

Minutes 27 MARCH 2012



Minutes of Ordinary Meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 27 March 2012, commencing at 5.34pm.

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

037	Councillor Ken Jordan Councillor Frank Ward
	It was resolved that the apologies from Crs Peter Kafer and John Nell be received and noted.
038	Councillor Geoff Dingle Councillor Sally Dover
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 28 February 2012 and the Extra-Ordinary Council Meeting held on 20 March 2012 be confirmed.

Cr Geoff Dingle declared a less than significant non-pecuniary conflict of interest in Item 2 of the General Manager's Report. The nature of the interest is Cr Dingle is currently a member of the Scout Association.

Cr Dingle is not currently an active member and is not a member of the Raymond Terrace Group. Cr Dingle has no financial or personal benefit associated with Item 2.

The General Manager declared a significant non-pecuniary conflict of interest in Item 7 of the General Manager's Report. The nature of the interest is that the General Manager is Chair of Hunter Councils Ltd, the trading company of Hunter Councils Incorporated and who wholly owns Local Government Legal.

Cr Bruce MacKenzie declared a pecuniary interest conflict of interest in confidential Item 2. The nature of the interest is Cr Mackenzie is the applicant seeking access to his land.

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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: PSC2005-2675

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) and (d) (i) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the agenda namely **Deed of Amendment to Waste Disposal Agreement with Port Stephens Waste Management Group**.
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include that it:
 - a) contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council proposes to conduct business.
 - b) contains details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.
- 3) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it may prejudice Council's commercial position and Council should have the same protection for its confidential commercial activities as that applying to other persons.
- 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

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

ITEM NO. 2

FILE NO: PSC2012-01059

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: LISA MARSHALL – MANAGER LEGAL SERVICES

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 2 on the agenda namely **Stockton Bight Track at Williamtown;**
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include legal advice concerning litigation 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 public interest as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers; and
- 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

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

**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 1

FILE NO: 16-2011-543-1

DEVELOPMENT APPLICATION FOR THE COMPLETION OF A PARTLY CONSTRUCTED RURAL SHED AND ONGOING USE AT 2209 PACIFIC HIGHWAY, HEATHERBRAE

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

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

The development application 16-2011-543-1 for the completion of the partly constructed rural shed and ongoing use is refused for the following reasons:

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

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

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

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

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

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

The Motion was carried on the casting vote of the Chair.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

041	Councillor Bruce MacKenzie Councillor Ken Jordan It was resolved that subject to the building certificates being assessed as adequately demonstrating safety and structural adequacy of the slab and frame, Council indicate its support for the development and request the Development Services Group Manager to provide draft conditions of consent to Council.
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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 Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover and Bob Westbury.

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

BACKGROUND

This application has been called to Council by Councillor Jordan "to have Councillors look at this DA".

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

Consent has been sought for the completion of construction and ongoing use of machinery shed on Lot 512 DP: 587997, 2209 Pacific Highway Heatherbrae. The subject site is zoned 1(a) – Rural Agriculture "A" which is described in Port Stephens Local Environment Plan 2000 (LEP). The subject site is identified as flood prone land on the lower portions of the block.

The Applicant has constructed the machinery shed to frame stage, including a significant concrete floor slab without seeking prior consent for the works.

The illegal works were originally referred to Council's Compliance Officer through Council's CRM system after an adjoining property owner had lodged a complaint about the bulk and scale and general size of the structure, it's location in respect to the property boundary and the resultant use of the structure.

In the context of the compliance investigation it was noted that the structural frame of a shed had been erected 0.2m from the boundary to an eave height of approximately six (6) metres and ridge height of approximately seven (7) metres. The area of the shed is noted as twenty seven and a half (27.5) metres in length with a width of twelve (12) metres. This results in a floor area of three hundred and thirty (330m²) square metres

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

In addition to the above the owner's consultant also advised that there were other structures on the site where prior consent had not been obtained. A large shed to the rear of the dwelling was said to be constructed under state exempt provisions, and a Studio building that was unauthorised. A carport was also erected next to the Studio building which was said to be consistent with exempt development provisions by the consultant.

In responding to the Consultant on the matter of the unauthorised shed and Studio (accepting that the other shed and carport could be exempt development) the following advice was provided:

In regards to the unauthorised shed and studio building Council will not request the owners to lodge an application for a building certificate as this is not seen as an appropriate means of remedying the breaches of the Environmental Planning and Assessment Act 1979. The burden of finding a remedy will rest with the owners in the first instance. If no remedy is found Council may require the structures to be removed.

A meeting was arranged at the site with the consultant, owners and Council staff. During the meeting the owners advised that they would lodge an application regarding the large unauthorised shed seeking consent to use and complete its construction. The prohibited land use (storage of materials associated with the home occupation and shed erection) issue was discussed and the owners advised that the use of the land was now scaled back to that of "Home Occupation" restricted to office activities. The vehicles located at the premises would be restricted to those used by the occupants only (no other employees come to the site to collect work vehicles).

home occupation means an occupation carried on in a dwelling-house or in a dwelling in urban housing by the permanent residents of the dwelling-house or dwelling which does not involve:

- (a) registration of the building under the Factories, Shops and Industries Act 1962, or
- (b) the employment of persons other than those residents, or
- (c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste waters, waste products or grit or oil or otherwise, or
- (d) the display of goods, whether in a window or otherwise, or
- (e) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house, dwelling, front fence or a pole within the property boundary such that the height of the sign is not more than 1.5m, to indicate the name and occupation of the resident), or
- (f) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail.

The owners advised that they had intentions to remove the Studio building from the site and would not include this in their application to council. The owners and their consultant were advised that if they could not regularise the unauthorised shed

Council would take steps to require the unauthorised structures to be removed in accordance with Council's compliance policy.

An application was received by Council to complete the partially constructed structure and ongoing use as a private Rural Shed. NB. The *Environmental Planning and Assessment Act 1979* does not provide for the retrospective approval of illegal building works hence this development application is for the completion of the illegal built building and the ongoing use of that building as a private rural shed.

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

In the context of assessing this application the assessing officer applied the principles of Council's Development Control Plan in determining whether a structure of this size and location from boundaries would be considered appropriate. There are no specific "development controls" contained within the PSC DCP 2007 to restrict the construction of a rural Shed, hence this application is assessed on its merits with due and proper consideration of the Principles as listed in B6.18 of the DCP and the objectives of the Rural 1(a) zoning within the *Port Stephens Local Environmental Plan 2007*.

PSC DCP 2007 PRINCIPLES

B6.C103 Sheds in a residential or rural residential area should be located and designed to minimise adverse impacts on street or landscape character, neighbouring amenity, and stormwater drainage.

B6.C104 Sheds in a residential area should be located and designed to retain deep soil planting areas and existing vegetation at the rear of the lot.

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

The owner has been advised in writing and verbally from a practitioner/professional perspective on several occasions that the application as submitted can not be supported and given the opportunity to redesign the current proposal to bring it into line with more conventional dimensions and boundary setback of private rural sheds in close proximity to residential buildings. (Likely acceptable dimensions would be in the order of 4.2 metres overall height, maximum floor area of 200m² and a minimum side boundary setback of 5 metres – source the draft PSC DCP currently under exhibition and the underlying intent of the current DCP2007 in regards to similar structures.).

To address this, the applicant has submitted sketch plans showing only a minor and insignificant reduction in the ridge height of one (1) metre, with no reduction in overall floor area or increase of boundary setback. The applicant has indicated that they do not wish to modify the design any further and would like Council to determine the application as submitted.

FINANCIAL/RESOURCE IMPLICATIONS

In the context of a submission, the adjoining property owner has strongly objected to the proposal and also expressed an intention to challenge any approval through the provisions of a Land and Environment Court appeal. Should the decision be contrary to the recommendation there must be consideration given to the financial implications of defending such a decision possibly in the Land and Environment Court context.

Conversely, consideration should also be given to the applicant challenging any refusal. However, the risk is considered less and in the context of the works being largely illegally constructed without prior lawful consent. Furthermore such works as illegally erected, if a development application were to have been lodged prior to works commencing, would be unlikely to have gained consent under delegation without significant amendment to reduce bulk, scale and impact upon adjoining premises.

LEGAL, POLICY AND RISK IMPLICATIONS

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

No specific numerical standard exists within the LEP2000 or DCP2007 in the context of addressing overall size of sheds in this zoning. The assessment falls in the category of merit assessment with the principles in the existing controls used to guide and inform this assessment.

In this regard, consideration has been given to the parameters set within the draft DCP currently under exhibition and the underlying intent of the current DCP2007 in regards to similar structures. The draft policy indicates that a floor area of 200m² with a maximum height of 4.2m with a side boundary setback of 5m. Further, the proposal is also well in excess of the provisions of the State Housing Code for complying development.

The works have been constructed without lawful consent and proper regard to the amenity of adjoining property owners. The merit based assessment considering amenity, bulk and scale, height and solar access, coupled with the potential risk indicated in the below table identify a decision contrary to the recommendation presents an unacceptable risk to Council as per Council's risk management matrix.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

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

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

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

If the application is refused as recommended the illegally constructed works are likely to be fully or partially demolished which, as a compliance function, will be determined by staff under delegation.

CONSULTATION

The application was exhibited in accordance with Council policy and one (1) submission was received. The illegal works were also brought to Councils by an adjoining property owner.

The formal submission was received from an adjoining property owner who objects to the overall bulk and scale of the development, stating an overdevelopment of the land with a resultant lowering of property values and an impact on amenity; going further to discuss the structure being out of character with the adjoining development.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

The terms of the objections with the exception of the comment regarding overdevelopment of the site are agreed with by the assessing officer. The site has sufficient space to adequately support this proposal and existing sheds with minimal impact on adjoining property. This proposal is in the wrong location to maintain the area amenity. It is however noted that with the prime use of this land being agriculture use it is questionable that sufficient agricultural activities are taking place on site to justify the amount of overall shed space on this property.

The public interest considerations are activated in the context of a large proportion of this development has been erected with no appropriate consent in place. If Council were to support this development it may be seen to be condoning illegal activities, giving those in the community that wish to break the laws encouragement. It appears that the applicants efforts to effort to reconcile this has only come about because of the non-compliances being raised and the owners of this land being caught in the act of the erection of an illegal structure.

This development would have been unlikely to gain support in the first instance had it been presented to Council prior to construction. It could be reasonably assumed that public expectation would warrant that the application for approval after construction be refused and appropriate compliance action implemented.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan;
- 2) Photographs taken from the Statement of Environmental Effects;
- 3) Assessment;
- 4) Conditions / Reasons for Refusal.

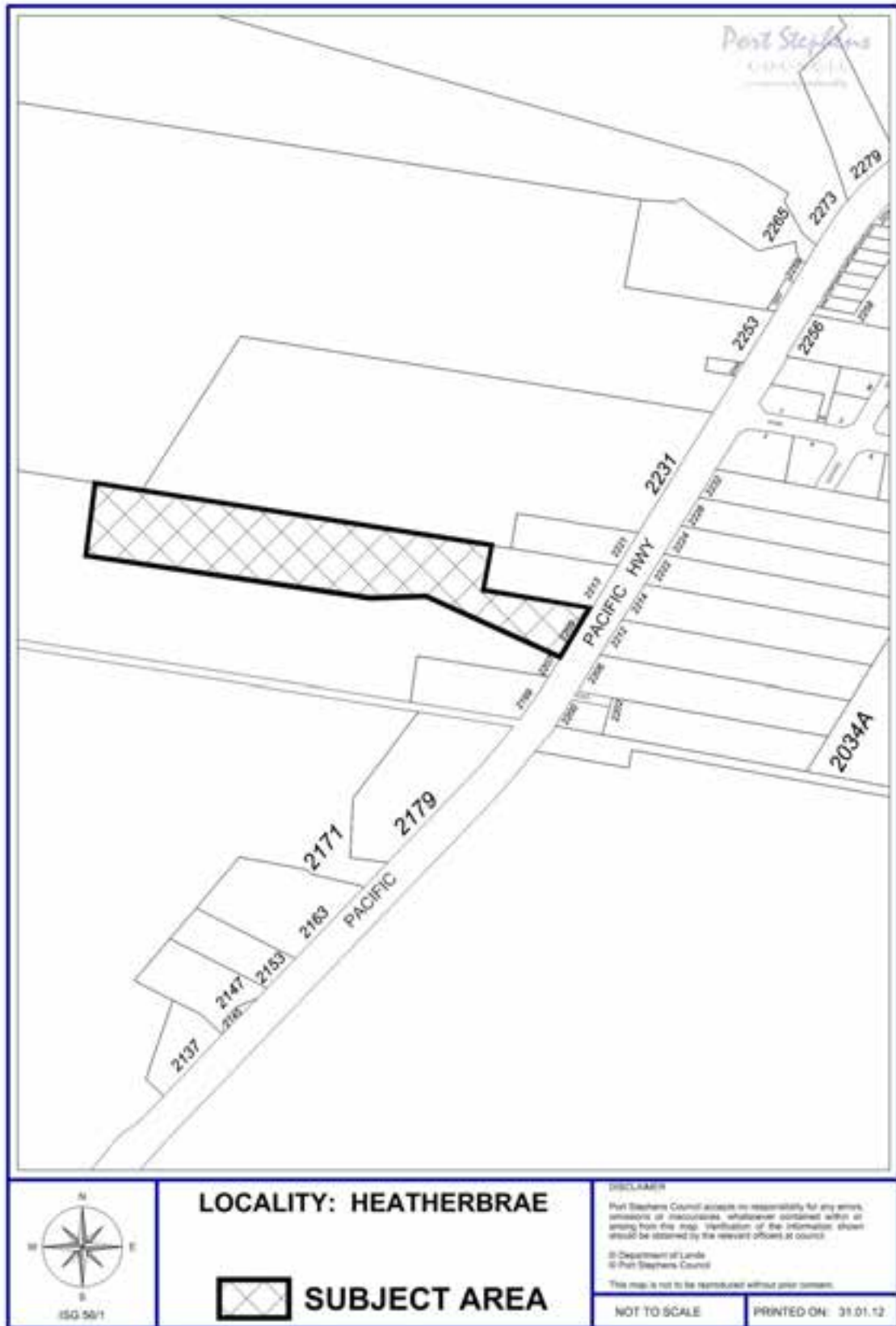
COUNCILLORS ROOM

- 1) Plans, specifications and Statement of Environmental Effects as submitted with the Development Application; and
- 2) Copy of the letter of objection.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



ATTACHMENT 2
PHOTOGRAPHS TAKEN FROM THE STATEMENT OF ENVIRONMENTAL EFFECTS

Statement of Environmental Effects –2209 Pacific Highway Heatherbrae



Photo 1 – The steel framework of the partially constructed rural shed viewed from the rear of the existing residence.



Photo 2 – Close-up view of the partially constructed shed.

ATTACHMENT 3

ASSESSMENT

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

THE PROPOSAL

The development application seeks consent for ongoing use of an already erected structure and the completion of the unauthorised works. The completed works will consist of a 28m long, 12m wide (336m² of floor area) with an overall height of 7m situated 0.2m off the side boundary.

It should be noted that the applicant has submitted sketch plans that consist of a 1m reduction in overall height only. It is considered to not be a significant reduction in the context of the bulk and scale or overall impacts as discussed.

THE APPLICATION

Owner	MR A M & MRS A L DUHRING
Applicant	MR A M DUHRING
Detail Submitted	Development plans Statement of environmental effects

THE LAND

Property Description	Lot 512 DP 587997
Address	2209 Pacific Highway HEATHERBRAE
Area	4.79ha
Dimensions	88.75m wide x 462.91m long (and variable)
Characteristics	Existing developed residential dwelling, swimming pool, home office (associated with home occupation business) and six (6) machinery sheds (not including this structure)

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	1 (a) (Rural Agriculture)
Relevant Clauses	10 and 11
Development Control Plan	B2 – Environmental and Construction Management
State Environmental Planning Policies	Nil.

Discussion

The area occupying the current structure has had previous approval of many smaller sheds (3 in total) occupying the same area. The applicant has built 1 shed covering the total area of the three sheds.

While this has some minor aesthetic benefits in reducing the visual clutter of three (3) sheds with 1, the applicant has increased the height contrary to the original consent of 3.6m to 7m in total height. This prompted adjacent property owners to advise Councils Compliance section of the structure.

In assessing all the relevant information contained in this application, compliance investigations on the site and reviewing previous applications (16-2000-1309-1; 16-2001-35-1) the proposal is considered inappropriate for the following reasons:

- The applicant has sought to apply for the development after substantial amounts of the works were completed.
- The proximity to the boundary (200mm) of the structure in conjunction with the height and overall area is such, that it is considered contrary to the zone objectives, not in the public interest and exhibits an undesirable impact on adjacent property owners.
- The structure as presented would not be considered appropriate if presented prior to any works being undertaken. The height, boundary setback and overall size would have been considered inappropriate.
- Adjoining property owners' complaints regarding the bulk and scale of the structure are well founded.
- It is considered that the height presents as a major factor in this structures domination of the space.

2. Likely Impact of the Development

The development is considered excessive in regards to height bulk and scale and its proximity to the boundary exacerbates this impact. It is considered that the adjoining owner would be negatively impacted in regards to the amenity of his use of his land, the outlook to the rural pastureland and overshadowing.

The development is akin to an industrial shed in appearance and dimension.

3. Suitability of the Site

While large rural sheds are a commonality within this zoning the impacts are greatly reduced by more skilful orientation of the structures within the landscape. The site is suitable for the proposed development but its current placement has given no consideration to adjoining property owners and as such in a refusal recommendation.

4. Submissions

One (1) submission was received from the adjoining property owner. This same owner also brought to Council's attention the erection of the structure without the prior consent of Council. The owner objects to the overall bulk and scale of the development, stating an overdevelopment of the land with a resultant lowering of property values and an impact on amenity; going further to discuss the structure being out of character with the adjoining development.

Comment:

The terms of the objections with the exception of the comment regarding overdevelopment of the site are agreed with by the assessing officer. The site has sufficient space to adequately support this proposal and existing sheds with minimal impact on adjoining property. This proposal is in the wrong location to maintain the area amenity. It is however noted that with the prime use of this land being agriculture use it is questionable that sufficient agricultural activities are taking place on site to justify the amount of overall shed space on this property.

5. Public Interest

The public interest considerations are activated in the context of a large proportion of this development has been erected with no appropriate consent in place. If Council were to support this development it may be seen to be condoning illegal activities, giving those in the community that wish to break the laws encouragement. Any effort to reconcile this has only come about because of the non-compliances being raised and the owners of this land being caught in the act of the erection of an illegal structure.

This development would have been unlikely to gain support in the first instance had it been presented to Council prior to construction it could reasonably be assumed that public expectation would warrant that the application for approval after construction to be inappropriate.

