hot Spot)
3.45pm – 4.15pm	Afternoon tea
4.15pm	Executive Committee declared
4.15pm – 5.00pm	Australian Local Government Women's Association (NSW) Annual General Meeting
5.00pm	Close of Day 3
7.00pm	Conference Dinner - Dubbo Regional Theatre and Convention Centre Featuring Kitty Flanagan

Kitty Flanagan

Kitty Flanagan is one of Australia's most popular stand-up comedians and is also a successful TV writer & performer.

Well known for sketch comedy as well as stand-up, Kitty has appeared in several successful TV shows both in Australia and the UK, most notably Full Frontal (AUS), The Micallef Show (AUS), and The Sketch Show (UK) and is now a regular member of Channel 10's 'The Project'. There have also been numerous TV stand-up appearances, including The World Stands Up on Comedy Central (US).

Kitty has performed at comedy clubs around the world and regularly tours the biggest theatres in Australia to sold out audiences.

Kitty will feature at the Conference Dinner on Saturday evening.

The program may be subject to change without notice

INFORMATION ITEM NO. 3

ACCESSING INFORMATION

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

FILE: PSC2009-09420

BACKGROUND

The purpose of this report is to provide a response to a Notice of Motion lodged by Cr Jordan.

Council resolved at its meeting in August 2011, to write to the State Government and request that Council's be able to introduce a charge where documents are of urgent nature. Also that Council investigate possible funding to assist with archiving Council records.

Council wrote to the Office of the Information Commissioner (OIC) on this matter, as the OIC is the authority responsible under the *Government Information (Public Access) Act 2009* (GIPA).

The OIC have advised that given the GIPA Act, requires Council to provide Open Access to Information (this includes development application information), free of charge, the OIC is unable to grant Council the right to introduce an "urgency fee".

It should be noted that the release of particular information can be subject to copyright (ie plans and reports, etc) and therefore reproduction maybe restricted.

In regard to the second part of the Notice of Motion, Council is continuing to electronically scan and investigate options with respect to archiving all Council records that are not already in an electronic format.

ATTACHMENTS

Nil.

INFORMATION ITEM NO. 4

HOLIDAY RENTAL CODE OF CONDUCT

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

GROUP: DEVELOPMENT SERVICES

FILE: PSC2009-00878

BACKGROUND

The purpose of this report is to provide information on the new Holiday Rental Code of Conduct.

The Hon Brad Hazzard MP Minister for Planning & Infrastructure NSW has recently announced an industry initiative for the managers and owners of short term holiday rental properties to help them address social issues generated by their guests and visitors. An industry stakeholder group with government assistance has developed a Holiday Rental Code of Conduct (the Code).

The Code's main objective is to address behavioural and noise issues generated by holiday accommodation. Many NSW councils (including our own) continue to receive complaints from residents about noise and antisocial behaviour from short term holiday accommodation. This situation is common in many areas that provide this sort of holiday accommodation.

The industry in recognising this as a serious problem, have accepted responsibility by developing a Code of Conduct for managers and owners of these properties.

In summary the Code's objectives are:

- To minimise adverse social impacts on the community from occupants of holiday accommodation;
- To meet the needs of the industry and stakeholders in relation to short term holiday accommodation;
- The provision of communication and education around the Code.

Council's role in relation to holiday accommodation in this context will primarily be around planning, responding to noise and parking complaints and promoting the new Code.

The Code will be self regulated and relies on the good will and cooperation of managers and owners of holiday accommodation. Council has very limited regulatory powers to control these issues and it is seen as a very positive initiative by the industry. Council staff will work closely with the industry to assist with the

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

implementation of the Code and we will encourage all relevant managers and owners to participate in and support this initiative.

INFORMATION ITEM NO. 5

ABORIGINAL STRATEGIC COMMITTEE

**REPORT OF: BRUCE PETERSEN - MANAGER COMMUNITY PLANNING &
ENVIRONMENTAL SERVICES**

GROUP: DEVELOPMENT SERVICES

FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee meeting held with Karuah Local Aboriginal Land Council on 3 April 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.

ATTACHMENTS

- 1) Minutes of Aboriginal Strategic Committee meeting held 3 April 2012.

ATTACHMENT 1



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

DX 21406 | ABN 16 744 377 876



**ABORIGINAL STRATEGIC COMMITTEE MEETING
WITH KARUAH LOCAL ABORIGINAL LAND COUNCIL
HELD ON TUESDAY 3 APRIL 2012
AT KARUAH ABORIGINAL RESERVE**

Present:

David Feeney	Karuah LALC
Sharon Feeney	Karuah LALC
Dale Greentree	Karuah LALC
Cr Dover	PSC
Cr O'Brien	PSC
Paul Procter	PSC
Cliff Johnson	PSC

Apologies:

Cr Westbury	PSC
Cr Kafer	PSC
Jason Linnane	PSC
Steve Bernasconi	PSC

1. WELCOME

KLALC CEO acknowledged land meeting on today, Worimi land and paid respects to Elders past/present and extended respects to all Australians.