ATTACHMENT 4

REASONS FOR REFUSAL

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

ITEM NO. 2

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 – DEVELOPMENT ASSESSMENT AND COMPLIANCE MANAGER

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;
 - 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 – 13 MARCH 2012

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Caroline De Lyall
	That Item 2 be deferred to allow for a site inspection by Councillors.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

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

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

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

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

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

Those against the Motion: Nil.

BACKGROUND

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	High	Adopt Recommendation to refuse	Yes

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drainage system			
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	Lot: 3 DP: 617626, Lot: 10 DP: 1034741
Address	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

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.

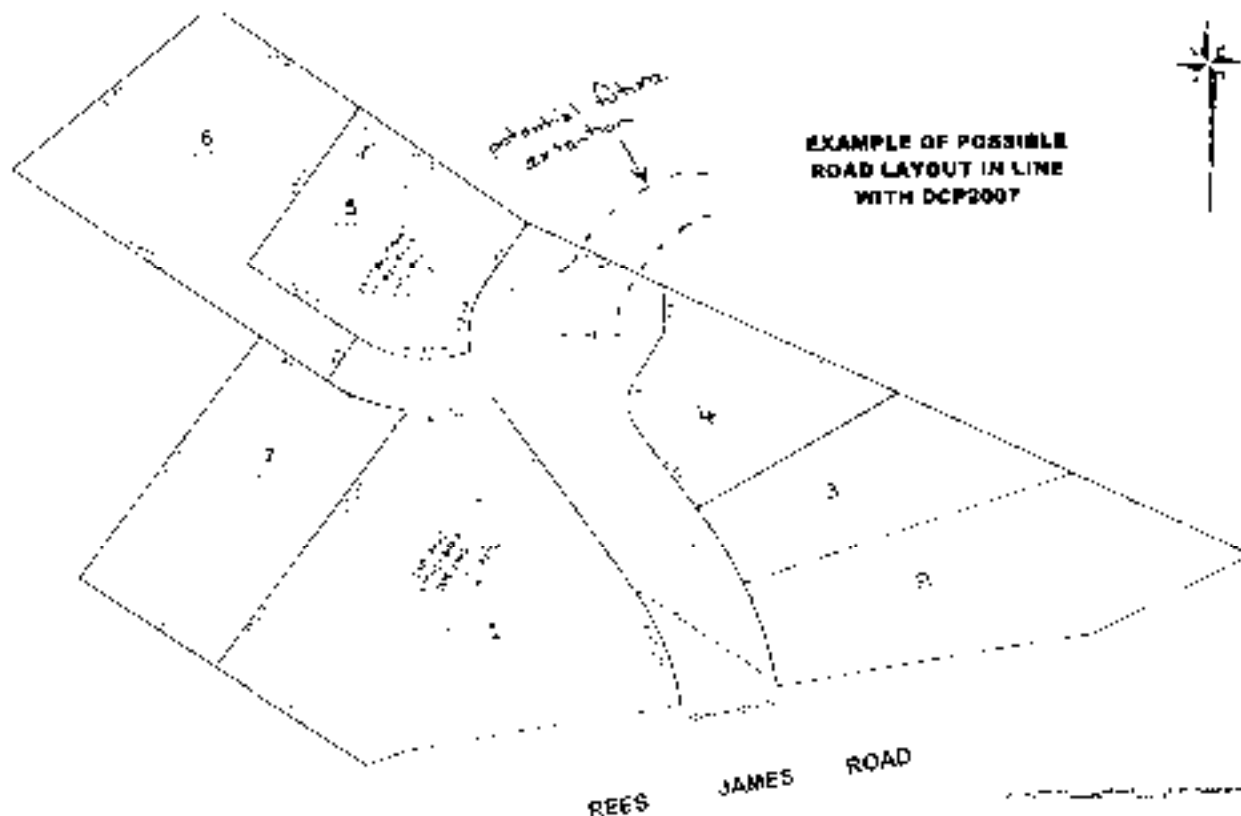
Engineering Referral

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 yeild. 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. 3

FILE NO: PSC2006-0191

PLANNING PROPOSAL FOR LAND WEST OF NEWLINE ROAD (KINGS HILL, NORTH RAYMOND TERRACE)

**REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING & ENVIRONMENTAL SERVICES
MANAGER**

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **Attachment 1** to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 in accordance with Section 55 of the Environmental Planning and Assessment Act for the purposes of obtaining a Gateway determination and seeking endorsement for public exhibition by the Department of Planning and Infrastructure;
- 2) Exhibit the Planning Proposal for at least the minimum period specified in the Gateway determination.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

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

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

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

043	<p>Councillor Ken Jordan Councillor Sally Dover</p>
	<p>It was resolved that the Council Committee recommendation be adopted.</p>

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

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

Those against the Motion: Nil.

BACKGROUND

This planning proposal seeks to facilitate the development of certain land within the Kings Hill Urban Release Area by enabling further consultation between the developer and the Office of Environment and Heritage for the likely vegetation removal on certain lands zoned R1 and B4 within the Kings Hill Urban Release Area.

The purpose of the Planning Proposal ("the Proposal") is to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 in order to:

- 1) Rezone land west of Newline Road from a rural to a conservation zone in order to protect the biodiversity significance of the land;
- 2) Provide a basis for the vegetation removal on certain lands zoned R1 and B4 within the Kings Hill Urban Release Area in further consultation with the Office of Environment and Heritage;
- 3) Specify minimum lot sizes for the rezoned land; and
- 4) Provide for a small number of conservation residential lots in order to facilitate limited development that will support economically viable private ownership and conservation management of the land;
- 5) To ensure development does not occur on the land before conservation protection measures are in place.

Land description

The proposed rezoning includes rural lands to the west of Kings Hill, between Newline Road and the Williams River. This land is largely flood prone, being affected by the 1% flood AEP. The land also contains areas of biodiversity significance adjacent to the Williams River. Most of the land is cleared and used for extensive grazing; however woodland and regeneration of native vegetation is also evident. A SEPP 14 wetland is located in the south western part of the subject land. An area of higher land adjacent to Newline Road is not flood prone and appears suitable for the location of conservation residential lots.

Proposal details

Planning Proposal:	Refer to Attachment 1 .
Subject land:	Part Lot 32 DP 586245, Part Lot 2 DP 37430, Part Lot 8 DP111433, and Part Lot 9 DP 111433, as shown in Attachment 2
Proponent:	Hunter Land
Current zone:	1(a) Rural Agriculture.
Proposed zones:	E2 Environmental Conservation and E4 Environmental Living.
Other provisions:	as detailed below.
Owner:	Windeyer.

A Locality Plan showing the land subject to the Planning Proposal is contained in the Attachment documents.

The proposal is to rezone certain land between Newline Road and the Williams River from 1(a) Rural Agriculture, under the Port Stephens Local Environmental Plan 2000, to E2 Environmental Conservation and E4 Environmental Living under the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010. This will enable the development of a small number of dwellings on land above the 1% flood AEP adjacent to Newline Road, and the conservation, rehabilitation and revegetation of land of biodiversity significance that is generally below the 1% AEP.

The proponent of the rezoning proposes placing a Voluntary Conservation Agreement on the land in order to ensure that it is managed to protect its biodiversity significance in perpetuity. The land is proposed to remain in private ownership and the future owners of the land will be responsible for its conservation management in accordance with the Voluntary Conservation Agreement. This proposal will enable further consultation with the Office of Environment and Heritage during and after the Gateway process.

In order to achieve the above outcome, it is proposed to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.

The Planning Proposal will amend the maps of the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 as follows:

- The Land Application Map (LAP 001) will be amended to include the subject land (Lot 32 DP 586245, Part Lot 2 DP 37430, Lot 8 DP111433, and Lot 9 DP 111433);
- The Land Zoning Map (LZN 001) will be amended to rezone Part Lot 32 DP 586245, Part Lot 2 DP 37430, Lot 8 DP111433, Lot 9 DP 111433 to E2 Environmental Conservation, and Part Lot 2 DP 37430 to E4 Environmental Living;
- The Lot Size Map (LSZ 001) will be amended to show the land subject to this Planning Proposal with a 40 hectare minimum lot size excepting an area to be shown with a minimum lot size of 2500 square metres on the elevated area of land above the 1% flood AEP west of New Line Road (within Part Lot 2 DP 37430);
- The Acid Sulphate Soils Map (ASS 001) will be amended to include the land subject to this Planning Proposal;

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- The Height of Buildings Map (HOB 001) will be amended to include the land subject to this Planning Proposal. No maximum building height is proposed;
- The Precincts Map (PRE 001) will be amended to include the land subject to this Planning Proposal. The subject land is to be shown as an additional Precinct of Kings Hill;
- An additional zone is included in Clause 2/3 (Zone objectives and land use table) – E4 Environmental Living;
- An additional Clause 7.7 is included to ensure that enforceable compensation measures are in place prior to granting consent for development on the land.

The Port Stephens Local Environmental Plan 2000 will be amended by virtue of Clause 1.8 of the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 which repeals all local environmental plans applying to the land to which the former Plan applies. The extension of the area covered by the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 over the subject land will achieve this.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal will be progressed using existing budget allocations and the rezoning fee for the Planning Proposal that has been paid by the proponent.

LEGAL, POLICY AND RISK IMPLICATIONS

The Planning Proposal is to be progressed in a manner consistent with statutory and policy requirements. The Planning Proposal was developed at the landowners request. The risks associated with progressing the Planning Proposal are minimal.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Due process not followed	Low	Care is taken to ensure due process is followed.	Yes
Planning Proposal does not proceed	Low	Ensure that planning issues are identified during the Planning Proposal process are addressed efficiently and effectively.	Yes
Planning proposal is amended during the decision making process	Low	Ensure that any amendments are consistent with ensuring that the objectives of the Planning Process are met.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal will conserve areas of biodiversity significance by facilitating an economically viable mechanism for their rehabilitation and conservation management in private ownership. It is anticipated that the land will be used for biodiversity offsets that will enable the development of land for urban development within Kings Hill. The Office of Environment and Heritage are aware of the proposal and further discussions will be held during the Planning Proposal process.

While the proposed development could be described as “rural lifestyle” it is located in an area that will have good access to services when Kings Hill develops. In the meantime, the services of Raymond Terrace are a relatively short distance away from the land. The characteristics of the land - largely flood prone and of biodiversity significance - support the concept of low intensity development on the higher areas above the 1% flood AEP, however more intensive development would not be desirable.

CONSULTATION

Should the Planning Proposal proceed to public exhibition, it will be notified in the newspaper and exhibited in the Administration Centre, the Raymond Terrace Library and on the Council website. The exhibition will take place for at least the minimum period specified in the Gateway determination.

Consultations will be held with Government agencies as specified by the Gateway determination. Consultation has already been held with the Office of Environment and Heritage and the Department of Planning and Infrastructure. Additional consultation will be held with these agencies.

Submissions will be considered by Council officers in the finalisation of the Planning Proposal, and reported to Council.

OPTIONS

- 1) Adopt the recommendations of this Report to submit the Planning Proposal to the Department of Planning and Infrastructure for a Gateway determination, and henceforth a public exhibition. This is the recommended option;
- 2) Amend one or more of the provisions of the Planning Proposal prior to submitting the Planning Proposal to the Department of Planning and Infrastructure for a Gateway determination, and henceforth a public exhibition. This is not recommended. The Planning Proposal has been developed to achieve a balance between development and conservation, and to provide biodiversity offsets to enable the development of urban land elsewhere at Kings Hill;
- 3) Amend the recommendations of this Report to submit the Planning Proposal to the Department of Planning and Infrastructure for a Gateway determination only. A further Council report would be necessary to seek agreement for a public exhibition of the Planning Proposal. This is not recommended because it

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

is considered unnecessary unless substantive amendments are made to the Planning Proposal prior to exhibition; or

- 4) Reject the recommendations of this Report and not initiate the rezoning process. This is not recommended because it will impede proposed conservation of lands of biodiversity significance as well as the development of conservation residential dwellings on the land. It will also impede the provision of biodiversity offsets that are necessary to enable the development of urban land elsewhere at Kings Hill.

ATTACHMENTS

- 1) Planning Proposal for land west of Newline Road, Kings Hill, North Raymond Terrace (to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010) - under Separate Cover; and
- 2) Locality Plan – under Separate Cover

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**PLANNING PROPOSAL FOR LAND WEST OF NEWLINE ROAD, KINGS HILL,
NORTH RAYMOND TERRACE (TO AMEND THE PORT STEPHENS LOCAL
ENVIRONMENTAL PLAN 2000 AND THE PORT STEPHENS LOCAL ENVIRONMENTAL
PLAN (KINGS HILL, NORTH RAYMOND TERRACE) 2010)**

PROVIDED UNDER SEPARATE COVER

ATTACHMENT 2

LOCALITY PLAN

PROVIDED UNDER SEPARATE COVER

ITEM NO. 4

FILE NO: PSC2005-4390

TREE PRESERVATION ORDER AND PROCEDURES

**REPORT OF: BRUCE PETERSEN –COMMUNITY PLANNING & ENVIRONMENTAL SERVICES
MANAGER**

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Amended Tree Preservation Order (**Attachment 1**);
- 2) Adopt the Amended Tree Management Procedures (**Attachment 2**);
- 3) Note the Submissions received on the Draft Tree Preservation Order and the Draft Tree Management Procedures (**Attachment 3**);
- 4) Delegate, under Section 377(1) of the Local Government Act, to create a 355b Committee of Council for each ward for the purposes of carrying out reviews of Tree Preservation Order Applications under Section 82A of the Environmental Planning and Assessment Act (as amended 1979); and
- 5) Make submissions to the Director General of the Department of Planning and Infrastructure to seek the provisions of the amended Tree Preservation Order and amended Tree Preservation Order Procedure to be incorporated into the draft Comprehensive Port Stephens Local Environmental Plan.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

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

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

Those for the motion: Crs Caroline De Lyall, Glenys Francis, Frank Ward, Geoff Dingle, John Nell, Ken Jordan, Shirley O'Brien, Sally Dover and Steve Tucker.

Those against the motion: Cr Bruce MacKenzie.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

044	Councillor Sally Dover Councillor Shirley O'Brien
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to recommend Council adopt the Amended Tree Preservation Order and the Tree Management Procedures, included as Attachments 1 and 2 respectively. These documents have been amended from the exhibited copies in line with the legal advice obtained from Harris Wheeler, and to give consideration to the Submissions summarised in Attachment 3. This report also puts forward a revised process for Ward Councillors' reviews under Section 82A of the Environmental Planning and Assessment Act (EP&A Act).

Summary of Main Proposed Changes

The main proposed changes to the TPO procedures include:

The ability of a landowner that considers a tree on their property to be dangerous, to complete a Statutory Declaration without the need for a TPO application. On receipt of the Statutory Declaration, the tree will be deemed to be exempt under the TPO and owner can remove the tree;

The existing three (3) metre exemption for the removal of trees adjacent to buildings has been extended to five (5) metres to take into account the risk of falling tree limbs and invasive roots;

Clarification of the imminently dangerous clause to make it easier for a landholder to remove a tree that due to storm damage or other similar causes has become imminently dangerous. These trees may be removed without any application.

Current TPO:

Council has a Tree Preservation Order (TPO) that is made under Section 50 of the Port Stephens Local Environment Plan 2000. An application under the TPO is considered a Development Application and as such must be administered according to the Environmental Planning and Assessment Act.

Clause 50 of the Port Stephens Local Environment Plan 2000 (LEP 2000) has two subclauses that are relevant to this issue. Clause 50(4) states that a person can not remove or prune a tree without consent from Council while clause 50(5) states that 50(4) does not apply where it can be demonstrated to the satisfaction of the consent authority that the tree is dead, dying or dangerous.

Council Resolution:

The Council Resolution of 12 July 2011 stated that 'Any ratepayer in a residential area who has concerns for their safety as a result of falling tree limbs or in relation to a tree which they deem as dangerous be given approval to remove the tree at their expense', and 'Residents in rural residential areas who maintain that trees are dangerous and if big enough to fall on the house be given the same as in residential areas, that means the rest of their property is subject to existing laws.'

The exhibited TPO attempted to deal with Council needing to be satisfied that a tree was dangerous in residential and rural residential areas by including a definition of a dangerous tree in the exemptions that related to the height of a tree and the trees distance from a building.

Legal Advice:

Legal advice has concluded that the draft exemption would breach sub-clause 50(5) of the LEP 2000 on two counts. Firstly, the LEP 2000 requires an exemption for any dangerous tree, and should not be defined by land zoning, and, secondly, as the term 'dangerous' is not defined in the LEP the word has its normal meaning which is not matched by the definition in the exhibited TPO.

Legal advice concludes that TPO is a subsidiary instrument which must be made in accordance with the parent instrument, ie the LEP 2000. The TPO can not include a definition of 'dangerous' in conflict with the LEP.

The amendment was also not in line with relevant Australian Standards, industry best practice or tree assessment standards and methods.

Council should also note that the State Government has expressed concerns that the exhibited TPO may be in conflict with the Native Vegetation Act for rural residential areas and that this exemption may result in residents unintentionally breaching this Act.

Submissions:

Council received a number of submissions in relation to the draft documents which are summarised in Attachment 3. The bulk of the submissions, 80%, were against the exhibited TPO citing concerns for the environment of Port Stephens, a desire to retain a system where the health of trees are assessed by a professional, a fear that the exhibited TPO will result in the spurious and selfish removal of trees, and a belief that the existing system was working.

Other concerns related to tree removal and pruning occurring in an unregulated manner that would put the public at risk, the increased impact from developments that would now clear fell building blocks and the transfer of legal risk to the community who may unintentionally breach Threatened Species legislation. Other submissions, including one from the Environmental Defenders Office, questioned the legal legitimacy of the exhibited documents.

The remaining 20% of submissions supported the amendments mainly due to concerns about large trees on their blocks. It should be noted that an analysis of the Tree Preservation Register showed that the properties concerned by these large trees had either not applied to have them assessed under the TPO or had been given approval to remove trees.

Proposed Changes To TPO:

It is acknowledged, and supported by legal advice, that amendments to the TPO to more easily allow for the removal of dangerous trees would streamline the process. As such, and in response to the submissions, a number of amendments to the draft exhibited TPO and Tree Management Procedures have been proposed.

These include:

- Extending the exemption relating to trees in close vicinity of a structure from 3 meters to 5 meters;
- Exempting the maintenance of hedges from requiring approval;
- Further clarifying that when a tree presents a real and imminent danger to persons or property then approval from council is not required to remove the tree; and
- Allowing for the removal of any tree which is dead, dying or dangerous, provided the landowner first submits to Council a notification on the approved form, that will constitute a statutory declaration, and receives from Council written acceptance of that declaration.

This last addition is based on legal advice that, as per sub-clause 50(5) of the LEP, Council must be satisfied that the tree is dead, dying or dangerous and that putting the onus of proof on the land holder is unsatisfactory.

The recommended changes to the TPO meet the Council resolution as it formalises the dead, dying or dangerous tree exemption and allows trees closer than 5m to a structure to be approved thereby dealing with the majority of falling branches.

These amendments will allow for more flexibility when dealing with residents' concerns but allow for an assessment of the environmental values to be considered.

An application being submitted allows council to place conditions on the trees removal such as replanting, or a wildlife carer being present if the tree is being used as a nesting site.

In practice when a resident calls Council to ask about a dangerous tree they will be advised that if the tree presents an imminent risk from failure then they should remove the tree as per exemption XII in the draft TPO included as Attachment 1. This is usually the case when a tree has been damaged due to a storm or other event. Residents are advised to take photos as Council staff often receives multiple complaints from adjoining neighbours when trees are removed.

If a resident wants to remove a tree that is not covered by the exemptions then they will be advised to put in a TPO Application. The Council officer will take into consideration the social needs of the resident and if the resident is still not satisfied with the outcome they will be informed of review options including the 82A Ward Councillor Review.

It should be noted that 68% of TPO applications are currently approved and of the remaining that are refused, 24% of applications do not request a reassessment. Of those that do request a reassessment 4% are approved by staff, 2% are refused by staff and do not request further assessment and 2% are refused by staff but request a review by Councillors and are approved.

Standard Instrument LEP:

A major review of vegetation management is required as part of the new standard instrument Local Environment Plan and it is likely that more changes will occur to the dead, dying and dangerous provisions as the new standard instrument LEP requires Council to be satisfied that the tree(s) are dead, dying or dangerous. This has the effect of Council not being able to accept a Statutory Declaration from residents and the removal of this option under the Standard Instrument LEP, which also requires the habitat of native fauna to be considered.

For the amended TPO procedure to be adopted under the new LEP, the Minister for Planning would need to agree to a modification of the Standard Instrument LEP.

The Standard Instrument Local Environment Plan seeks to resolve the confusion around the dual consent issue with both Council and the Catchment Management Authority having a role. Under the Standard Instrument Local Environment Plan it is likely that Council will be the determining authority for vegetation removal in land zoned residential, business, and industrial, with the Catchment Management Authority being responsible for rural land and both authorities having a role in environmentally zoned land.

Tree Management Procedures:

Amendments to the exhibited Tree Management Procedures document mirror the changes to the TPO and, on legal advice, the statement regarding Council officers having a moral and ethical obligation to consider the effects rigidly applying the law has been removed. Legal advice has concluded that officers can only exercise their discretionary powers in accordance with the relevant legislation and policies and that if a council officer is not implementing policy appropriately that this is a staffing matter. Inclusion of such a statement in a policy document could lead to unnecessary exposure of Council to liability. This issue will be dealt with by staff training.

A review of the TPO procedures found that some practices were not in line with the relevant legislation and that the Tree Management Procedures needed to be updated.

In formatting the proposed changes to the review process several options were considered and legal advice was sought. It was advised that:

- To ensure the process is legally valid an 82A review under the EP&A Act should be undertaken by staff who do not report to the original determining officer, or by the full Council;
- In 1998 Council adopted that ward councillors undertake TPO reviews however if this approach is to continue enhanced formalisation in Councils delegations is required;
- Having all councillors sign a form to undertake a review outside of a formal council meeting would not be valid.

TPO Review by Councillors:

It is understood that Councillors wish to retain a role in TPO reviews and as such further legal advice was sought to determine options for Councillors to retain this role. Three options are available:

1. A TPO application can be called to the full council for determination once it is lodged (as per other Development Applications);
2. If an application is refused by staff it can be called to the full council for determination under section 82A of the EP&A Act; or
3. Council could exercise its powers of delegation under section 377(1) of the Local Government Act (LG Act) and delegate the right to carry out an 82A review to a 355b committee of Councillors. That committee could comprise of the Councillors representing the relevant ward. In effect there would be 3 committees created.

Reporting to the full council for initial TPO determinations and TPO reviews would be time consuming and, provided the appropriate legal framework and documented process can be put in place, it is concluded that ward councillors reviews will be a more efficient delivery model for the community.

Should Councillors want to proceed with the third option, as shown in Attachment 4, then the following will need to occur:

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

- Amendment of the Tree Management Procedures, included as the second recommendation.
- A Resolution of Council to exercise its powers of delegation under Section 377(1) of the LG Act and create a 355b Committee of Council for each ward, made up of Ward Councillors, for the purposes of carrying out 82A reviews of Tree Preservation Order applications, included as the fourth recommendation.
- It should be noted that these 355b committees are made up of Ward Councillors and are not the same as the volunteer 355c Committees which work in Council parks and reserves.

The delegation to the Ward Councillors would have to form part of Council's Delegation Register and be reviewed by each Council within 2 months of its first term, as required by Section 380 of the Local Government Act.

FINANCIAL/RESOURCE IMPLICATIONS

The amendment to the procedure will be implemented by existing staff. There will be a small additional amount of time required to record the minutes from the 355b Committee and report these to Council as an Information Paper.

LEGAL, POLICY AND RISK IMPLICATIONS

The attached Revised TPO has been amended in line with legal advice.

The current Ward Councillor Review is not in line with legislation, this needs to be amended. Adopting the process as documented in the attached draft procedures will amend this situation.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Due process not followed	Low	Follow legal advice and ensure TPO is valid.	Yes
TPO is not amended	Low	Ensure any outstanding issues are addressed and TPO is amended in accordance with legal advice.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Tree Management Procedure and the TPO aim to protect and preserve trees throughout the Council area in order to maximise the benefits they provide

including limiting the effects of pollution; providing economic benefit; controlling sunlight, shade and winds; beautification of urban/commercial areas; soil enrichment and protection, and environmental benefits.

There are also social and economic implications that need to be taken into account. Studies have shown that streets with trees have higher property values than streets without trees and that trees make a positive contribution to the streetscape, and visual amenity of the urban landscape.

It is recognised that trees in urban areas can cause problems when they are not managed correctly. The TPO seeks to preserve trees that are safe by providing a service to the community of specialised arboriculture advice and by having a range of exemptions to deal with situations where the TPO should not apply or when a tree should be removed due to safety concerns.

CONSULTATION

Relevant sections of Council who are affected by the TPO and Procedures have been consulted. This includes relevant staff from the Civil Assets section, Operations section and the Building Assessment Team. The Draft Procedure and the TPO have been on exhibition for more than 28 days and the submissions are summarised in Attachment 3.

OPTIONS

- 1) Adopt the TPO and Procedures as attached, noting the amendments from the exhibited versions to recognise the legal advice and the submissions;
- 2) In addition to option 1) make submissions to the Minister for Planning to modify the Standard Instrument LEP to allow adoption of the amended TPO procedures under the new LEP when this is in force; or
- 3) Make no changes to the TPO and Procedures leaving the existing system in place until the comprehensive LEP review takes place thereby removing the need for multiple changes and possible confusion.

ATTACHMENTS

- 1) Proposed Tree Preservation Order;
- 2) Proposed Tree Management Procedure;
- 3) Summary of Submissions; and
- 4) Proposed new TPO process.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

PROPOSED TREE PRESERVATION ORDER

PROVIDED UNDER SEPARATE COVER

ATTACHMENT 2

PROPOSED TREE MANAGEMENT PROCEDURE

PROVIDED UNDER SEPARATE COVER

ATTACHMENT 3

**SUMMARY OF SUBMISSIONS
PROVIDED UNDER SEPARATE COVER**

ATTACHMENT 4

**PROPOSED NEW TPO PROCESS
PROVIDED UNDER SEPARATE COVER**

ITEM NO. 5

FILE NO: PSC2009-01815

282, 282A, 282B & 398 CABBAGE TREE ROAD, WILLIAMTOWN

REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Call for Tenders for a royalty based lease to extract sand from Lot 1012 DP814078, Lot 11 DP629503, Lot 121 DP556403 & Lot 1 DP224587, being 282, 282A, 282B & 398 Cabbage Tree Road Williamtown within Area 1, Area 2, and Area 3 as per **Attachment 2**, at RL 4 AHD and higher.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012**RECOMMENDATION:**

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

ORDINARY COUNCIL MEETING – 27 MARCH 2012

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

BACKGROUND

The purpose of this report is to seek Council's consent to call for tenders for a royalty based lease to extract sand from Port Stephens Council owned Operational land at 282, 282A, 282B and 398 Cabbage Tree Road, Williamtown.

The subject land comprises four adjoining separately titled allotments and has a total land area of 176.2 hectares (Attachment 1). The land is undeveloped and is zoned 1(a) Rural Agriculture "A". The land is situated on the northern side of Cabbage Tree Road approximately mid way between Nelson Bay Road and Masonite Road, Williamtown.

The four allotments were purchased from Rutile and Zircon Mines in March 2002 for a purchase price of \$630,000.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

The land was previously utilised by an adjoining neighbour to agist cattle. A licence agreement was entered into by Council and the neighbour, however this agreement has now expired.

Approaches have been made to Council by several interested parties to undertake sand extraction from the site. In some cases Council has provided a "Permit to Enter" to enable Sand Extraction companies to take some core samples of the sand onsite. Laboratory testing has identified the sand is of high grade silica sand (white sand) that is particularly suitable for glass manufacturing.

RPS Group Australia were engaged by Council to conduct an intensive flora and fauna survey on the site and prepare an ecological report to present to Council through the Two Way Conversation process (conducted on 28 June 2011). The report identified various threatened species on the low lying areas of the site (below RL 4 AHD). In considering the ecological constraints of the land three main areas for extraction have been identified, allowing for:

- Retention of significant existing vegetation;
- Buffers to identified endangered ecological communities;
- Connectivity of existing vegetation to adjoining lands via a wildlife corridor.
- Retention of vegetation along Cabbage Tree Road.

The areas are numbered 1, 2 and 3 as shown in Attachment 2. All three areas are above RL 4 AHD and represent approximately 50% of the total site. Areas 2 & 3 had been highly disturbed by Rutile Extraction prior to 1995.

On 28 June 2011 a site visit was attended by a number of Councillors and members of Council Staff, in order to more clearly understand the site characteristics including:

- Topography;
- Areas determined to be retained;
- Areas proposed for extraction.

Council's Facilities and Services Group has provided the Commercial Property Section with an estimate of the amounts of sand that may be contained on the sites, which has been estimated utilising a computer software package based on contour levels throughout the site. It has been estimated that the total sand available overall above the 4 metre contour is approximately 5,165,600 tonnes. With concessions for wildlife buffers and the provision of a wildlife corridor between areas 2 and 3, the total sand proposed for extraction above the 4 metre contour (Attachment 2), is approximately 4,608,100 tonnes.

In determining the approximate value of the sand extraction, a range of \$3.00 to \$4.00 per tonne has been adopted as the Royalty Payment. Therefore the areas of 1, 2 and 3 of approximately 4.6m tonnes would realise royalty payments valued at between \$13.8m and \$18.4m.

The wildlife corridor to be retained between areas 2 and 3 is approximately 45,000m² in area and comprises a sand volume of 356,400 tonnes above the 4 metre contour, this equates to a value of between \$1,070,000 and \$1,425,600 that will not be available for extraction.

A business paper recommending that Council call for tenders to extract sand from areas 1, 2 and 3 went before Council at the Ordinary Council Meeting held on 23 August 2011. As a matter arising it was resolved that Council engage a suitably qualified person to undertake an Aboriginal Archaeological study in Area 3.

An Aboriginal Heritage Due Diligence Report was prepared by RPS Archaeologists Darrell Rigby and Laraine Nelson. RPS conducted a survey of the site in November 2011 accompanied by Aboriginal representatives from:

- Worimi Local Aboriginal Land Council;
- Mur-Roo-Ma; and
- Nur-Run-Gee.

The Report indicated that Area 3 was sectioned into 3 Survey Units as per Attachment 3. Artefact scatters were recorded in Survey Unit 3. This survey unit had been highly disturbed by Rutile Extraction prior to 1995. No Aboriginal cultural heritage material was observed in Survey Units 1 and 2.

The artefact scatters were highly disturbed and while the artefacts have cultural value to the local Aboriginal people, the site itself is not considered to have cultural or scientific value. Artefact scatters are the most frequently recorded site type in Australia and are common across the Newcastle Bight Barrier System.

If any development is to occur in the study area (area 3) then an Aboriginal Heritage impact permit will be required from OEH as the location of these artifacts have been gazetted. The responsibility for obtaining the permit, will be the sole responsibility of the successful tenderer. Should artefacts be found in areas 1 and 2 then the same procedure will apply.

The tender documentation will call for the applicants to provide for remuneration details by way of a royalty per tonne of sand removed from the site. Port Stephens Council will remain the landowner and therefore will structure the legal agreement between Council and the successful tenderer to protect the environmentally sensitive areas of the land.

The applicants will also be required to undertake all of their own "due diligence" and will be responsible for all approvals including a Development Application, compliance and operation of the site. Council will not be subject to any costs involved in the approval process.

FINANCIAL/RESOURCE IMPLICATIONS

The opportunity to enter into a lease agreement based on royalty payments for the extraction of sand is a unique opportunity providing Council with a significant financial income stream over many years.

The determining factors in identifying the overall benefits to be realised by the extraction of sand from the sites are as follows:

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

- A significant financial benefit to Council with an income annually for an extended period of time;
- A resultant benefit to the community;
- Increased employment opportunities;
- The land remains in the ownership of Council;
- The site will be revegetated during the process of extraction and the land returned to Council on completion.

The site has been identified as having these natural resources present. The operation of removing the resource will be entirely at the expense of the preferred tenderer. There are no costs to Council other than the preparation of the tender documentation and the drawing up of the legal agreement.

LEGAL, POLICY AND RISK IMPLICATIONS

The subject land is classified as Operational Land allowing Council to enter into a legal agreement to extract sand from the site.

The responsibility of preparing and lodging a Development Application and all associated approvals will rest with the successful tenderer.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Council does not tender for sand extraction therefore will not receive annual royalty payments	High	Tender for sand extraction	yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social Implications – High grade white silica sand is a finite resource. The availability of this resource has been identified on Council land at Cabbage Tree Road Williamtown and will provide the glass manufacturing industry with a significant amount of the material for a lengthy period of time. It will also provide additional employment opportunities within the LGA.

Economic Implications – A significant and unique income stream, **potentially \$1,000,000 per annum**, will provide Council with a substantial ongoing benefit over many years, as a consequence of a Royalty Based payment agreement.

Environmental Implications – have been considered in a Flora & Fauna study undertaken by R.P.S. The study provided definitive areas for possible sand extraction, as well as providing a wildlife corridor between areas 2 & 3 of approximately 45,000 square metres in area, that would maintain a connection from Council land through to the Hunter Water owned land to the West.

CONSULTATION

- 1) Two-way Conversations with Councillors on 29 March 2011, 28 June 2011, 23 August 2011 and 7 February 2012;
- 2) RPS Group Australia;
- 3) Development Coordinator;
- 4) Natural Resources Coordinator;
- 5) Various Sand Extraction Companies.

OPTIONS

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

ATTACHMENTS

- 1) Aerial View;
- 2) Proposed areas for extraction;
- 3) Area 3 Survey Units.

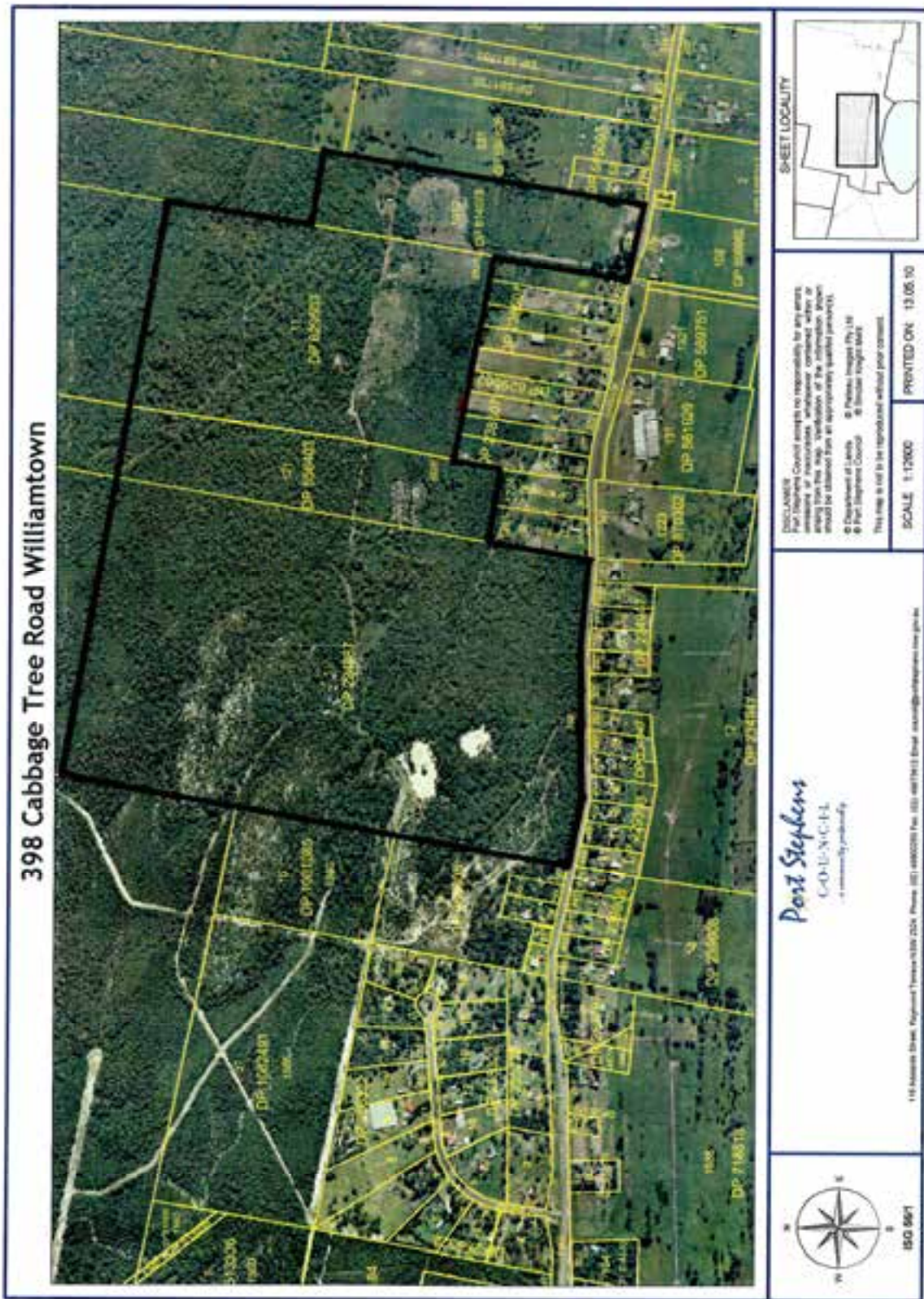
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