2. BUSINESS ARISING FROM PREVIOUS MINUTES

The following items of business arising from the meeting held on 7 February 2012 were discussed:

ITEM 1: Street Gutter Cleaning

A request has been lodged for gutters to be swept. Council does not have a street gutter cleaning schedule, rather cleaning is carried out as required on a priority basis within available budget provisions.

ITEM 2: Port Stephens Gateway Signs

Council has gateway signage at each of key road arterial entries into Port Stephens with signage specifying wording 'Land of the Worimi Nation' as an acknowledgement to the traditional landowners. An inspection has found no signage at Karuah entry from Great Lakes.

Action:	1. Council's Social Planning Co-ordinator to investigate and discuss with relevant Council Section replacement of sign subject to available budget provisions.
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MINUTES FOR ORDINARY MEETING – 29 MAY 2012

ITEM 3: Review of Aboriginal Projects Fund

Council's Social Planning Co-ordinator reported on status of review mentioning process which will include consultation with Karuah Local Aboriginal Land Council. Aiming to have review completed in next 2 months. Review will be completed before a future funding round is undertaken.

ITEM 4: 2012 Joint Meeting

Anticipate meeting will be held in July 2012. Date to be determined shortly. At this stage meeting will feature screening of Worimi Conservation Lands DVD along with showcasing Aboriginal Projects Fund. It was also suggested an invitation be extended to Port Stephens Police LAC Commander to attend either as a guest speaker and/or guest attendee.

Actions:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator to extend invitation to Port Stephens Police LAC Commander.2. Council's Social Planning Co-ordinator to confirm meeting date.3. ASC members to advise Council's Social Planning Co-ordinator by early May 2012 of any further suggestions for guest speakers.
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ITEM 5: Connect Karuah Day:

It was reported that recent visit by Centrelink Mobile Office at the Karuah Centre was well supported by the community.

ITEM 6: Street Drainage:

Council's Social Planning Co-ordinator indicated that relevant Council Officer has inspected drainage system during a rain period on cnr section of Buudhang Close and found drain was in appropriate working order. KLALC CEO indicated however that problems are still being experienced with getting water backed up. They also indicated that Hunter Water is starting works in May 2012 and it's desirable to have any existing problems rectified prior to Hunter Water undertaking works.

Council's Social Planning Co-ordinator also reported that next stage of kerb and guttering works is subject to required funds being sourced with Council currently pursuing external grant funding for this work. Timing is subject to funds being sourced.

Action:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator to organise for relevant Council Officer to contact Karuah CEO and organise suitable time for an onsite inspection.
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3. GENERAL BUSINESS

Proposed Mustons Rd Improvements:

KLALC CEO enquired on status of timing for commencing proposed improvements to Mustons Rd. Council's Social Planning Co-ordinator indicated that timing is subject to funds being sourced to undertake and complete the proposed works. Council is currently seeking through external grants matching funds for this project.

Action:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator to pass onto KLALC CEO contact details for Council's Design & Project Development Co-ordinator to discuss details of proposed plans.
---------	--

MINUTES FOR ORDINARY MEETING – 29 MAY 2012

Venue for Meetings:

KLALC CEO suggested venue for meetings of Aboriginal Strategic Committee with KLALC move to Council's Administration Building to make it more accessible for relevant Council staff to attend meetings where required. Also suggested that consideration be given to moving start time from 1pm to 9:30am. This was agreed to unanimously.

Action:	1. Council's Social Planning Co-ordinator to organise change of meeting venue and also change in meeting time subject to availability of members.
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4. NEXT MEETING

5 June 2012 1pm at Port Stephens Council Administration Building.

GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1

FILE NO: A2004-1034

ASSIGNMENT OF LEASE – HALIFAX HOLIDAY PARK KIOSK

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Subject to approval from the Minister for Crown Lands, assign the Halifax Park Kiosk Lease from Ash Supplies Pty Ltd (Bites on the Bay) to the Li Family Group Pty Ltd.
- 2) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease documentation.

Cr Peter Kafer left the meeting at 6.56pm prior to voting.
 Cr Peter Kafer returned to the meeting at 6.57pm prior to voting.

ORDINARY COUNCIL MEETING – 29 MAY 2012

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

BACKGROUND

The purpose of this report is to advise Council that the current lease holders of Bites on the Bay (Halifax Kiosk) wish to sell the business that they have operated for the past 8 years and therefore have requested an assignment of the lease to the proposed purchasers of the business. The current term of the existing lease is 10 years commencing 1 April 2003 through to 31 March 2013 with an Option to Renew for a period of 10 years.

Halifax Kiosk forms part of the Halifax Holiday Park and the structure is situated on Crown Land. Port Stephens as the Trust Manager of the Halifax Caravan Park Reserve Trust has day to day control and supervision of the lease on behalf of the Crown. However as the owner of the land the Minister must consent to the assignment of the lease. Council has discussed the matter with Senior Natural Resource Management Officer from Catchments and Lands and providing Council approves of the assignment and there is no change to the terms or conditions of the agreement, the Minister will generally approve the assignment. Council must prepare a simple letter outlining the details of the purchaser to send to Crown Lands / Minister for their consideration.

Council's Investment Coordinator and Property Services Manager have met with the proposed purchaser to discuss the assignment and the continued operation of the business. The proposed purchasers have a background in hospitality, owning and operating restaurants in Hamilton, Warners Bay, Newcastle and Honeysuckle. The proposed purchasers have assured Council that the business will continue to operate under the existing terms of the lease; that they intend to grow the business, and that they have given a commitment to retain the existing staff at the kiosk to ensure stability and a smooth transition to the new structure/ownership of the business.

FINANCIAL/RESOURCE IMPLICATIONS

The assignment of the lease ensures that there is no change to the terms and conditions of the existing lease therefore there is no financial impact on Council.

In having a valid and enforceable lease the Crown and Council are protected and the ability to recover costs means that the property returns funds to the Trust.

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?
If Council does not agree to the assignment of the lease the current business may not function optimally	Low	Assign the Lease to the proposed purchasers of the business	Yes
With no formalised lease in place a tenant could vacate at short notice and there would be a loss of income as a result	Low	Formalise the lease document as recommended	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Commercial Business Manager;
- 2) Senior Natural Resource Management Officer, Catchments and Lands, Department of Primary Industries;
- 3) Property Investment Coordinator.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2

FILE NO: PSC2010-05535

NATIONAL GENERAL ASSEMBLY

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the attendance of Cr Bruce MacKenzie at the NGA Infrastructure, planning, services Conference, Canberra June 2012;
 - 2) Allow a "one-off" increase of the Conference allowance under the Policy for Cr MacKenzie to attend the Conference.
-

ORDINARY COUNCIL MEETING – 29 MAY 2012

125	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none">1) Endorse the attendance of Councillors Bob Westbury and Bruce MacKenzie at the NGA Infrastructure, planning, services Conference, Canberra June 2012;2) Allow a "one-off" increase of the Conference allowance under the Policy for Councillors Westbury and MacKenzie to attend the Conference.

BACKGROUND

The purpose of this report is to inform Council of the National General Assembly to be held from 17 – 20 June 2012.

The Conference Programme is shown at **ATTACHMENT 1**.

The Conference is open to all Councillors.

As Councillors would be aware the Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation would be covered from the budget, subject to an individual Councillor not exceed the conference budget limits in the Policy.

LEGAL, POLICY AND RISK IMPLICATIONS

The Payment of Expenses and Provision of Facilities to Councillors Policy requires Council to approve all Councillor conference attendances outside the Hunter Region. Councillors' conference costs are limited to \$3,500.00 per year under the Policy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Potential for injury whilst attending at the conference	Low	Attendees to observe appropriate safety measures to avoid injury	Yes
Negative impact on Council's reputation	Low	Attendees to observe Council's Code of Conduct	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending this Conference to ensure the Local Government Area has a voice in the national development of policy and initiatives.

CONSULTATION

Nil.

OPTIONS

Nil.

ATTACHMENTS

1) Conference Programme.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



SUNDAY 17 JUNE

5.00-7.00 pm WELCOME DRINKS

MONDAY 18 JUNE

9.00 am Opening Ceremony
 9.25 am ALGA President's Address
 9.45 am Prime Minister, the Hon Julia Gillard MP (invited)
 10.30 am MORNING TEA
 11.00 am Keynote Speaker (TBC)
 11.30 am National Local Government Campaign Insights
 12 noon THEME 1 ADDRESS: Infrastructure
 12.30 pm LUNCH
 1.30 pm Infrastructure: Debate on Motions
 3.00 pm AFTERNOON TEA
 3.30 pm Commissioner for Taxation, Michael D'Ascenzo
 4.00 pm National Awards for Local Government
 5.00 pm Close
 7.00 pm DINNER

TUESDAY 19 JUNE

8.30 am Minister for Regional Australia, Regional Development and Local Government, the Hon Simon Crean MP
 9.00 am THEME 2 ADDRESS: Planning
 9.30 am Planning: Debate on Motions
 10.30 am MORNING TEA
 11.00 am Leader of the Greens, Senator Bob Brown (invited)
 11.30 am Planning: Debate on Motions
 12.30 pm LUNCH
 1.30 pm Concurrent Sessions
 3.00 pm AFTERNOON TEA
 3.30 pm National Awards for Local Government
 4.30 pm Minister for Health, the Hon Tanya Plibersek MP (invited)
 5.00 pm Close
 7.00 pm DINNER