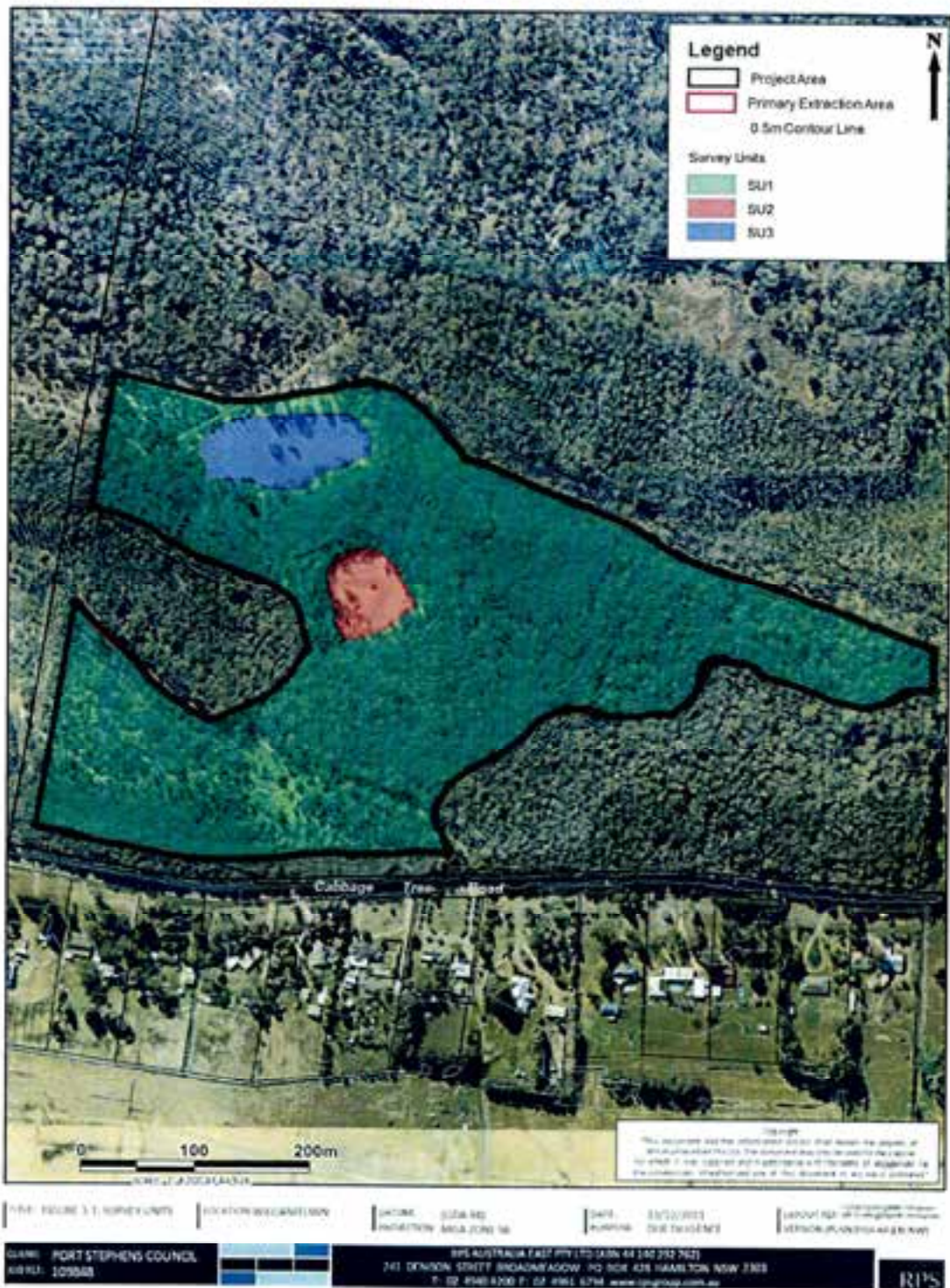
ATTACHMENT 1



ATTACHMENT 2



ATTACHMENT 3



ITEM NO. 6

FILE NO: PSC2009-00382

RECLASSIFICATION OF LOT 10 IN DEPOSITED PLAN 729986, 2 JESSIE ROAD, ANNA BAY (FORMER ANNA BAY OVAL)

REPORT OF: CARMEL FOSTER - COMMERCIAL PROPERTY MANAGER
GROUP: CORPORTATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) As Landowner supports the preparation and lodgement with Council as the Planning Authority of a planning proposal for the reclassification of 2 Jessie Road, Anna Bay, from community to operational land.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor John Nell
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

046	Councillor Ken Jordan Councillor Sally Dover
	It was resolved that the Council Committee recommendation be adopted.

BACKGROUND

The purpose of this report is to seek Council's consent to prepare and submit a Planning Proposal to reclassify 2 Jessie Road, Anna Bay (former Anna Bay Oval).

The land is a 3.5 hectare near level corner allotment located on the south eastern corner of the roundabout that links Nelson Bay Road, Port Stephens Drive and Jessie Road at Anna Bay. Nelson Bay Road and Port Stephens Drive are the main vehicle access routes to Nelson Bay, Salamander Bay and Soldiers Point - Attachment 1.

The bulk of the land was previously utilised as an active recreational area however is now surplus to Council's needs. A pony club has a licence for the use of part of the land and has a structure to store equipment located near the eastern boundary. The membership of the Pony Club has diminished over recent years as there is a new/modern facility that has been constructed at nearby Salt Ash that Pony Club members in the local government area have begun to utilise more. Further discussions will need to be held with the Pony Club to determine their tenure expectations.

Due to the property's location there are various potential uses that have been discussed however it is now essential that further analysis of the demand and impact of the uses suggested is undertaken to be brought before Council so that a suitable use can be decided and an appropriate zoning proposal can be prepared.

Some of the uses that have been proposed for the land would not require rezoning and are permissible under the current 6 (a) zoning. However all suggested potential uses would require a reclassification of the land.

FINANCIAL/RESOURCE IMPLICATIONS

As part of the strategic review of open space undertaken some years ago a substantial amount of work has been completed that can be utilised in the preparation of the planning proposal. Fees for the lodgement of the Planning Proposal will have to be paid to the Community Planning & Environmental Services in accordance with the Fees and Charges policy.

As the land is surplus to the open space needs an alternate use should be identified to alleviate the ongoing maintenance cost.

LEGAL, POLICY AND RISK IMPLICATIONS

The reclassification is subject to the NSW Department of Planning and Infrastructure's (DoPI) Gateway Process that requires the planning proposal to be prepared in accordance with s55(3) of the EP&A Act.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
DoPI rejects the reclassification of the land and it remains unutilised and a maintenance burden to Council.	Low	Ensure the planning proposal is a robust document that supports the reclassification with sufficient justification.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The land is surplus to the open space requirements of the local government area and there are higher and better opportunities for the use of the land that could provide a financial and economic benefit to the community.

CONSULTATION

- 1) A Two-Way conversation was held with Councillors to discuss this matter on 21 February 2012;
- 2) Community Planning & Environmental Services;
- 3) Asset Services;
- 4) Senior Leadership Team;
- 5) Strategy Hunter.

OPTIONS

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

ATTACHMENTS

- 1) GIS Aerial;
- 2) Aerial Photograph.

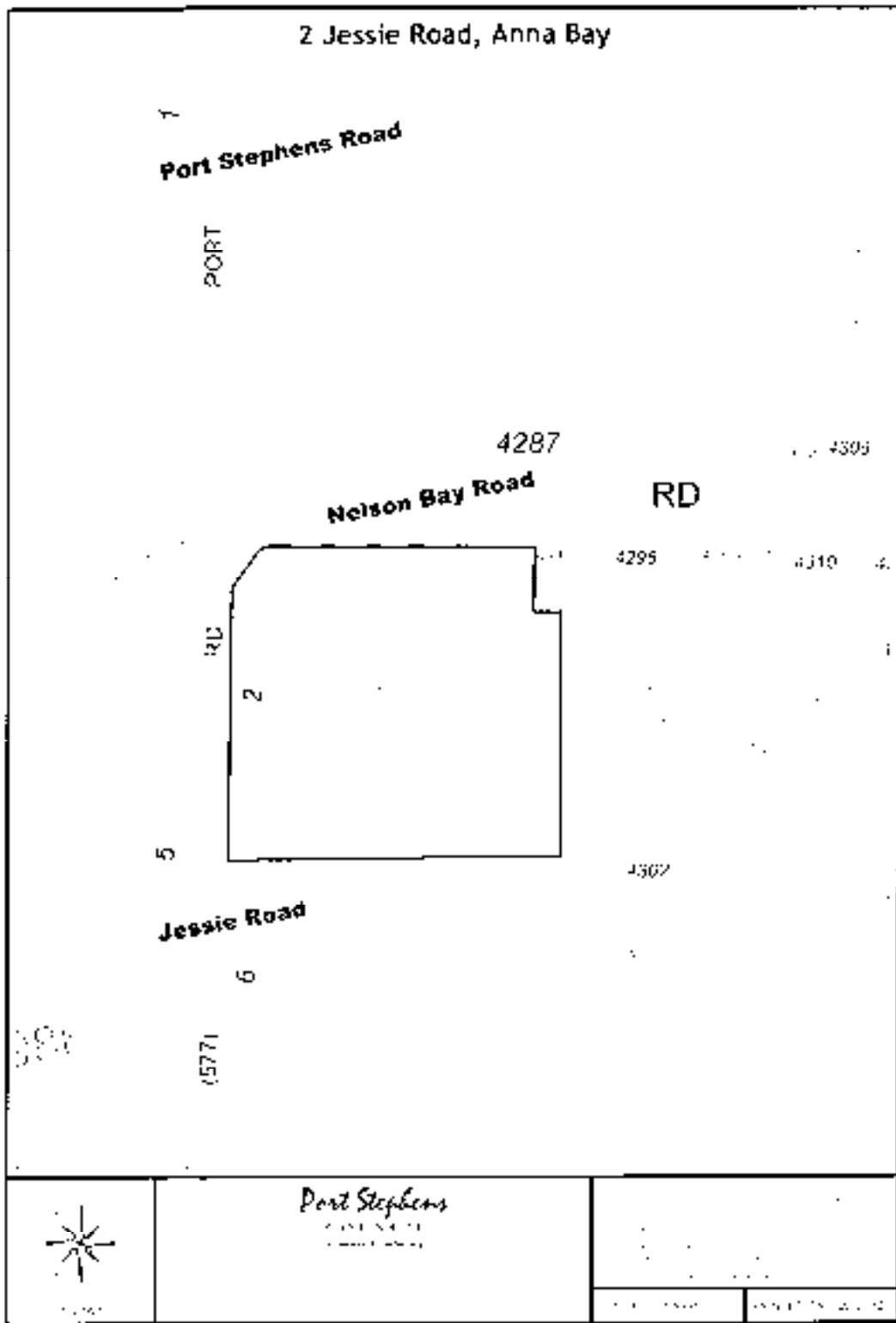
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



ATTACHMENT 2



ITEM NO. 7

FILE NO: PSC2011-04346

SUSTAINABILITY REVIEW – MANAGEMENT OF THE ADMINISTRATION BUILDING

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Management of Council Administration Building and endorse the findings of the review;
- 2) Endorse the partial restructure of Property Services to have the Administration Building Cleaners report directly to Property Services achieving savings of \$110,000 annually;
- 3) Note the commitment to continue to explore energy saving initiatives to further reduce the energy consumption of the building.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

	<p>Councillor Caroline De Lyall Councillor Shirley O'Brien</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 27 MARCH 2012

RESOLUTION:

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

BACKGROUND

The purpose of this report is to present to Council the outcomes of the Sustainability Review for the Management of the Administration (Stage 3) and seek endorsement of the recommendations contained in the Service Strategy.

The Port Stephens Administration Building was built for purpose in 1993 and serves an administrative/civic function. The building provides accommodation for up to 220 staff and includes the Council Chambers. Importantly it also provides a Civic Centre for the town.

It has an approximate Gross Floor Area of 7,000m² over three floors including the car park. The Net Lettable Area (NLA) calculated for the building is 4119m².

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

The Sustainability Review undertaken for the management of the Administration Building comprised three stages:

- Reviewing what is currently delivered;
- Reviewing what should be delivered;
- Reviewing how it should be best delivered.

The results of the Review are documented in a comprehensive Service Strategy, Service Strategy annexure and a benchmarking data sheet, with recommendations on the way forward.

In 2008 the Property Section became responsible for the management of the Administration Building however the maintenance and contractual management remained the responsibility of the Project Services Section. In 2010 a restructure of the Property Section bought the responsibility of all aspects of the management of the Administration Building under the Property Section with the Building Maintenance Officer joining the Property Team. This small restructure resulted in \$200,000 saving per annum.

Other improvement initiatives that have been recently implemented are:

- Vigilant management has equated to \$60,000 avoided electricity costs;
- Automated Administration Building requests;
- Project Costing System implemented to track costs and tasks assigned to internal trades;
- Change of contractor for recycling service savings of 50% achieved;
- Introduction of water smart meters;
- Additional CCTV installed and update of security procedures for the improved safety of the Councillors, staff and the general public.

The three main functions involved in the management of a large commercial building are:

- Facilities and asset management;
- General maintenance; and
- Building Management.

The resources required to provide the service are:

- Staffing 2 EFT;
- \$739,307 Total Cost of Service.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

The costs of the building are disseminated as follows:

Service	Cost	% of total cost
Cleaning	\$261,000	35%
Maintenance	\$125,858	17%
Management	\$19,525	3%
Facilities Management	\$332,924	45%

The key points of focus of facilities management of the Administration Building are noted as being:

Strategic planning;
 Security and car parking;
 Cleaning, pest and grounds management;
 Proactive maintenance;
 Response and rectification;
 24/7 response;
 Asset register;
 Lifecycle management;
 Asset replacement and refurbishment.

It is also important to note that Council holds a significant amount of intellectual property/experience in relation to its assets generally but in case of the Administration Building particularly in relation to the engineering, electrical and mechanical aspects.

Service Review Findings

In undertaking the review of the service data was collected from private industry and other local government areas. The full data is documented in the benchmarking datasheet (tabled document 3). The following table is a summary of the data collected.

		Capital	Outgoings	*1 x Staff	Total
1. Current Administration Building Costs	\$739,307	\$349,214	Included	N/A	\$1,088,521
*2. Cost to have external company manage the building	\$1,052,190	\$349,214	\$208,747	\$65,000	\$1,610,151
*3. Cost to rent office space to accommodate staff	\$929,320 - \$1,295,790	N/A	\$208,747	\$65,000	\$1,203,067 - \$1,569,537

*In scenario 2 and 3 a staff member would still be required on behalf of Council to engage with the facilities manager or the landlord to manage Council's interests, legal contracts and minor maintenance issues.

FINANCIAL/RESOURCE IMPLICATIONS

To continue to provide the service internally with cleaning staff to report directly to the Property Section will achieve savings of \$110,000.

LEGAL, POLICY AND RISK IMPLICATIONS

Council is obligated to provide a safe and appropriate accommodation for its employees and Council members and accommodation for Civic Functions and Council meetings. Additionally Council is required to comply with current legislation for example but not limited to Work Health Safety Act, Building Code of Australia, Public Health (Microbial Control) Regulation and Disability Discrimination Act and various offences and penalties apply for breaches of these Acts.

A strategic asset management report incorporating lifecycle costing has been prepared to ensure Council maintains the building to a satisfactory standard reducing larger structural/maintenance issues/costs into the future.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Not maintaining the building structurally	High	Comply with recommendations in the strategic asset management report	Yes
Nor ensuring compliance with legislation relating to office accommodation	High	Ensure compliance with legislation through facilities management of the building	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

If Council considers alternate options to the recommendations within the strategy this will affect the level of service currently provided.

CONSULTATION

Extensive consultation has been undertaken with stakeholders to determine if Council should continue to provide the current level of service. Feedback has indicated that the current levels of service meet customer requirements. Our customers were unable to identify any services that they did not require.

Benchmarking was undertaken with both private and public sector organisations. The results showed that Port Stephens Council provides the service at significant lower staff and budget levels than other Councils and at a significantly lower cost than private enterprise.

OPTIONS

- 1) Adopt the recommendations contained in the Sustainability Review – Management of Council Administration Building;
- 2) Amend the recommendations contained in the Sustainability Review – Management of Council Administration Building;
- 3) Reject the recommendations contained in the Sustainability Review – Management of Council Administration Building.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Administration Building Management Service Strategy;
- 2) Strategy Annexure;
- 3) Benchmarking Datasheet;
- 4) Apportionment of Costs.

ITEM NO. 8

FILE NO: A2004-0230

REVIEW OF POLICY – CASH INVESTMENT**REPORT OF: WAYNE WALLIS – ACTING GROUP MANAGER CORPORATE SERVICES**
GROUP: CORPORATE SERVICES**RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the current Cash Investment Policy dated 14 December 2010 (Minute No. 403).
- 2) Adopt the revised Cash Investment Policy attached to this report.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Caroline De Lyall
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 27 MARCH 2012**RESOLUTION:**

048	Councillor Glenys Francis Councillor Caroline De Lyall
	It was resolved that the Council Committee recommendation be adopted.

BACKGROUND

The purpose of this report is to review the Cash Investment Policy which was adopted by Council in December 2005, amended in September 2009 and December 2010. The Director General of the Division of Local Government has published a revised Ministerial Investment Order and the draft policy incorporates changes made under the latest order, specifically removal of Local Government Financial Services Pty Ltd as an authorised investment.

The Federal Government's Financial Claims Scheme guaranteeing deposits has been reduced from \$1M to \$250,000 from February 2012. The revised policy removes the requirement to make investments in accordance with limits under the Financial Claims Scheme due to the small amount of the revised guarantee and the increase in administration and lower interest rates that would be achieved by investing in \$250,000 denominations.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

The revised policy proposes continuing to invest only in Australian Prudential Regulatory Authority (APRA) regulated Australian Authorised Deposit Taking Institutions (ADI's) and placing a limit of 10% of investments in any one ADI.

FINANCIAL/RESOURCE IMPLICATIONS

Council is responsible for the prudent management of community assets including surplus cash not immediately required for continuous operations.

A Cash Investment Policy assists in ensuring the security of invested funds and achieving a return on funds acceptable to the organisation.

LEGAL, POLICY AND RISK IMPLICATIONS

Section 23A of the Local Government Act 1993 requires Council to take guidelines issued by the Director General of the Division of Local Government, into consideration before exercising its functions. The redrafted policy complies with the Investment Policy Guidelines.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
<u>Not adopting policy</u> May result in reduced interest income as \$250k deposits attract lower interest rates than \$1M deposits. Would quadruple administration process in investing smaller amounts.	Medium	Adopt policy	Yes
<u>Adopting policy</u> If a financial institution were to default on repayment, only the first \$250,000 would be government guaranteed	Medium	Invest only in APRA approved Australian Authorised Deposit Taking Institutions. No APRA (established 1998) approved Australian ADI has ever failed to return term deposits. Pyramid Building Society (the last insolvent Australian financial institution) term deposit shortfalls were repaid to investors by the Victorian Government. The last lost deposits were as a result of the failure of the Primary Producers Bank of Australia in 1931	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy ensures Council can access monies as required to fund its operations for the provision of services that benefit the entire community.

CONSULTATION

- 1) Financial Services staff.

OPTIONS

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

ATTACHMENTS

- 1) Revised Cash Investment Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted: 20/12/2005
Minute No: 382
Amended: 14/12/2010
Minute No: 403

FILE NO: A2004-0230
TITLE: CASH INVESTMENT POLICY
REPORT OF: FINANCIAL SERVICES MANAGER

BACKGROUND

This policy has been revised following the issue of Investment Policy Guidelines by the Director General of the Division of Local Government.

OBJECTIVE

The purpose of this policy is to guide Council's cash investment process and specifically:

- establish Council's investment philosophy;
- establish investment risk management guidelines;
- prescribe requirements to be followed in investing surplus funds that are not immediately required for any other purpose;
- identify the duties of those involved in the investment process;
- prescribe internal control procedures, investment monitoring and reporting procedures.

PRINCIPLES

1. Council has an obligation under its charter as the custodian and trustee of public assets to effectively account for and manage the assets for which it is responsible.
2. All investments are to be made in accordance with:

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- Local Government Act 1994 – s 228 How best Council's budget?
- Local Government Act 1994 – Minister's Investment Class under s27 2 as made from time to time
- The Budget Act 1965 – s 14 regarding powers of investment, duties of budget in respect of power of investment and matters for which Minister is to make regulations exercising power of investment
- Local Government (Finance) Regulation 2005 – s 212 Reports on Council Investments
- Review of NZ Local Government Investments Sector (October 11 Report, April 2010)
- Investment Policy Guidelines – issued by the Director General of the Division of Local Government under s 216 Local Government Act 1994
- Local Government Code of Accounting Practice and Financial Reporting

POLICY STATEMENT

1. Investment Philosophy and Objectives

- 1.1 Investments are to be selected to ensure there is sufficient liquidity to meet reasonably anticipated cash flow requirements, as and when they fall due, without incurring the risk of significant costs due to the untimely sale of an investment.
- 1.2 Preservation of capital and the real value of assets form a principal objective of the investment portfolio.
- 1.3 Investments are expected to achieve a market average rate of return consistent with Council's risk tolerance. Investments should be expected to earn interest so that they increase in value to more than provide for the future inflation value of money.

2. Cash Flow

- 2.1 Council should plan for future cash flow requirements in its annual financial plan and annual budget.
- 2.2 Cash flow is to be monitored daily.
- 2.3 Council is to have an overnight facility to be used to meet unforeseen commitments, with the aim of avoiding use of this facility as the interest rate is likely to

ATTACHMENT 1

invested at the interest rate Council receives on its investments.

2.4 Where appropriate to do so, staff will use funds due to the council to invest into an interest bearing bank account to minimize interest earnings.

2.5 surplus funds that are forecasted or to be required for in excess of 30 days are to be identified and invested.

3. Risk Management Criteria

3.1 Investment or a selection of investments are to be assessed according to the following criteria:

- Preservation of Capital – the requirement for the investment used in Council's investment portfolio to have value, considering a long term value of money.
- Diversification – relating to the amount invested with individual financial institutions and government authorities to reduce credit risk.
- Credit Risk – the risk that a financial institution or government authority fails to pay the interest or repay the principal invested.
- Market Risk – the risk that the fair value or future cash flows of an investment will fluctuate due to market prices.
- Liquidity Risk – the risk Council's liquidity to redeem the investment and/or pay prior when it is due.
- Maturity Risk – the risk relating to the length of term to maturity. The longer the term the greater the length of exposure and risk of market volatility and interest rate changes.

3.2 Financial Instruments (debt investments) must not be - show into the risk of Council's funds.

4. Authorised Investments

4.1 All investments must be identified in Council's Council Act.

4.2 Authorised investments are limited to those forms included in the list of authorised investment under present:

- Local, State or Commonwealth Government bonds, debentures or securities.

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- Interest bearing deposits, debentures or bonds issued by an authorised deposit taking institution (ADI) regulated by Australian Prudential Regulation Authority, (ie a bank, building society or credit union granted authority by APRA to carry on a banking business in Australia – a full list of ADI's is available on the APRA website www.apra.gov.au)
- Investments with NSW Treasury Corporation or equivalent investment facility

~~Deposits with the Local Government Financial Services Pty Ltd~~



Delete: "Deposits with the Local Government Financial Services Pty Ltd"

5 Grandfathered Investments

- 5.1 New investments must comply with the most recent Ministerial Investment Directive
- 5.2 Council holds existing investments that do not comply with the most recent Ministerial Investment Directive compliant with the Ministerial Investment Directive, if at any time the investments were made under the provision of the most recent Ministerial Investment Directive, for the investment under were grandfathered.
- 5.3 Council may hold non-convertible, redeemable securities investments which include:
 - Listed Securities (ASX) – convertible listed instruments and subordinated debt

6 Prohibited Investments

- 6.1 This investment policy prohibits the investment portfolio for investment purposes, including but not limited to:
 - Derivative based instruments
 - Financial or investments or securities that involve potential or excessive leverage
 - Stand alone derivatives (such that have underlying future contracts forward contracts or swaps of any kind)
- 6.2 This policy also prohibits the use of leverage allowing for such of an instrument, however nothing in this provision prohibits with the mandatorily placed portfolio for direct subordinated investments

ATTACHMENT 1

1. Quotations on Investments

- 1.1 Not less than three (3) quotations shall be obtained from authorised institutions, unless an investment is restricted.
- 1.2 The cost of one for the one shall be accepted after allowing for administrative costs and also allowing for the devaluation of the value of the stock.

2. Terms to Maturity

- 2.1 The term to maturity of any of Council's direct investments must not exceed ten (10) years.
- 2.2 Where the term to maturity exceeds one (1) year Council must ensure that a secondary market exists for the investment to enable the disposal of the investment prior to maturity if necessary.
- 2.3 To control inflation, the Council's investment portfolio should be limited to the following term to maturity thresholds.

TERM	MINIMUM REQUIREMENT	MAXIMUM REQUIREMENT
0-1 year	20%	100 %
1-2 year	10%	75 %
2-3 year	10%	40 %
3-5 year	0%	20 %

The maturity thresholds above are to be assessed at the time of making a new investment.

ATTACHMENT 1

9 Diversification

- 9.1 Funds invested through any one broker shall be limited to a maximum of 25% of Council's total portfolio
- 9.2 Funds invested in domestic equities shall not represent more than 25% of Council's total portfolio
- 9.3 Funds invested in equities shall not be limited to 25% of Council's total portfolio subject to clause 9.5.
- 9.4 Council's investment portfolio shall not be limited to a single stock portfolio
- 9.5 Where any one Australian Government financial institution represents more than 25% of Council's investment portfolio, Council shall be subject to the following rules to ensure Council funds are diversified.
- 9.6 The Diversification Committee shall be responsible for the assessment of the risk of making a new investment, of making subsequent portfolio changes, the diversification of Council's investment portfolio, and consultation in consultation with the financial services provider who assess the portfolio and provide suitable and diversified stock investments, if the decision is made to invest the investment fund this will be done as soon as practicable.

Delete: "9.1"

Delete: "9.2"

Delete: "9.3"

Delete: "9.5"

Delete "9.6"

Insert: "The Diversification limit above shall be assessed at the time of making a new investment. Any subsequent reduction in portfolio size shall be disregarded in relation to assessing diversification limits of existing investments where these are likely to be significant costs or losses for termination or disposing of an investment."

10 Reporting

- 10.1 A monthly report shall be provided to Council detailing the investment portfolio including market values, amounts invested, longer term, length of history on money market, date, interest rate, percentage increase with the total portfolio and current market value. The report shall include a brief outline to whether or not the investments have been made in accordance with the Act, regulations and Council's investment policy.
- 10.2 Current market values are to be submitted monthly for Council's general fund investments such as 100% of the total fund value and the report shall include the most recent valuations will be presented in the monthly report to Council which must include the

ATTACHMENT 1

conditions have not after the business become a debt for interest.

- 10.3. For dual currency certificates must be obtained from banks and investment agencies and having the proceeds of investments to be used for the purchase of dual currency market value of \$1 million each year.

11. Performance Benchmarks

- 11.1. Council seeks to gain a return on investment of local assets for the following purposes:

Investment	Performance Benchmark
Cash	RBA Cash Rate
Term Investment	Australian Term Deposit (more than 12 months)
Real Estate Investments	RBA Cash Rate

12. Duties and Responsibilities of Council Officers

- 2.1. The Council Manager should take the view that Council Officers are not to be held responsible for any investment loss or non-performance. The Council Manager has a duty to ensure that staff include to make investments in accordance with the policy.
- 2.2. s. 212 of the Local Government (General) Regulation 2002 requires the Responsible Accounting Officer to provide a monthly written report to Council on investments. The Responsible Accounting Officer is responsible for providing Council with accounting records ensuring they are kept up to date and correct and complete. The Council Manager or the Responsible Accounting Officer in Port Stephens should, on delegation to staff, also include to retain accounting records and report on results.
- 2.3. Council Officers should be required to perform the duties of a manager and will be undertake the investment functions and decisions in a duty and responsibility with the investment policy.
- 2.4. Council Officers should be required to have a duty to act with the duty of care to investment and

ATTACHMENT 1

a) ensure that a relevant person could not be
 when investing and managing their own funds and
 have regard to the requirements under the Justice
 Act 1993.

22. Council officers involved in investing funds must not
 engage in activities that would conflict with the
 proper representation and management of
 Council investments.

12.6. The relevant categories of other designated
 Council officer's responsibilities:

- Monitor compliance of staff with and
 estimate their requirements.
- ensure protected investment products comply
 with the investment rules.
- Ensure compliance of funds in
 accordance with the requirements of the
 rules.
- Record all principal investments or all that is
 not a liability.
- Estimate and account for interest of a
 interest on investments.
- Track financial instruments, investment
 certificates and related documents and need
 to be stored.
- Monitor and evaluation of operational and
 activities.
- Report quarterly reports for Council to the
 satisfaction of the Responsible Accounting
 Officer.
- Ensure the investment register to be updated
 and Council website reports.
- Maintain relevant documents in accordance with
 current legislation (RMA).

12.7. To ensure adequate internal controls and verification
 of duties the Finance Services Manager is to
 supervise investment transactions. The Finance
 Services Manager is to ensure investment transactions
 are to be authorised by the Acting Finance Services
 Manager or Group Manager (Commercial Services
 or General Manager).

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13. Investment Advisor

- 13.1. Where a contract is proposed in respect of a product compliant with the Investment Policy, it may be necessary to obtain independent financial advice.
- 13.2. Before considering independent financial advice Council must ensure the financial advisor is covered by the Australian Securities and Investment Commission. The advisor must confirm that they do not have any conflicts of interest in relation to the investment products being considered.
- 13.3. Where recommending or recommending investments and independent financial advice is obtained, written confirmation that they are not receiving any commissions or other benefits in relation to the investments being recommended or referred.
- 13.4. Council is to undertake separate reference checks and/or require reference information provided by an advisor.

RELATED POLICIES

- Restricted Funds Policy
- Responsible Investment and Environmental Policy
- Business Development Funding Policy

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

1.

ECONOMIC IMPLICATIONS

1.

ENVIRONMENTAL IMPLICATIONS

1.

RELEVANT LEGISLATIVE PROVISIONS

- Local Government Act 1993 – s 625
- Local Government Act 1993 – s 626 – Investment Credit of the Minister (at large from time to time)
- Corporations Act 1973 – s 74 – Disclosure Requirements

ATTACHMENT 1

- Local Government General Regulation 2005 to 2012
- Local Government Act 1999 & 2004 (amended) Policy Guidelines/Standards – the 2004 version of the Guidelines of Local Government
- Municipal Act 1992 – Division 20A – Financial Control Systems

IMPLEMENTATION RESPONSIBILITY

Executive Director

REVIEW DATE

12 months after adoption

Delete: "12
Months after
adoption"

Insert: "28
February 2014"

ITEM NO. 9

FILE NO: PSC2007-2377

DRAFT PRICING POLICY

REPORT OF: WAYNE WALLIS – ACTING GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the draft Pricing Policy on public exhibition for a period of 28 days.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012**RECOMMENDATION:**

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

ORDINARY COUNCIL MEETING – 27 MARCH 2012

049	Councillor Bruce MacKenzie Councillor Steve Tucker
	It was resolved that the Council Committee recommendation be adopted.

BACKGROUND

Under Section 608 of the Local Government Act 1993, Council is authorised to recover fees and charges for any services it provides.

The purpose of this report is to provide a policy framework to regulate the setting of Council's fees and charges that is consistent with legislative requirements and that recognises Council's community service obligations.

The draft Pricing Policy, attached to this report, was formulated after an extensive research process including benchmarking other councils across Australia, but especially within New South Wales.

FINANCIAL/RESOURCE IMPLICATIONS

The draft Pricing Policy provides guidelines for fee setting that ensures an appropriate return to effectively account for and manage the assets for which it is responsible. At the same time, it provides for equitable access to facilities and services and recognises Council's community service obligations. User fees and charges accounted for \$38.4 million in revenue to Council (2010-2011) so setting of fees and

charges requires an appropriate and comprehensive framework, which this draft policy provides.

LEGAL, POLICY AND RISK IMPLICATIONS

Council has the authority under section 608 of the Local Government Act 1993 to recover approved fees and charges. To date, Council has operated within general guidelines in fee setting. A review of fees and charges was required under Action 5.2.3 of the Operational Plan 2011-2012, including moving where appropriate to full cost recovery. The draft Pricing Policy is an outcome of the review and requires full cost recovery as a default fee setting guideline. However, the policy provides for Council's other obligations under its Charter, namely fair imposition of fees and equitable access to its facilities and services. The policy also recognises that in some instances, Council is a monopoly provider and has a duty to deliver value for money to ratepayers and residents.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
The policy fails to deliver appropriate returns to Council	Low	A review of the Pricing policy can be undertaken at any time but in any case every two years	Yes
The policy is not applied as intended	Low	Annual fees and charges setting as required under s608 identifies anomalies	Yes
Council officers and/or committees fail to implement the policy	Low	Internal Audit and annual fees and charges setting processes will identify anomalies and require corrective action	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The draft Pricing Policy is designed to provide a return to Council and thus the community of Port Stephens on its assets. At the same time, it is designed to recognise Council's community service obligations and ensures – through a pricing mechanism – that there is equitable and affordable access to facilities and services.

The draft Pricing Policy covers all of Council's operations across the sustainability pillars through the mechanism of fees and charges for services in all categories (ie social, economic, environmental). It takes account of use of assets from staff time (human resources), community assets and commercial assets and activities.

CONSULTATION

The first review commenced in 2007 with extensive consultation and research with councils across Australia and in particular with Waverley Council, Newcastle City Council and Lake Macquarie Council. Consultation also occurred with those section managers responsible for the bulk of fees and charges where Council has discretion to set fees.

OPTIONS

- 1) Adopt the recommendation to place the draft Pricing Policy on public exhibition from 1 to 30 April 2012;
- 2) Amend the recommendation to place the draft Pricing Policy on public exhibition from 1 to 30 April 2012;
- 3) Reject the recommendation to place the draft Pricing Policy on public exhibition from 1 to 30 April 2012.

ATTACHMENTS

- 1) Draft Pricing Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted:
Minute No:
Amended:
Minute No:

FILE NO: PSC2007-2377
TITLE: PRICING POLICY
RESPONSIBLE OFFICER: MANAGER, FINANCIAL SERVICES

BACKGROUND

In accordance with section 608 of the Local Government Act, 1993 and other relevant legislation, Council charges and recovers approved fees and charges for any services it provides as contained within Council's annual fees and charges document.

This policy outlines the principles to be used when setting fees and charges. It needs to be read in conjunction with Council's annual fees and charges document and any guidelines developed by Council's Financial Services section to assist Council staff in calculating the amount of fees and charges.

OBJECTIVE

- 1) To provide a decision-making framework for the determination of fees and charges.
- 2) To enable determination of fees and charges that is equitable, consistent, timely and accountable.
- 3) To provide opportunities for cost recovery whilst meeting Council's community service obligations.
- 4) To meet Council's statutory requirements under the Local Government Act, 1993 and other relevant legislation in relation to setting fees and charges.
- 5) To assist Council staff, when reviewing existing fees and charges and/or considering new fees and charges.

PRINCIPLES

- 1) Council has a charter under the Local Government Act, 1993 of fair imposition of fees and charges.
- 2) Council has a charter under the Local Government Act, 1993 to effectively account for and manage the assets for which it is responsible.
- 3) Council will strive to provide equitable access to its facilities and services.
- 4) Council recognises that as a monopoly provider of some facilities and services it has a duty to deliver value for money to ratepayers and residents.

POLICY STATEMENT

1) General

Port Stephens Council recognises that it has community service obligations which are non-commercial requirements for identified social purposes, and that these obligations constitute a significant component of the social policies of Council. The concept of community service obligations informs the Council's Pricing policy.

2) Pricing policy

Section 608-610 of the Local Government Act, 1993 authorises Council to charge and recover fees for any service it provides apart from services for which the charging of a fee is prohibited. Council may waive all or part of a fee unless it is a fee regulated directly by the State Government. In determining whether a fee should be charged for a service Council will consider a number of principles, firstly, whether the service provides a public benefit or a private benefit.

A 'public' service is one where there is a general benefit to the community and where there is limited opportunity of collecting a fee, for example, roads and parks.

A 'private' service is one which provides a discernible private benefit to persons and which offers an opportunity of collecting a fee, for example processing a rezoning application. Where a service generates a private benefit then recovery of costs through a fee is appropriate.