WEDNESDAY 20 JUNE

9.00 am THEME 3 ADDRESS: Services
 9.30 am Services: Debate on Motions
 10.30 am MORNING TEA
 11.00 am Shadow Minister for Local Government, Senator Barnaby Joyce
 11.30 am National Campaigns Road Map
 12 noon Leader of Opposition, the Hon Tony Abbott MP (invited)
 12.30 pm President's Closing Address
 1.00 pm Close

Key Dates

Submissions for Motions for Debate FRIDAY 27 APRIL 2012	Early Bird Registration on or before FRIDAY 27 APRIL 2012	Standard Registration on or before FRIDAY 1 JUNE 2012	Late Registration after FRIDAY 1 JUNE 2012
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ITEM NO. 3

FILE NO: PSC2005-1547

ONE ASSOCIATION – DELEGATES

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Confirm its agreement to the formation One Association;

Nominate four (4) Councillors as voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters.

ORDINARY COUNCIL MEETING – 29 MAY 2012

126	<p>Councillor Peter Kafer Councillor Glenys Francis</p> <hr/> <p>It was resolved that Council:</p> <ul style="list-style-type: none"> 1) Confirm its agreement to the formation One Association; 2) Nominate Councillors Bob Westbury, Peter Kafer, Glenys Francis and John Nell as voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters.
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Nominations received for the position of delegates were Councillors Bob Westbury, Peter Kafer, Glenys Francis and John Nell.

BACKGROUND

The purpose of this report is to provide Council with an update regarding the progress towards One Association, outline next steps and outlines what Council needs to do next. A number of Frequently Asked Questions are also provided with answers to assist Council with their discussions surrounding this very important matter.

On 17 April 2012, the Shires Executive (SA) and on 20 April 2012, the Local Government Association Executive (LGA) passed the formal resolutions required to progress the One Association matter to go to vote of the members' delegates.

The Shires Association Executive unanimously resolved in favour of the resolutions. The Local Government Association Executive adopted the resolutions by a majority of 21 to 3.

The formal documentation has been lodged with Fair Work Australia. Shortly Fair Work Australia will engage the Australian Electoral Commission (AEC) to undertake the secret postal ballot of members' delegates.

It is important to note that there are actually two separate secret ballots; one will be a ballot of LGA members' delegates, and the other will be a ballot of SA members' delegates. Both ballots need to achieve a majority of "yes" votes to enable the formation of One Association.

It is anticipated that the ballots will occur before the September 2012 Local Government general elections but exact timing will depend on Fair Work Australia.

Council is now required to provide the full name of the voting delegates and private mailing addresses by 31 May 2012. This will enable the Roll of Voters to be prepared by the AEC.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications resulting from this recommendation.

LEGAL, POLICY AND RISK IMPLICATIONS

Council is a member of the LGA, which allows Council to have a voice on matters that affect the local government area and where they are of state significance. This membership provides Council with the opportunity to work together with other local government areas and raise issues with other levels of government as and when needed through a collective voice.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Should Council not nominate delegates for the purpose of the election, this would mean that Port Stephens Council would not have a "voice" in the future of the Association	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor.

OPTIONS

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

ATTACHMENTS

- 1) Frequently Asked Questions.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Frequently Asked Questions

- Q: Why is the ballot being held before the September elections?
A: This process has been ongoing for many years. Current Councillors should be aware of the progress of the matter. If the ballot is held over until after the 2012 general elections new councillors will not be aware of the history or the process and would not be in a position to make an informed decision.
- Q: When would One Association take effect?
A: Assuming that the majority of delegates vote "yes" forming One Association would not take place until after 1 March 2013, but no later than 2 June 2013. Even after a positive vote there is significant work to be done in conjunction with Fair Work Australia as well as making provision for the numerous administrative changes which would have to take place, such as transferring assets and transitioning staff. The transition however needs to take effect before 2 June 2013 otherwise the Shires Association would need to hold fresh Executive elections.
- Q: Why is the ballot a secret postal ballot?
A: Because it is a requirement under the Fair Work (Registered Organisations) Act. The Associations have no choice in this decision.
- Q: Has there been enough consultation?
A: The issue of One Association has been discussed over many years. In more recent times it has been discussed:
- At the 2003 LGA Conference
 - At the 2004 SA Conference
 - At the 2004 LGA Conference
 - As part of the 2005 Woods/Wearne report titled "Options for One Local Government Association in NSW"
 - At the 2005 SA Conference
 - At the 2005 LGA Conference
 - At the 2006 SA Conference
 - At the 2006 LGA Conference
 - At the 2007 SA Conference
 - At the 2007 LGA Conference
 - At the 2008 SA Conference
 - At the 2008 LGA Conference
 - At the 2009 SA Conference
 - At the 2009 LGA Conference
 - At the One Association Convention held in August 2010
 - At the 2010 LGA Conference
 - In February 2011 the Associations sent all Councils a draft Constitution requesting feedback and comments
 - In February 2011 the SA held a Special Conference to discuss the Principles set out at the 2010 Convention
 - At the 2011 SA Conference
 - In November 2011 the Associations sent all Councils a further draft Constitution requesting feedback and comments
- In addition there have been numerous presentations made to all Shires Divisional meetings at various times, and to various LGA RDC meetings and in other forums.
- Q: Why is there no "No" Case?
A: There are two reasons, firstly the Fair Work (Registered Organisations) Act does not require a "No" case to be prepared because it presumes a process towards an amalgamation would not have started in the first place unless it had been directed by members – which is the case in this instance. The issue of One Association has arrived