In determining the cost of providing a service, Council will:

- Identify and quantify the fully absorbed cost including appropriate overheads, which reflect the proportion of 'centralised' support cost that should be recovered.
- Consider any community service obligations (CSO) where there are clear social or equity objectives in the provision of the service. In assessing the existence and level of a CSO, Council will consider:
 - The social or community objectives achieved or assisted by the consumption of the service;
 - The social or community values promoted by wider availability of the service;
 - Whether the direct consumers are unable to purchase a socially desirable level of service; and
 - Whether direct beneficiaries of the service are deserving of favourable pricing.
- If it is determined that a CSO is present, then Council will consider setting a fee below the level of full cost recovery. In determining the amount of discount or subsidy, Council will consider:
 - The level of CSO in the service;
 - The objectives of the service;
 - Consumers' ability to pay;
 - Price sensitivity of the service; and
 - The application of a suggested industry reference price.

In the case of fees set by statute, the fee will be set in accordance with the relevant statute.

3) Pricing methods

Fees and charges made by Council will be classified according to the pricing structures as outlined below. Full cost pricing will apply to all of Council's fees and charges, except in the circumstances outlined in the alternative pricing structures.

Full cost pricing

Council will recover all direct and indirect costs of the service (including on-costs, overheads and depreciation of assets employed).

Partial cost pricing

Council will recover less than the full cost (as defined above).

Partial cost pricing may be used if shared benefits are derived from the provision of the service that accrue to the community as a whole as well as to individual users. It may also be applied where charging full cost recovery pricing will result in widespread evasion.

The price structure may also be used to stimulate demand for a service in the short term, although foregoing full cost recovery must be for a defined term only.

Statutory pricing

The price of this service is determined by legislation and dependent on that price, Council may or may not recover its full costs, but has no discretion to do so.

Market pricing

The price of the service is determined by examining alternative prices of surrounding service providers (this also may or may not recover the full cost of the service).

This pricing structure should apply in cases where the service is in competition with that provided by another council, agency or commercial provider and there is consequent pressure to set a price that will attract adequate usage of the service.

Market pricing should also apply where a service is predominantly provided for Council's in-house use, but sale to external markets will defray costs.

Free (zero priced)

Some services may be provided free of charge and the whole cost determined as a community service obligation and may fall within the class of a public good. This price structure may be used where the services provide a broad community benefit; and/or it is impractical or inconceivable to charge for the service on a user basis.

The price structure may also apply where the service is a minor part of the overall operation of Council and the potential for revenue collection is so minor as to be outweighed by the cost of collection.

Rate of return pricing

This price includes the full cost pricing as defined above, with the addition of a profit margin to factor in a return to Council for assets employed.

This pricing structure should be applied when the service is a profit-making activity and the price is paid by users. The pricing should recover an amount greater than full cost recovery for providing that service. This pricing structure should also be used when it is necessary to create a penalty that is to act as a pricing disincentive.

RELATED POLICIES

- 1) Budget Control and Authorisation policy

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The policy allows Council to exercise its community service obligations and to ensure equitable access to and consistent pricing of Council's services.

ECONOMIC IMPLICATIONS

The policy optimises returns to Council on the use of its assets and resources. At the same time, it recognises the principles associated with users' ability to pay, competition and market conditions.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this policy.

RELEVANT LEGISLATIVE PROVISIONS

- 1) Local Government Act, 1993
- 2) Division of Local Government Competitive Neutrality Guidelines
- 3) (Federal) A New Tax System (Goods and Services Tax) Act 1999 and regulations

IMPLEMENTATION RESPONSIBILITY

- 1) Manager Financial Services

REVIEW DATE

- 1) Two years from the date of adoption of the policy.

ITEM NO. 10

FILE NO: PSC2011-04353

SUSTAINABILITY REVIEW – PROCUREMENT & CONTRACTS UNIT

REPORT OF: WAYNE WALLIS – ACTING GROUP MANAGER CORPORATE SERVICES

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Procurement & Contracts and endorse the findings of the review;
- 2) Endorse the engagement of Tenderlink's services to improve internal service and assist in reducing costs associated with facilitating the tender and Request for Quote (RFQ) process;
- 3) Endorse the engagement of PMMS Consulting Group to provide a 'health check' of the Council wide Procurement and Contracts function.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012**RECOMMENDATION:**

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

ORDINARY COUNCIL MEETING – 27 MARCH 2012

050	Councillor Steve Tucker Councillor Ken Jordan
	It was resolved that the Council Committee recommendation be adopted.

BACKGROUND

The purpose of this report is to present to Council the outcomes of the Sustainability Review for the Procurement & Contracts Unit (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 currently undertaken by Procurement & Contracts 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).

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

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.

Procurement & Contracts

The Procurement & Contracts unit is part of the Corporate Services Group under the Finance Section. There are two EFT's and a budget of \$183,880.00. There are two areas within this unit being:

- 1) Contracts; and
- 2) Purchasing.

Council has adopted a de-centralised approach to the procurement and contracts function providing assistance in the following areas:

- 1) Advice on the correct procurement options available based on spend, length of contract and/or service in conjunction with Council's policies, management directives and guidelines as well as ensuring legislation such as the Local Government (General) Regulation 2005 being followed i.e. Tender, Request for Quote (RFQ), Expression of Interest (EOI), Call for Proposal (CFP), internal supply and external options;
- 2) Coordination of the procurement option selected;
- 3) Assist in the sourcing of goods and services;
- 4) Training and administration in the use of the Council Purchasing Card;
- 5) Training in the use of the purchasing module of the Authority database;
- 6) Purchase order processing;
- 7) Advice on invoice issues;
- 8) Creating and maintaining supplier relationships.

Service Review Findings

The Procurement and Contracts Unit Sustainability Review undertook an examination of all activities provided by the unit. These individual activities were consolidated in to five primary service packages:

SERVICE PACKAGE
Coordination of Procurement Activities
Strategy, policy, advice and information on procurement strategies available
Administration of Purchasing Cards
Disposal of Assets
Administration of Procurement Activities

The findings of the Sustainability Review have identified the following:

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

- 1) After consulting with our internal customers it was found that they were happy with the current service levels and the costs associated;
- 2) An analysis was performed on a portion of the tendering process of the costing and time management to determine if this could be improved by utilising an external company. It was found that using Tenderlink would provide direct savings per tender/Request for Quotation (RFQ) of approximately \$422.88 including the additional cost of \$150.00 per tender/RFQ to lodge with Tenderlink. The indirect savings would be an administrative cost reduction of the Purchasing & Contract Unit per tender/RFQ of approximately \$92.89. Additionally there would be indirect savings of approximately \$28.30 per tender/RFQ to the stakeholders due to reduced administration time required during tender/RFQ openings;
- 3) An analysis was performed on the full tendering process and compared against the option of using an external provider to provide the same service to Council. The analysis showed that if this option was used it would cost Council an additional \$250,000.00 per annum to perform this service. There would also be a service level issue as the service provider would not be a dedicated person to Council with no other duties or clients;
- 4) It has been recommended in the Service Strategy that Council engage PMMS Consulting Group to perform a Health Check on the Procurement & Contracts function Council wide. This will enable Council to make informed decisions as to what areas need improving and what areas are at risk. PMMS Consulting Group will conduct workshops and provide a 'Road Map' of what is required to implement their recommendations along with support over a 24 month period.

FINANCIAL/RESOURCE IMPLICATIONS

Based on the recommendation identified in the Procurement & Contracts Unit Service Strategy, to utilise Tenderlink, this will provide potential direct cost savings of \$422.88 per tender/RFQ and indirect savings of approximately \$121.19 per tender/RFQ to Port Stephens Council. There are additional potential cost savings through the use of Tenderlink as all Tenders and RFQ's reach a wider audience through Tenderlink's extensive supplier database which can encourage higher levels of competitiveness.

Additionally the recommendation to engage PMMS Consulting Group to conduct a Health Check of the Council wide Procurement and Contracts function may provide further cost saving opportunities through recommendations.

LEGAL, POLICY AND RISK IMPLICATIONS

If Council were to consider alternative options this may put Council in a position of legal, financial, compliance and reputation risk. If Council were to adopt the recommendation identified in the Procurement & Contracts Service Strategy, to engage PMMS Consulting Group to conduct a health check of the Council wide Procurement and Contracts function, the outcome would provide Council with a clear picture of where it currently stands with regard to risk exposure and a 'road map' for the future prevention of exposure.

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

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Legal – Serious breach involving statutory authority or investigation	High	Engagement of PMMS Consulting Group to perform health check	Yes
Financial - Serious breach involving statutory authority or investigation; prosecution or other action possible with significant financial impact	High	Engagement of PMMS Consulting Group to perform health check	Yes
Compliance - Serious breach involving statutory authority or investigation; prosecution or other action possible with significant financial impact	High	Engagement of PMMS Consulting Group to perform health check	Yes
Reputation – decline in reputation and confidence amongst the community of Council's ability to conduct business in a manner that reduces the possibility of risk	High	Engagement of PMMS Consulting Group to perform health check	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

If Council considers alternative options to the recommendations within the Procurement & Contracts Unit Service Strategy this may affect the possibility of any increases in service levels and standards identified in the sustainability review.

If Council adopts the recommendations identified this will increase the opportunities to ensure the Procurement & Contracts Unit can continue to work towards a more sustainable procurement model. This can be achieved through:

- Relationship building with local business where possible;
- Ensuring current suppliers are aware of the need to source sustainable products and services;
- Education and advice to internal stakeholders of sustainable procurement options;
- Ensure there are tools to measure whether Port Stephens Council is entering in to contracts and agreements with prospective suppliers/service providers that are embracing the principles of sustainability.

CONSULTATION

Extensive consultation has been undertaken with stakeholders to determine if Council should continue to deliver the services provided by the Procurement & Contracts Unit in the future, and if so, at what level and what cost. The feedback received indicates that the current service levels and delivery meet the customers needs. There was unanimous agreement of the suggestion of using Tenderlink as an additional tool to increase the exposure when calling Tenders and RFQ's etc and acceptance of the additional cost when shown the potential cost saving.

Benchmarking of other Councils within the state also showed that Port Stephens Council's resourcing levels within the Procurement & Contracts Unit were equal to or less than other Council's with similar output levels.

OPTIONS

- 1) Adopt the recommendations contained in the Sustainability Review – Procurement & Contracts;
- 2) Amend the recommendations contained in the Sustainability Review – Procurement & Contracts;
- 3) Council reject the recommendations contained in the Sustainability Review – Procurement & Contracts.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review – Procurement & Contracts.

ITEM NO. 11

FILE NO: PSC2012-00378

TOMAREE CEMETERIES COMMITTEE**REPORT OF: STEVEN BERNASCONI – COMMUNITY AND RECREATION SERVICES
MANAGER****GROUP: FACILITIES AND SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Constitution Schedule for the Tomaree Cemeteries Committee (Attachment 1);
- 2) Consider nomination for Councillor representation on the Tomaree Cemeteries Committee.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012**RECOMMENDATION:**

	Councillor Shirley O'Brien Councillor Sally Dover
	That the recommendation be adopted and the nomination be deferred.

ORDINARY COUNCIL MEETING – 27 MARCH 2012**RESOLUTION:**

051	Councillor Ken Jordan Councillor Caroline De Lyall
	It was resolved that the recommendation be adopted and that Cr Shirley O'Brien elected as the Council delegate.

BACKGROUND

The purpose of this report is to recommend to Council the adoption of the Tomaree Cemeteries Committee Constitution.

This links to Council's Community Strategic Plan (1.5.1 Collaborate with a range of partners and our volunteers to better plan, resource and deliver quality services that are responsive to the needs of local people).

Council at its meeting 22 November 2011 (Minute No.418) resolved to:

- "Form a 355(c) committee to enable interested community persons to assist Council in the care and maintenance of cemeteries on the Tomaree Peninsula.
- That the committee be called the Tomaree Cemeteries Committee and include Anna Bay Cemetery, Nelson Bay Cemetery, Carumbah Memorial and Birubi Point Cemetery".

A group of interested community persons have held an initial meeting to start the process of establishing the committee. Anna Bay Cemetery is the first focus of the Committee with other cemetery sites becoming involved as interest develops.

The Constitution Schedule of the Tomaree Cemeteries Committee has been developed in consultation with interested persons of the proposed committee, in line with current 355(c) committee standards and relevant legal and insurance requirements (Attachment 1).

The committee's constitution and Council's Volunteer Strategy clearly defines the committee's relationship with Council and provides a framework for the committee to work within.

FINANCIAL/RESOURCE IMPLICATIONS

355(c) Committees are provided with a \$1,000 annual subsidy. There is no current budget allocation for this committee. This allocation will be covered in existing Community & Recreation Services budget allocations.

There will be an impact on resources in establishing the committee and the ongoing provision of assistance. This will be absorbed within current establishment numbers and workloads.

LEGAL, POLICY AND RISK IMPLICATIONS

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

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

The committee will be managed and provided with support as outlined in the Volunteer Strategy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Injury to volunteers while undertaking work on Council land, facilities or services	High	<ul style="list-style-type: none"> • Work Health and Safety requirements documented in committee constitution, Volunteer Strategy, WHS Volunteer Induction Handbook and 355(c) Committee Information Handbook. • Compulsory Work Health 	Yes

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

		<p>and Safety volunteer Induction prior to commencing duties</p> <ul style="list-style-type: none"> • Safe Work Method Statements and Specific worksite Assessment & Toolbox forms to be developed prior to work • Ongoing supervision and auditing of committee projects. 	
<p>Non compliance by volunteers with Council requirements for a 355(c) committee with potential legal, financial and reputation risk</p>	<p>High</p>	<ul style="list-style-type: none"> • Requirements documented in committee constitution, Volunteer Strategy, 355(c) Committee information Handbook. • Code of Conduct training prior to commencing duties. • Annual Works Plan developed 	<p>Yes</p>

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

Council's support of the Tomaree Cemeteries Committee provides this link with the Tomaree community.

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

The Tomaree Cemeteries Committee would operate under direction from Council staff to ensure their activities are performed in accordance with recognised practices that may provide long term benefits to the environment. The focus of the committee will be on achievable and sustainable projects.

CONSULTATION

- 1) Volunteer & Cemeteries Co-ordinator;
- 2) Members of the Tomaree community who have expressed an interest the proposed Tomaree Cemeteries Committee.

OPTIONS

- 1) As per recommendations; and
- 2) Reject/amend constitution.

ATTACHMENTS

- 1) Tomaree Cemeteries Committee Constitution Schedule.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

1	Name of Committee	Tomaree Cemeteries Committee
2	Name of Council Section	Community & Recreation Services
3	Functions delegated by Council to committee	<ol style="list-style-type: none"> 1. Co-ordinate working bees and liaise with Council staff re working bees in Anna Bay Cemetery, Nelson Bay Cemetery, Carumbah Memorial Gardens and Birubi Cemetery. 2. Advise & assist Council in developing & implementing maintenance, presentation and improvement strategies for Tomaree cemeteries. 3. Encourage and support the community and/or community groups, to participate in programs benefiting Tomaree Cemeteries. 4. Promote the formation of volunteer sub groups for each of the Tomaree Cemeteries. 5. Assist Council in the development and implementation of management plans for Tomaree Cemeteries. 6. Assist in the sourcing of alternate funding eg grants or voluntary labour for committee projects. 7. Provide a community link to assist Council in consulting with the community on Tomaree cemeteries management plans.
4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Cemeteries Co-ordinator and Facilities & Services Officer - Parks East
5	Policies, legislation the committee is required to comply with	<p>Principle policies & legislation including but not limited to:</p> <p>Work, Health and Safety Act 2011 Local Government Act & Regulations 1993 Privacy and Person Information Act 1998 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteer Strategy Framework</p>
6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election
7	Maximum number and make up of committee	Up to fifteen including:

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

	members	<p>a) Community persons with an interest in Anna Bay Cemetery, Nelson Bay Cemetery, Carumbah Memorial Gardens, and Birubi Cemetery and representatives from service clubs</p> <p>b) Volunteers at any cemetery will act as registered volunteers under the umbrella of Tomaree Cemeteries Committee</p>
8	Councillors	As resolved by Council.
9	Council employees	<p>Cemeteries Co-ordinator</p> <p>East Parks Team Leader</p> <p>Facilities & Services Finance Co-ordinator</p>
10	Name of financial institution and type of account	To be determined
11	Name of any account operated by the committee	Tomaree Cemeteries Committee a S355(c) committee of Port Stephens Council
12	Area assigned to committee	Anna Bay Cemetery, Carumbah Memorial Gardens, Nelson Bay Cemetery and Birubi Cemetery
13	<p>Additional clauses or amendments to Standard Constitution or Schedule.</p> <p>To be listed in full - body of constitution not to be altered</p>	Nil
14	<p>Changes to constitution or Schedule –</p> <p>Adopted by Council:</p> <p>Meeting Date:</p> <p>Minute No:</p> <p>Resolution</p>	

ITEM NO. 12

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 7 FEBRUARY 2012

REPORT OF: JOHN MARETICH – CIVIL ASSETS 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 7th February 2012.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012**RECOMMENDATION:**

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

ORDINARY COUNCIL MEETING – 27 MARCH 2012

052	Councillor Geoff Dingle Councillor Bruce MacKenzie
	It was resolved that the recommendation be adopted.

MATTER ARISING

053	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that Council request the Local Traffic Committee to investigate the possibility of a pedestrian crossing in the vicinity of William Bailey Street and Ross Walbridge Park, Raymond Terrace.

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

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

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.

Approximately \$34 000 of the annual budget allocation has been spent for 2011/2012 requiring that some Traffic Committee recommendations may have to be prioritised or deferred to ensure that the Traffic Committee budget is not exceeded in the current 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, the 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	High	Ensure proper consultation is carried out when required, prior to meetings	Yes
Recommendations may not meet required standards and guidelines	High	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 Meeting Minutes – 7/2/12.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 7TH FEBRUARY 2012
AT 9:30AM**

Present:

Cr Bob Westbury – Mayor, Cr Geoff Dingle, Mr Mark Newling - Port Stephens Coaches
Mr Joe Gleeson (Chairperson), Mr Graham Orr – Port Stephens Council, Mr Stewart
Murrell and Ms Colleen Mulholland-Ruiz – Raymond Terrace MarketPlace

Apologies:

Craig Baumann MP, Cr Peter Kafer, Snr Const John Simmons - NSW Police, Mr Bill
Butler – RMS, Mr Dave Davies – Busways, Mr John Meldrum – Hunter Valley Buses, Ms
Michelle Page, Ms Lisa Lovegrove – Port Stephens Council

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

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

B. BUSINESS ARISING FROM PREVIOUS MEETING

C. LISTED MATTERS

D. INFORMAL MATTERS

E. GENERAL BUSINESS

**PORT STEPHENS
LOCAL TRAFFIC COMMITTEE AGENDA**

**INDEX OF LISTED MATTERS
TUESDAY 7TH FEBRUARY, 2012**

- A. ADOPTION OF THE MINUTES OF 6TH DECEMBER, 2011**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- B.1 31_08/11 WALLAWA ROAD NELSON BAY - REQUEST FOR 'STOP' SIGN AT INTERSECTION OF WALLAWA ROAD AND GALoola DRIVE**
- C. LISTED MATTERS**
- C.1 01_02/12 WILLIAM STREET RAYMOND TERRACE – REQUEST FOR INSTALLATION OF 'KEEP CLEAR' PAVEMENT MARKING**
- C.2 02_02/12 VICTORIA PARADE NELSON BAY – REQUEST FOR INSTALLATION OF 'STOP' SIGN AND LINES AT DIXON STREET INTERSECTION**
- C.3 03_02/12 TAREAN ROAD KARUAH – REMOVAL OF REDUNDANT 'NO STOPPING' RESTRICTIONS**
- C.4 04_02/12 ROADS PORT STEPHENS – REQUEST FOR MARKING 'NO PARKING' ACROSS DRIVEWAYS**
- D. INFORMAL MATTERS**
- D.1 501_02/12 NEWLINE ROAD EAGLETON – REQUEST FOR APPROVAL OF CYCLE RACING CIRCUITS FOR 2012**
- D.2 502_02/12 ROADS RAYMOND TERRACE – REQUEST FOR A REVIEW OF ON-STREET PARKING RESTRICTIONS AROUND RAYMOND TERRACE MARKETPLACE**
- E. GENERAL BUSINESS**

B. BUSINESS ARISING FROM PREVIOUS MEETING

B.1 Item: 31_08/11

WALLAWA ROAD NELSON BAY - REQUEST FOR 'STOP' SIGN AT INTERSECTION OF WALLAWA ROAD AND GALOOLA DRIVE

Requested by: Cr Westbury -

File:

Background:

Safety concerns were raised by Cr Westbury regarding the speed at which drivers make the turn out of Wallawa Road onto Galoola Drive and the lack of sight distance at the intersection.

Comment:

Initial investigations indicated that Intersection sight distance does not meet the warrant for installation of a 'Stop' sign according to the Australian Standard. The RMS supplement to the Australian Standard 1742.2 however, uses different sight distance requirements and is the correct reference document. According to this document the intersection does meet the warrant for a 'Stop' sign.

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 'Stop' sign and TF linemarking at the intersection of Wallawa Road and Galoola Drive, Nelson Bay, as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

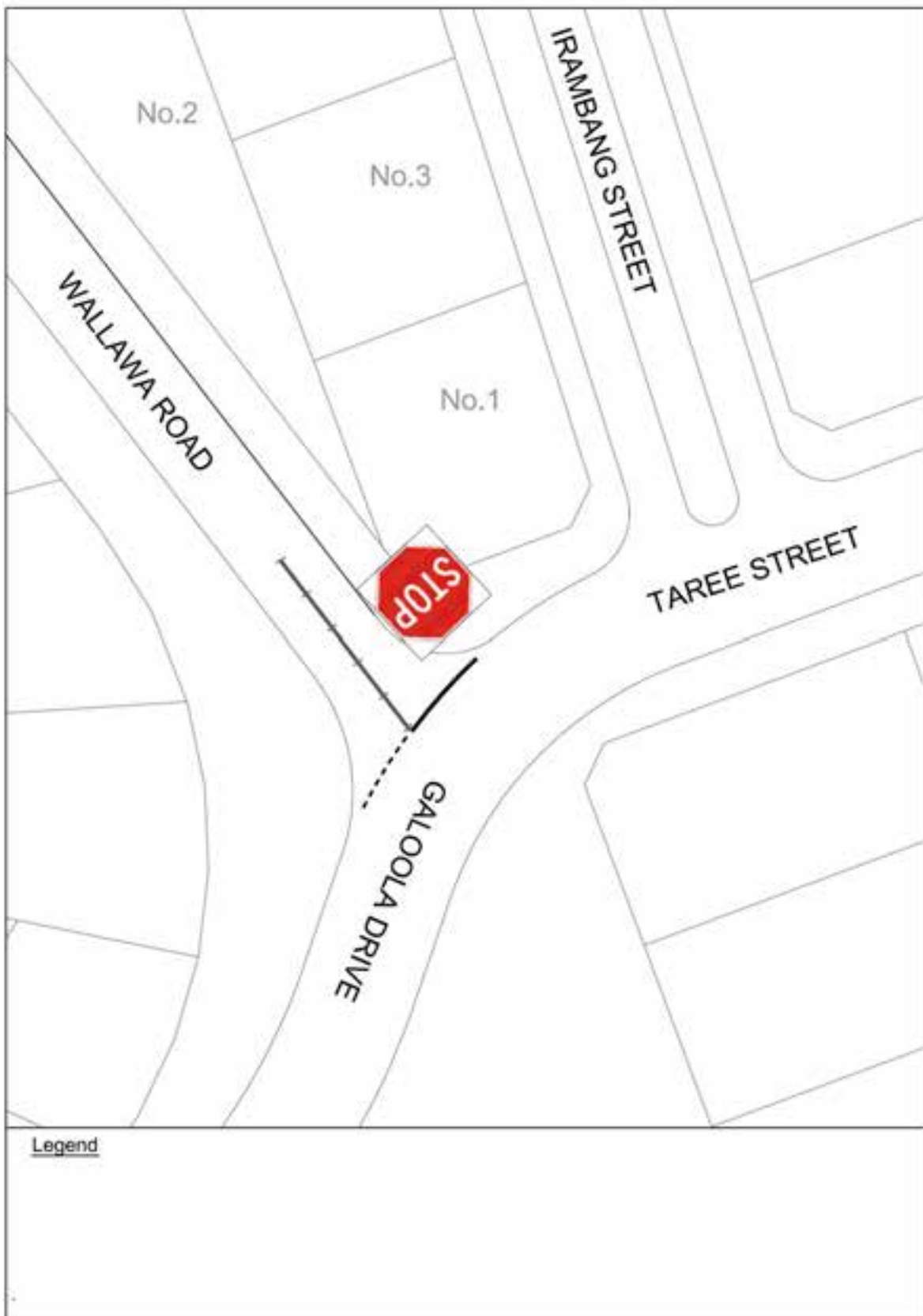
1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 7 February 2012

ITEM NO. 31_08/11
Street: Wallawa Road

ANNEXURE A
Page 1 of 1



C. Listed Matters

C.1 Item: 01_02/12

WILLIAM STREET RAYMOND TERRACE – REQUEST FOR INSTALLATION OF 'KEEP CLEAR' PAVEMENT MARKING

Requested by: NSW Police

File:

Background:

NSW Police have reported difficulties exiting the basement car park of the new police building when traffic is queued back from the traffic signals at Adelaide Street.

Comment:

Australian Standard AS1742.2 allows use of keep clear markings to allow emergency vehicle access from a depot or station.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules –Part 8 Div.2 – Rule 96 – Keep clear markings
AS 1742.2 – Traffic control devices for general use
RTA Delineation Manual – Section 9 – Pavement Markings
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

Approve installation of keep clear markings in William Street Raymond Terrace at the driveway to the Police station, as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

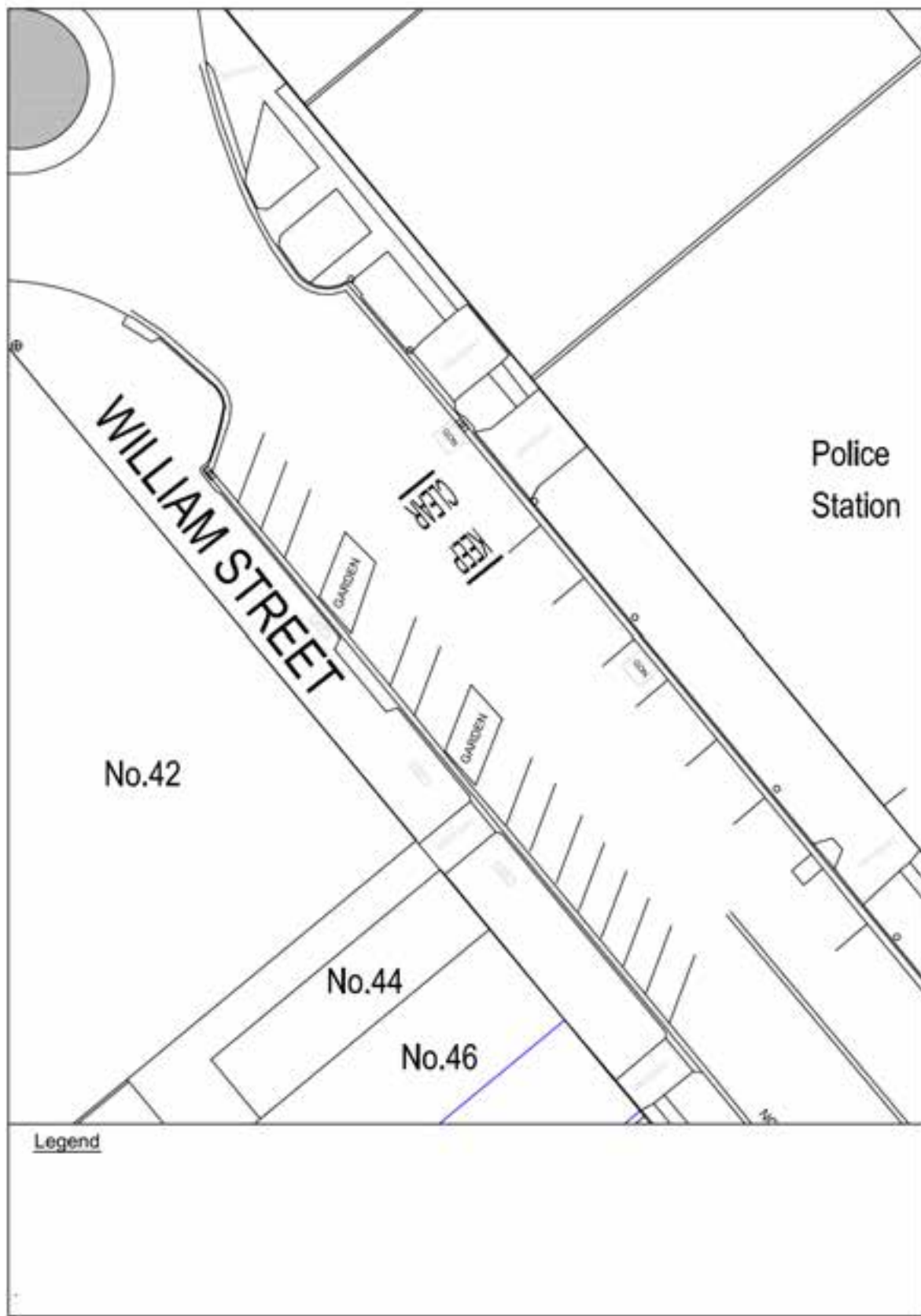
1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 7 February 2012

ITEM NO. 01_02/12
Street: William Street

ANNEXURE A
Page 1 of 1



C.2 Item: 02_02/12

VICTORIA PARADE NELSON BAY – REQUEST FOR INSTALLATION OF 'STOP' SIGN AND LINES AT DIXON STREET INTERSECTION

Requested by: Roads and Maritime Services

File:

Background:

It was noted during Traffic Committee inspections that the intersection of Victoria Parade and Dixon Street Nelson Bay has restricted sight distance. Vegetation growth in recent years and the presence of very large trees at the corner have reduced available sight distance to an extent where the default 'T' intersection law needs to be supplemented.

Comment:

The warrant for installation of a 'Stop' sign and line at the intersection is now met.

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 – Traffic control devices for general use

RTA Regulatory Signs Manual – R1-1

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

Recommendation to the Committee:

Install 'Stop' sign and TF linemarking at the intersection of Victoria Parade and Dixon Street Nelson Bay as shown on the attached sketch (Annexure A).

Discussion:

Support for the recommendation:

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

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 7 February 2012

ITEM NO. 02_02/12
Street: Victoria Parade

ANNEXURE A
Page 1 of 1



C.3 Item: 03_02/12

TAREAN ROAD KARUAH – REMOVAL OF REDUNDANT 'NO STOPPING' RESTRICTIONS

Requested by: Port Stephens Council

File:

Background:

Port Stephens Council is to rationalise the linemarking of Tarean Road to better reflect the current usage of the road. Existing 'No Stopping' zones have been identified that are now no longer required and should be removed to enable more on-street parking especially for visitors to the town.

Comment:

A plan of the proposed linemarking will be tabled at the LTC meeting for information and formal approval.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule167 – 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:

Remove 'No Stopping' restrictions on Tarean Road Karuah as shown on the attached sketch (Annexure A).

Discussion:

Committee members discussed the need to encourage caravan users and other tourists to visit and spend time in Karuah. The opportunity for additional parking, suited to larger vehicles is to be commended.

Support for the recommendation:

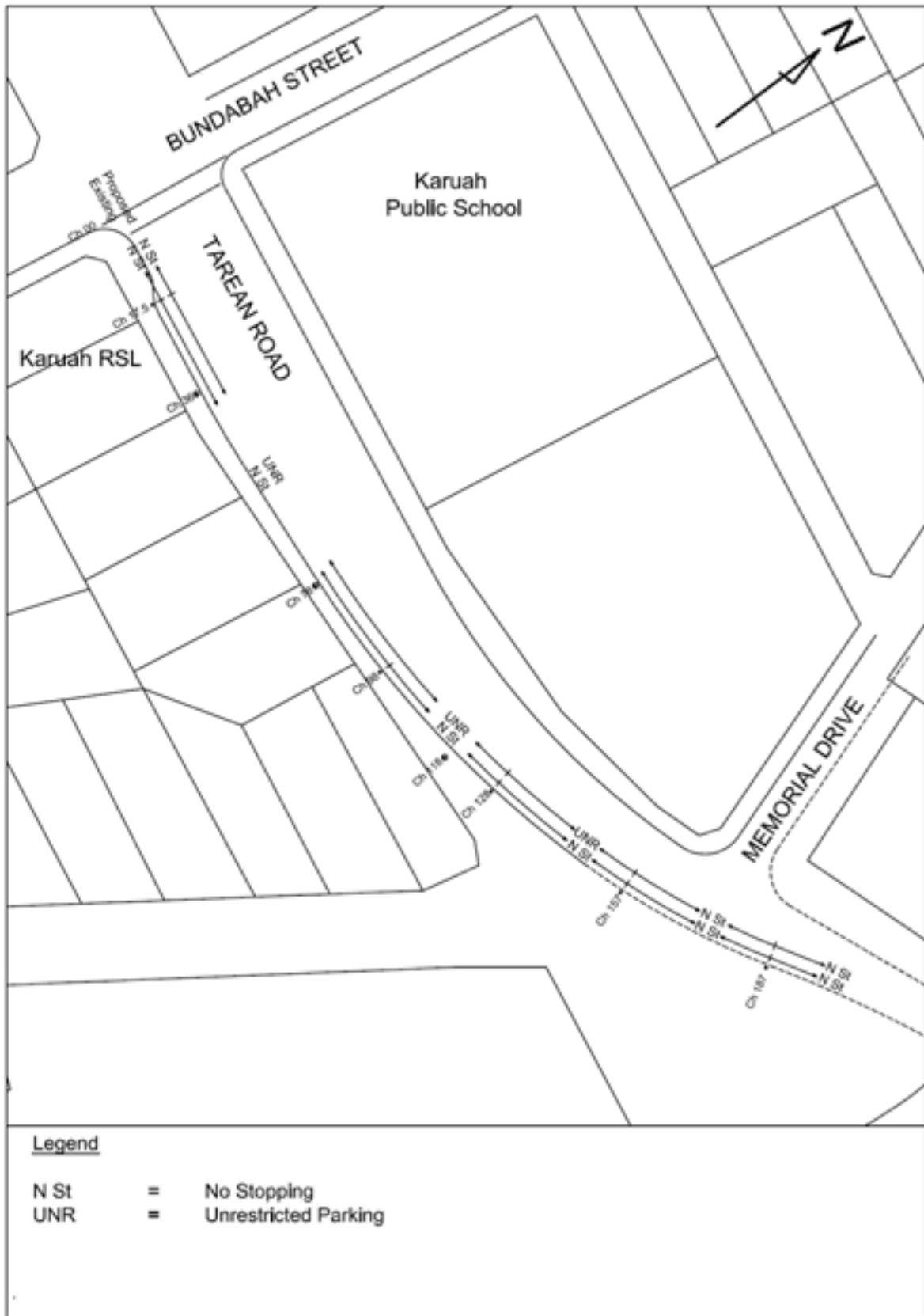
1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 7 February 2012

ITEM NO. 04_02/12
Street: Tarean Road

ANNEXURE A
Page 1 of 1



C.4 Item: 04_02/12

ROADS PORT STEPHENS – REQUEST FOR MARKING 'NO PARKING' ACROSS DRIVEWAYS

Requested by: Port Stephens Council

File:

Background:

Port Stephens Council receives requests from time to time with regard to marking of driveways to prevent or deter parking that blocks access to properties. This item is intended to formalise Council's response to these requests to allow a consistent response within the relevant legislation.

Comment:

Requests usually arise from within the various commercial centres and relate to drivers either not being aware of driveways or ignoring them. Under NSW legislation it is an offence to obstruct access to or from a driveway unless dropping off, or picking up passengers. This is similar to a 'No Parking' zone and does not require signposting.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule198 – Obstructing access to and from a footpath, driveway etc.

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

Recommendation to the Committee:

1. That any linemarking shall be carried out by Council or under Council supervision with full cost to the applicant and shall be limited to painted lines marking the extent of the driveway or cross-hatching if appropriate.
2. Requests for signposting of parking restrictions across driveways will be assessed via the Traffic Committee process.

Discussion:

Support for the recommendation:

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

D. Informal Items

D.1 Item: 501_02/12

NEWLINE ROAD EAGLETON – REQUEST FOR APPROVAL OF CYCLE RACING CIRCUITS FOR 2012

Requested by: Port Stephens Council

File:

Background:

The Hunter District Cycling Club have again approached Port Stephens Council to request permission to use Newline Road for organised cycling events. The Club has previously held road cycling races on one Saturday afternoon of each month between April and October. However, difficulties with other cycling venues has prompted a request for approval to race each Saturday on Newline Road during the cycling season.

The Hunter District Cycling Club have requested permission to race each Saturday however there would be approximately 14 events over the course of the season. A traffic management plan has been supplied that includes traffic control plans with identified signage for the race course. Proposed race times are between 2.00pm - 4.30pm.

Comment:

Council has received very few complaints relating to last years cycling events with comments from members of the public being used to improve signage and event conduct.

Recent roadworks have improved road conditions on Newline Road with improved road shoulders in parts and improved delineation.

A copy of a proposed resident notification leaflet is attached for information.

Discussion:

Committee members asked whether there had been any incidents or safety concerns raised in previous racing seasons on Newline Road. Council officers advised that no safety incidents had been reported and only one or two phone complaints had been received by Council.