at the stage of a ballot after repeated Conference resolutions calling for a single Association. It is not in the interests of the Association to prepare a case which cuts across the wishes and resolutions of the majority of our members.

Q: How many voting delegates does my Council have for the secret postal ballot?

A: The numbers are calculated under the current rules of each Association, so for:

- Shires Association members, each has one voting delegate, and for
- Local Government Association Members it depends on the member's population, and is calculated in accordance with the following scale:

Group No.	Population	Delegates
1	Less than 10,000	1
2	10,000 - 20,000	2
3	20,000 - 50,000	3
4	50,000 - 100,000	4
5	100,000 - 150,000	5
6	Over 150,000	7
7	County councils	2
8	Aboriginal Land Council	27

(To independently determine a Council's population see the latest release of Australian Bureau of Statistics publication 3218.0)

Q: Can Associate members vote?

A: No, only ordinary members can vote in the secret ballot. The Fair Work (Registered Organisations) Act treats this ballot the same as if it was a ballot for the election of members of the Executive.

Q: How does voting work under One Association:

A: One of the key principles to come from the One Association Convention held in August 2010 was to enshrine the concept that the overall voting numbers of the rural/regional area would be the same as the overall voting numbers of the Metropolitan/Urban areas. This was covered as Principles 4 and 5, and was, with the other Principles ratified by subsequent Conferences of both Associations. These Principles say:

- 4 "For the purpose of voting for the Board of Directors, each region will have an equal number of votes, which will be distributed proportionally on a basis to be determined among those ordinary member councils who fall within that region, with all ordinary member councils receiving at least one vote."
- 5 "For the purpose of voting on motions at Conference, each region will have an equal number of votes, which will be distributed proportionally on a basis to be determined among those ordinary member councils who fall within that region, with all ordinary member councils receiving at least one vote."

The voting arrangements satisfy the overarching requirements of equality among the regions. What this means in effect is that councils in the same region with similar populations will have the same number of votes, but this will not always be the case for similar sized councils in different regions. The reason for this is the difference in council numbers between the regions, the Rural/Regional Region has 114 general purpose Councils, 10 County Councils and 8 Regional Aboriginal Lands Councils. The Metropolitan/Urban Region has 38 general purpose Councils, 2 County Councils and 1 Regional Aboriginal Lands Council. Due to the larger number of Councils in the Rural/Regional Region additional votes needed to be allocated to the Councils in the Metropolitan/Urban Region to balance the overall voting numbers.

Q: But is this 'fair'?

A: The One Association rules have been developed to ensure equity across the membership in a number of ways. Importantly, the One Association rules provide that only Rural/Regional voting delegates are able to vote for the 10 Rural/Regional Board members and the Rural/Regional Vice President in the same way that only Metropolitan/Urban voting delegates are able to vote for the 10 Metropolitan/Urban Board members and the Metropolitan/Urban Vice President. It makes no difference if a Metropolitan/Urban Council with the same population has a different number of voting delegates to a Rural/Regional Council with a similar population as they won't be voting for the same candidates in the same elections.

For the positions of President and Treasurer both regions have the same number of votes in total. This will allow for these positions be popularly elected overall – however, the rules also ensures that the position of President must alternate between the Metropolitan/Urban and Rural/Regional areas. This further enhances the equity.

Similarly with Conference motions, both Regions have the same overall numbers. This provides for Association policy to be made which has the sanction of the majority of members, and ensures that no Region can dominate the other.

Q: What about the Assets of my current Association?

A: The assets of both Associations will be merged together on the amalgamation date. Neither Association will be financial detrimentally affected in any consequential way by this merger. To illustrate this we need to use the last full year's financial statements, 2010/2011 which showed the total equity of each Association as follows:

	Total Equity (\$)	% Equity	Subscriptions \$	% Subscriptions
LGA	19,015,275	66.19	2,876,208	65.77
SA	9,713,269	33.81	1,496,629	34.23
Total Combined	28,728,544	100.00	4,372,837	100.00

The Associations' Rules (and the rules for the new One Association) provide that if the Association is dissolved any surplus funds are paid to the members in the proportion which each member's subscription for the year bears to the total amount of subscriptions for that year.

What this means is that had the Associations dissolved at the end of the 2010/11 financial year the members of each Association would have received in total the complete equity of their Association, that is, for the LGA members 100% X \$19,015,275 and for the SA 100% X \$9,713,269.

If the Associations had merged and immediately dissolved at the end of the 2010/11 financial year:

LGA members would have received: 65.77% of \$28,728,544 = \$18,894,763
 SA members would have received: 34.23% of \$28,728,544 = \$9,833,781

The overall affect would be:

	No Merge \$	Merge \$	Difference \$
LGA	19,015,275	18,894,763	(120,512)
SA	9,713,269	9,833,781	120,512
Total Combined	28,728,544	28,728,544	0

For this example, at this point in time, the LGA members combined would be "worse off" by \$120,512 on dissolution, and SA members combined would be "better off" by the same amount. On an individual Council basis Association's calculations have shown the "worse off" Councils range in dollar terms from (\$43.05) to (\$2,202.45) while the "better off" Councils range in dollar terms from \$185.47 to \$2,457.64. As the combined difference represents less than half a percent of overall total equity ($\$120,512 / \$28,728,544 \times 100 = .419\%$) it is not considered significant.

ITEM NO. 4

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 29 May 2012.

No:	Report Title	Page:
1	CASH AND INVESTMENTS HELD AT 30 APRIL 2012	

ORDINARY COUNCIL MEETING – 29 MAY 2012

127	Councillor Ken Jordan Councillor Peter Kafer
	It was resolved that the recommendation be adopted.

GENERAL MANAGERS INFORMATION PAPERS



INFORMATION ITEM NO. 1

CASH AND INVESTMENTS HELD AT 30 APRIL 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 April 2012.

ATTACHMENTS

Cash and Investments Held at 30 April 2012;
Monthly Cash and Investments Balance April 2011 – April 2012 and Monthly Australian Term Deposit Index April 2011 – April 2012.

ATTACHMENT 1

CASH AND INVESTMENTS HELD AS AT 30 APRIL 2012									
ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE	
TERM DEPOSITS									
POLICE CREDIT UNION LTD	RIM	N/R	TD	5.90%	120	8-May-12	1,000,000	1,000,000	
AMP BANK LTD	CURVE	A1/A	TD	5.80%	90	14-May-12	1,000,000	1,000,000	
BANK OF QUEENSLAND	FARGUHARSON	A2/BBB	TD	5.85%	123	15-May-12	1,000,000	1,000,000	
ME BANK	CURVE	A2/BBB	TD	5.90%	90	21-May-12	1,000,000	1,000,000	
MYSTATE FINANCIAL LTD	FARGUHARSON	A2/BBB	TD	5.80%	92	5-Jun-12	1,000,000	1,000,000	
THE ROCK BUILDING SOCIETY LTD	RIM	A3/BBB-	TD	5.94%	90	7-Jun-12	1,000,000	1,000,000	
AMP BANK LTD	CURVE	A1/A	TD	5.80%	119	22-Jun-12	1,000,000	1,000,000	
ING BANK AUSTRALIA LTD	FIG	A1/A	TD	5.81%	120	24-Jun-12	1,000,000	1,000,000	
THE ROCK BUILDING SOCIETY LTD	CURVE	A3/BBB-	TD	5.88%	120	4-Jul-12	1,000,000	1,000,000	
MYSTATE FINANCIAL LTD	FARGUHARSON	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	FARGUHARSON	A2/BBB	TD	5.80%	120	20-Jul-12	1,000,000	1,000,000	
B & B LTD	CURVE	N/R	TD	5.80%	90	23-Jul-12	1,000,000	1,000,000	
POLICE CREDIT UNION LTD	FARGUHARSON	N/R	TD	5.80%	120	10-Aug-12	1,000,000	1,000,000	
SUB TOTAL (\$)							14,250,000	14,250,000	
OTHER INVESTMENTS									
LONGREACH SER. 1F PROP. LNK NOTE	LONGREACH	A+	FRN	0.00%	4yrs	7-Sep-12	500,000	488,250	
CTH BANK EQUITY LNK DEPOSIT SER. 2	CTH BANK	AA	FRN	3.00%	5yrs	5-Nov-12	500,000	495,700	
BENDIGO BANK	CTH BANK	BBB+	FRSD	5.57%	5yrs	9-Nov-12	500,000	495,240	
HELIUM CAP. LTD "ESPERANCE AA"	GRANGE	CCC-(f)	CDO	4.28%	7yrs	20-Mar-13	1,000,000	240,000	
THE MUTUAL	THE MUTUAL	N/R	FRSD	5.84%	10yrs	30-Jun-13	500,000	500,000	
GRANGE SECURITIES "KAKADU AA"	GRANGE	CCC	CDO	5.83%	7yrs	20-Mar-14	1,000,000	144,100	
GRANGE SEC. "COOLANGAITA AA" *	GRANGE	C	CDO	0.00%	7yrs	20-Sep-14	1,000,000	0	
DEUTSCHE BANK TELSTRA LNK DEP. NTE	FIG SECURITIES	A+	FRN	5.48%	7yrs	30-Nov-14	500,000	500,000	
THE MUTUAL	THE MUTUAL	N/R	FRSD	5.84%	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	320,719	
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,874	745,726	
SUB TOTAL (\$)							7,430,374	4,471,755	
INVESTMENTS TOTAL (\$)							21,680,374	18,721,755	
CASH AT BANK (\$)							2,440,614	2,440,614	
TOTAL CASH AND INVESTMENTS (\$)							24,120,990	21,162,369	
CASH AT BANK INTEREST RATE				4.20%					
BBSW FOR PREVIOUS 3 MONTHS				4.60%					
AVG. INVESTMENT RATE OF RETURN				4.90%					
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE				
CDO = COLLATERALISED DEBT OBLIGATION					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 232 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY									
P GESLING									

ATTACHMENT 2

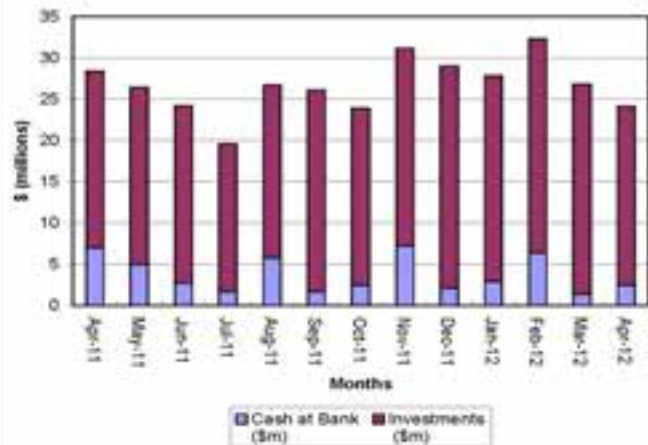
Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Apr-11	6 975	21 400	28 406
May-11	4 976	21 400	26 406
Jun-11	2 752	21 400	24 152
Jul-11	1 657	17 900	19 558
Aug-11	5 767	20 900	26 697
Sep-11	1 676	24 400	26 106
Oct-11	2 476	21 400	23 906
Nov-11	7 240	23 900	31 171
Dec-11	2 101	26 900	29 032
Jan-12	2 909	24 900	27 839
Feb-12	6 372	25 900	32 305
Mar-12	1 391	25 400	26 821
Apr-12	2 441	21 860	24 721

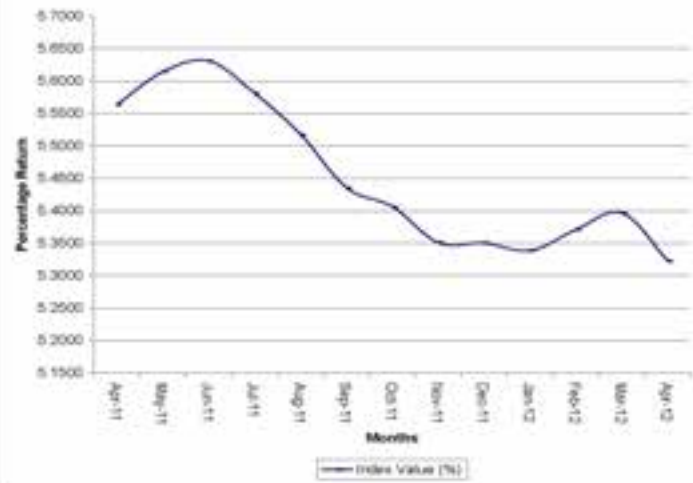
Australian Term Deposit Accumulation Index

Date	Index Value (%)
Apr-11	5 5937
May-11	5 6147
Jun-11	5 6312
Jul-11	5 5814
Aug-11	5 5170
Sep-11	5 4068
Oct-11	5 4065
Nov-11	5 3510
Dec-11	5 3904
Jan-12	5 3399
Feb-12	5 3715
Mar-12	5 3972
Apr-12	5 3227

Cash and Invested Funds for the Period ended 30/04/2012



Australian Term Deposit Index as at 30/04/2012



NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

BEDDING / MATTRESS DROP OFF SERVICE

COUNCILLOR: KA FER

THAT COUNCIL:

- 1) Requests the General Manager to investigate offering a bedding / mattress drop off service within the Port Stephens Local Government area at least twice yearly (similar to E-Waste and dangerous chemicals drop offs) in association with an appropriate recycler.
-

ORDINARY COUNCIL MEETING – 29 MAY 2012

128	Councillor Peter Kafer Councillor Caroline De Lyall
	It was resolved that Council requests the General Manager to investigate offering a bedding / mattress drop off service within the Port Stephens Local Government area at least twice yearly (similar to E-Waste and dangerous chemicals drop offs) in association with an appropriate recycler.

BACKGROUND REPORT OF: STEVE BERNASCONI – COMMUNITY & RECREATION MANAGER

BACKGROUND

- **Initial Points of Clarification**

- Residents can already dispose of mattresses for free during the annual bulk waste collection, which is funded by their Domestic Waste Service Charge.
- A majority of the illegal dumping of mattresses that is being reported and investigated is in large quantities, which suggests it is not from one off residential loads
- The mattress fee of \$40 at the Newline Road Waste Facility in Raymond Terrace is not a Council fee.
- Council has previously not charged a mattress fee at our Salamander Bay Waste Transfer Station; however, it is listed in the draft fees and charges for 2012/13 to charge a fee of \$25 for the first item and \$20 for any subsequent items as of July 1 2012 to cover the cost of recycling these items.

- **Mattress Drop off Days**

- Maitland Council currently run mattress drop off events which are free to their residents. Depending on the amount of advertisement prior to the event the collection can vary from ~100 to 350 mattresses per event.
- When Council hold the E-waste and Chemical drop events they are always well advertise via mail outs as well as paper and internet advertisements. As these mattress events would be promoted the same way it can be anticipated that Council will always experience a high rate of usage by residents at these events. So taking that into account we could expect to be at the higher end of range experienced by Maitland at there mattress drop off events and receive ~350 mattresses per collection.
- We would anticipate that to satisfy all residents with two events per year we would need to hold 6 mattress drop off events per annum. This would involve two collections per year in Raymond Terrace, Lemon Tree Passage and Salamander Bay.
- Based on the fact that we would advertise these events well and the response Maitland receives from the residents when they do this we could anticipate around ~ 2100 mattresses assuming we experience a similar take up of the event by residents.

- **Cost of Mattress Recycling via Drop of Days**

- Each mattress collected from one of these events would cost between \$22 to \$24 per item, which is made up of;
 - recycling fee of \$16.50 to \$18.50 per piece depending on the location
 - advertisement of events \$6,000
 - wages for Council representative to be present at collection \$4,000
- Based on 6 events and the collection of ~2100 Mattresses a cost of ~\$50,000 would be incurred by Council. This would involve an increase of \$2.00 per Domestic Waste Service Charge to cover the cost of these events.

- **The Worst Case Scenario**

- Statistics show that mattresses are renewed every 6 to 10 years
- There are 30,000 households in Port Stephens and it would be a fair assumption that a majority of dwellings would have 3 beds. This means that there is the potential for 90,000 mattresses being in use across the Local Government Area
- Using these statistics to predict the number of mattresses to possibly be disposed of per year in Port Stephens would result in 9,000 to 15,000 mattresses. To recycle this amount of mattresses it would cost between \$215,000 and \$350,000 per year to provide free mattress disposal. This would require a \$7 to \$12 increase in the Domestic Waste Service Charge (DWSC) to cover the cost of the events.

- **Alternative Funding Opportunities to DWSC**

- There is a possibility that we could apply for some funding to run this program via the 2012/13 Waste and Sustainable improvement Program (WaSIP), however, this funding would not be available to run programs until November 2012 at the earliest.

CONFIDENTIAL ITEMS



In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 29 MAY 2012

129	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that Council move into Confidential Session.

CONFIDENTIAL MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2012-01059

PORT STEPHENS COUNCIL AT TOWERS

ORDINARY COUNCIL MEETING – 29 MAY 2012

130	<p>Councillor Frank Ward Councillor John Nell</p> <p>It was resolved that Council approach the members of the Towers & Mackenzie families advising of its intention regarding the current legal action and requesting their submissions be received within 14 days, in the event that Council were to apply to rescind the acquisition.</p>
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There being no further business the meeting closed at 8.12pm.

I certify that pages 1 to 212 of the Open Ordinary Minutes of Council 29 May 2012 and the pages 213 to 214 of the Confidential Ordinary Minutes of Council 29 May 2012 were confirmed by Council at its meeting held on 26 June 2012.

.....
Cr Bob Westbury
MAYOR