Committee's advice:

That the Port Stephens Local Traffic Committee supports the proposed cycling events for the 2012 season on Newline Road.

Appendix 1

Ian Lovell
Secretary Hunter District Cycling Club
PO Box 211 CARDIFF 2285
Telephone: (02) 4927 7234

Dear Resident

Hunter District CC – Road Race Season

Please be advised that HDCC will be conducting cycle events along Newline Rd each Saturday from April to October. Each event commences 2.00pm and concludes approx 4.30pm. On some occasions we will include a loop consisting of Six Mile and Winston Roads. An official Vehicle fitted with flashing lights will patrol the race circuit and monitor the event each Saturday racing is held.

The road will not be closed during each event however we do ask that you use caution when approaching any group of cyclists along the course. East Seaham residents would be well advised to use Seaham Rd as an alternative route into Raymond Terrace. Warning signs will be erected and traffic cones installed at each turning point on the course. These points will be staffed by Accredited Traffic Controllers who will stop traffic whilst cyclists are turning. We ask that you be patient at these turns, at most your journey will be held up for around 30 secs, but very rarely for more than a minute. Where you find it necessary to pass a group of riders please toot your horn rapidly for two or three times to warn the cyclists that you are about to pass. By doing this the riders will move as far left as possible allowing you to pass. There may be potholes and other obstacles in the road so please always use extreme caution passing a group of cyclists. These measures are taken to ensure the safety of the riders.

Over the years our club has produced a number of State and National representatives who have excelled at Olympic and World level, without your continued support, patience and assistance we would no longer be able to compete and produce champions of the future.



2.00pm – 4.30pm
April to the first Saturday in October

**Turn Around Points with
Traffic Control on Newline
Rd at the Memorial at East
Seaham and 1600m North
of Beaton Ave**

**A few events will utilise the
loop around Six Mile Rd and
Winston Rd as well as
Newline Rd, and have a turn
point approx. 2.6 km south of
Six Mile Rd**

Regards

Ian Lovell

Secretary Hunter District Cycling Club

Email: illovell@ozemail.com.au

D.2 Item: 502_02/12

ROADS RAYMOND TERRACE – REQUEST FOR A REVIEW OF ON-STREET PARKING RESTRICTIONS AROUND RAYMOND TERRACE MARKETPLACE

Requested by: MarketPlace Centre Management

File: PSC2005-4189/063

Background:

The MarketPlace General Manager has requested that Port Stephens Council review the on-street parking restrictions currently operating in the Raymond Terrace town centre. MarketPlace has received complaints from business operators and customers regarding non-users of the MarketPlace centre utilising the secure, undercover parking and reducing parking availability for genuine customers.

Comment:

MarketPlace management has put forward several theories to explain the current abuse of the MarketPlace parking:

1. On street car parking within Raymond Terrace appears, to the untrained, to be haphazard and inconsistent. For example, the parking in Port Stephens Street from Bourke Street to Kangaroo Street is 2P with inconsistent signage on the western side of the street. I initially thought there were no restrictions in the vicinity of Dan Murphy and Aldi. Parking in Port Stephens Street from Bourke to William Street is 1P on the western side and limited on the eastern of the street. Parking in Bourke Street west of Port Stephens Street is 1P. Parking in the area directly in front of the previous temporary Police Station / Sports Centre is 3P with allocated parking for Best & Less staff.
 - Please note that we have undertaken exhaustive research into parking within Raymond Terrace.
2. The MarketPlace car park is known to be patrolled by Security and subsequently provides a relative safe place to park.
3. The MarketPlace car park provides protection to the general public in times of extreme weather (heat / rain etc)

Discussion:

MarketPlace management presented a discussion paper to the Traffic Committee regarding concerns with parking at the centre and other issues around Raymond Terrace. The discussion paper is attached as Annexure A.

The main issue raised was that of commuters overstaying the 4 hour parking restriction and utilising the secure undercover parking for all-day stays. Repeat offenders are known to centre management but are able to exploit the system by moving their vehicle during lunch break. Centre management estimates that approximately 10% of available parking spaces in the undercover car park are occupied by all-day parkers on any given day. If long-stay parking were available on-street then this number could be reduced.

It was recommended that Council officers review parking restrictions on surrounding streets to determine if changes can be made without impacting on other businesses. It was also recommended that a meeting be convened with Council's Environmental

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

Health and Regulation section and MarketPlace management to discuss ways to discourage all-day parkers from the centre.

Committee's advice:

1. That Council officers investigate possible alterations to parking restrictions in on-street parking and off-street Council owned car parks.
2. That MarketPlace centre management convene a meeting with Council officers to discuss ways of improving compliance in the MarketPlace car park.

ISSUES

1. There is insufficient car parking available within Raymond Terrace Town Centre for workers or longer term shoppers.
2. Taxi Ranks within Raymond Terrace Town Centre
3. Deliveries to MarketPlace Raymond Terrace

AVAILABILITY

Presently there is a mixture of the following availability:

5 – 15 minute	Parking for specific purposes (The Close / Port Stephens Street)
1 hour	Parking for predominately the majority of street parking locations (William / Sturgeon / Port Stephens & King Streets)
2 hour	Outer Town Centre commercial area (Glenelg / Hunter / King / Port Stephens Streets)
3 hour	Council owned car parks (3 in total)
4 hour	MarketPlace Raymond Terrace undercover
Un-Restricted	MarketPlace Raymond Terrace (Bourke Street) Part of Bourke Street directly adjacent to MarketPlace Council owned car park adjacent to Sports fields Council owned car park (Corner Port Stephens + Glenelg Streets)

MARKETPLACE

MarketPlace has had in existence a 4 hour limit for customers parking undercover for many years. This decision was made to cater for those customers who travelled predominately from outside of the primary catchment area and undertook a complete array of shopping and other transactions (in a single visit). It has always been intended that these customers would park at MarketPlace, then undertake all of their business transactions within Raymond Terrace and then return home after completing their shopping.

Our surveys indicated that the 4 hour limit was generally sufficient for them to transact all of their normal business and do their general shopping.

Unfortunately due to the limited extended parking within Raymond Terrace Town Centre employees of businesses within the Town Centre are now utilizing the undercover car park at MarketPlace for their all day parking. (Commence at 9.00am move their vehicle between 12noon and 1.00pm and then knock off at 5.00pm. Therefore, not subjecting themselves to the possibility of receiving an infringement notice for extended stay but also having the comfort of their vehicle undercover out of the weather (sun & rain). An added bonus is that they are also aware that MarketPlace supplies on-site security for the Centre and customers between the hours of 6.30am and 10.30pm.

COUNCIL OWNED / OPERATED CARPARKS

Council currently owns and operates five (5) public car parks. Three (3) of them are time limited to 3 hours with the remaining two (2) being un-restricted.

PUBLIC TRANSPORT SERVICES (BUS + TAXI)

Raymond Terrace is reasonably well serviced by both bus and taxi services. But, the most prominent issue that we continually receive feedback from our customers is the fact that they do not have access to a taxi rank in the immediate vicinity of MarketPlace. Both of the established ranks in Raymond Terrace require them to cross either William or Port Stephens Streets.

CONCLUSION

MarketPlace Centre Management would respectfully request that the Port Stephens Council Traffic Committee:

1. Undertake a review of the long term / extended parking availability in the Town Centre to allow workers the ability to use Public Car parking facilities and not utilize the limited parking facility under MarketPlace.
2. Engage with the relevant authorities to increase the number of taxi ranks within Raymond Terrace to include one in Port Stephens Street adjacent to the bus stop outside MarketPlace.
3. Clearly mark the area behind GE Money / Gazebo Shopping Centre as an area of No Stopping by either installing appropriate signposting or the installation of bollards. This would be enhanced if the area was painted in reflective road marking paint to clearly highlight the area.

E. General Business

E.1 Item: 601_02/12

TOWN CENTRE CIRCUIT SALAMANDER BAY – REQUEST FOR NO STOPPING RESTRICTIONS OPPOSITE MCDONALDS

Requested by: Mark Newling – Port Stephens Coaches

File:

Background:

It was noted during the Moscow Circus event at the Salamander shopping centre that there are no parking restrictions on the northern side of Town Centre Circuit prior to Bagnall Beach Road. Vehicles are currently able to park there which creates added congestion in this area.

Discussion:

Mr. Newling reported that the Moscow Circus that was held recently at the Salamander Centre was very professionally run with bus travel being encouraged in an effort to reduce traffic congestion at the shopping centre. The issue of vehicles parking on-road within the centre was well managed by the circus and did not become a major issue.

Committees Advice:

That the matter of parking restrictions on Town Centre Circuit be deferred to the next Traffic Committee inspections for consideration.

E.2 Item: 602_02/12

NELSON BAY ROAD SALT ASH – CONCERN REGARDING MULTIPLE ROAD-WORKS IMPACTING ON BUS SERVICE DELIVERY

Requested by: Mark Newling – Port Stephens Coaches

File:

Background:

During the period leading up to Christmas and New Year Port Stephens Coaches services were impacted on several occasions by multiple roadworks at various locations along Nelson Bay Road. This makes it very difficult for Port Stephens Coaches to provide a service in-line with their published timetables and can result in unacceptable delays for commuters.

Discussion:

It was noted by Committee members that the roadworks in question were part of private development works occurring on a State Road. Council's own operations procedures have improved greatly in recent years and notification of roadworks to transport operators is now routinely carried out.

The roadworks associated with private developments are regularly referred to Council officers for comment but are generally overseen by RMS officers. If rescheduling of roadworks is not practical then at least traffic controllers should be instructed to give priority to buses when traffic is queued.

Committees Advice:

The Traffic Committee recommended that all practical steps be taken to minimise disruptions to scheduled bus services caused by roadworks.

E.3 Item: 603_02/12

ABUNDANCE ROAD MEDOWIE – REQUEST FOR IMPROVED WARNING DEVICES ON LISADELL ROAD PRIOR TO THE ABUNDANCE ROAD INTERSECTION

Requested by: Cr Geoff Dingle

File:

Background:

Another recent accident has highlighted issues with this intersection. A vehicle has gone through the intersection and taken out the hazard warning signage, leaving the intersection in a dangerous state.

Discussion:

It was noted by Committee members that the number of accidents that have occurred at this intersection indicate that more warning signage and/or lighting may be required.

Committees Advice:

The Traffic Committee recommended that the missing signage be replaced and the intersection be inspected as part of the next Traffic Inspection Committee agenda.

E.4 Item: 604_02/12

KULA ROAD MEDOWIE – COMPLAINT REGARDING DRIVER BEHAVIOUR AT THE KIRRANG DRIVE INTERSECTION

Requested by: Cr Geoff Dingle

File:

Background:

Council works crews have left an unusually wide gravel shoulder at the above intersection. This encourages some drivers to 'rally' around the corner with excessive speed, endangering other road users.

Discussion:

It was noted by Committee members that some heavy vehicle operators, including buses, use the area for short-term parking as there is nowhere else to pull off Kirrang Drive safely due the deep table drains beside the road.

Committees Advice:

The Traffic Committee recommended that this location be inspected as part of the next Traffic Inspection Committee agenda.

ITEM NO. 13

FILE NO: A2004-0372

COUNCIL AND COMMITTEE MEETINGS CYCLE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER’S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt Option 2 meeting cycle contained in **ATTACHMENT 1**;
- 2) Make the relevant changes to the Code of Meeting Practice to reflect the new meeting cycle and public exhibit changes for 28 days.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

	<p>Councillor Sally Dover Councillor Steve Tucker</p>
	<p>That the recommendation be adopted.</p>

ORDINARY COUNCIL MEETING – 27 MARCH 2012

054	<p>Councillor Ken Jordan Councillor Sally Dover</p>
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1. Adopt Option 2 meeting cycle contained in ATTACHMENT 1; 2. Make the relevant changes to the Code of Meeting Practice to reflect the new meeting cycle and public exhibit changes for 28 days. 3. Change the May Ordinary meeting of Council from 22 May to 29 May 2012.

BACKGROUND

The purpose of this report is to allow Council to review its Committee and Council meeting cycles.

Council at its meeting on 13 September 2011 resolved to trial for a period of three (3) month holding Council Committee meetings on the 2nd Tuesday of the month and Ordinary Council meetings on the 4th Tuesday of the month.

Since this time Council have held four (4) Council Committee meetings and four (4) Ordinary Council meetings.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

A review of the number of items considered by Council during this period and for the three (3) months prior, indicates that Council is dealing with a similar number of items within a similar period of time for each meeting. However, Council only requires one Council Committee and one Council meeting per month, instead of two each month to achieve this. It is important to note that Council has achieved efficiencies by only having one Council Committee and one Council meeting per month. This also provides increased efficiencies to staff in preparation of the agendas and minutes and has a positive impact on costs.

It should be noted that should Council wish to select another option other than options 1 or 2, additional resources will be required to meet the increased workload associated with the preparation of the agenda and minutes for Council and Committee meetings.

FINANCIAL/RESOURCE IMPLICATIONS

All financial implications are provided for within the existing budget.

LEGAL AND POLICY IMPLICATIONS

Section 365 of the Local Government Act requires Council to meet at least 10 times per year in different months. The Local Government (General) Regulation provides for Council to establish such committees as it considers necessary. Council must specify the functions of such committees.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
That Council does not meet the requirement of the Local Government Act 1993, of meeting on at least 10 occasions per year.	Low	Council's current meeting cycle complies with the Local Government Act 1993.	Yes

SUSTAINABILITY IMPLICATIONS SOCIAL IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) General Manager;
- 2) Councillors.

OPTIONS

- 1) Adopt the recommendation;
- 2) Adopt Option 1 with a trial for 3 months of the new meeting cycle;
- 3) Amended the recommendation;
- 4) Reject the recommendation.

ATTACHMENTS

- 1) Meeting Cycle Options.

TABLED DOCUMENTS

Nil.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

ATTACHMENT 1

WEEK	OPTION 1 Current cycle	OPTION 2	OPTION 3	OPTION 4
1	4.00pm to 5.30pm 2-way conversation Program	4.00pm to 5.30pm 2-way conversation Program	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Council Committee Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Presentations and Workshops as required.
2	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Council Committee Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Council Committee Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Ordinary Council Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Council Committee Meeting followed by Ordinary Council Meeting
3	4.00pm to 5.30pm 2-way conversation Program	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Council Committee Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Presentations and Workshops as required. Other Joint Venture meeting such as Aboriginal Strategic Committee & Port Stephens Tourism are held throughout the 12 month period
4	4.00pm to 5.30pm 2-way conversation Program 5.30pm Ordinary Council Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Ordinary Council Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Ordinary Council Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Council Committee Meeting

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

WEEK	OPTION 1 Current cycle	OPTION 2	OPTION 3	OPTION 4
				followed by Ordinary Council Meeting
5	<p>4.00pm to 5.30pm 2-way conversation Program</p> <p>5.30pm Presentations and Workshops as required.</p> <p>And/or other Joint Venture meeting such as Aboriginal Strategic Committee are held throughout the 12 month period.</p>	<p>4.00pm to 5.30pm 2-way conversation Program</p> <p>5.30pm Presentations and Workshops as required.</p> <p>And/or other Joint Venture meeting such as Aboriginal Strategic Committee are held throughout the 12 month period.</p>	<p>4.00pm to 5.30pm 2-way conversation Program</p> <p>5.30pm Presentations and Workshops as required.</p> <p>And/or other Joint Venture meeting such as Aboriginal Strategic Committee are held throughout the 12 month period.</p>	<p>4.00pm to 5.30pm 2-way conversation Program</p> <p>5.30pm Presentations and Workshops as required.</p>

ITEM NO. 14

FILE NO: PSC2011-04792

COMMUNITY GRANTS – 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 Mayoral and Ward Funds as detailed below:

EAST WARD

- a) Nelson Bay and Districts Business Chamber Ltd – Contribution towards Fishing Tournament - \$500.00.
- b) Nelson Bay Croquet Club- Contribution towards retractable rollers awnings - \$1,000.00.
- c) Tomaree Accommodation Services Inc – Contribution towards operating costs - \$500.00.
- d) Rotary Club of Nelson Bay – Contribution towards a young persons driving education program - \$2,000.00.
- e) Corlette Hall Parks & Reserves Committee – Contribution towards bench seating - \$1,000.00.
- f) Rotary Club of Nelson Bay – Contribution towards a mental health & suicide prevention program - \$1,000.00.
- g) Hunter Botanic Gardens Ltd – Contribution towards the purchase of a new pump and lining - \$500.00.

CENTRAL WARD

- a) Tanilba & Districts Golf Club Ltd – Contribution towards repair/replacement to amenities - \$2,000.00.
- b) Port Stephens Young Christian Outreach – Contribution towards youth hall improvements - \$500.00.
- c) Sailability NSW Port Stephens – Contribution towards equipment - \$1,000.00.
- d) Port Stephens Veterans Golfers Association – Contribution towards tournament costs - \$1,000.00.
- e) 1st Tilligerry Scout Group – Contribution towards installation of a sprinkler system - \$1,000.00.
- f) Medowie Seniors Social Club Inc. – Contribution towards purchase of equipment - \$2,000.00.
- g) Hunter Botanic Gardens Ltd – Contribution towards the purchase of a new pump and lining - \$500.00

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

WEST WARD

- a) Riding for the Disabled Association – Contribution towards an early invention program for disadvantage children and young people with a disability - \$2,000.00.
- b) St John's Anglican Church – Contribution towards a safe area for children - \$1,000.00.
- c) Seaham Parks & Wetland Committee – Contribution towards a water bubbler and bike rack - \$1,000.00.
- d) 1st Raymond Terrace Scouts – Contribution towards Jamboree costs - \$500.00.
- e) Karuah Senior Citizens Club – Contribution towards operating costs - \$500.00.
- f) Hunter Botanic Gardens Ltd – Contribution towards the purchase of a new pump and lining - \$500.00

MAYORAL FUNDS

- a) Hunter Botanic Gardens Ltd – Contribution towards the purchase of a new pump and lining - \$500.00.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

	Councillor Steve Tucker Councillor Ken Jordan
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

055	Councillor Steve Tucker Councillor Bruce MacKenzie
	It was resolved that the Council Committee recommendation be adopted.

BACKGROUND

Council's Financial Assistance Policy provides for Community Grants to be called in July and January each year. This is the fifth round of funding under this Policy.

Council called for Community Grant applications from 15 December 2011 to 29 January 2012. All applications received are shown at **ATTACHMENT 1**. A total of 26 applications were received.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

The total value of the Grants received is:

East Ward	\$ 15,900.00 – shown in blue in attachment
Central Ward	\$ 16,908.00 – shown in yellow in attachment
West Ward	\$ 9,000.00 - shown in green in attachment
Whole of LGA	<u>\$ 2,500.00</u> – shown in white in attachment
	\$ 43,498.00

The applications received were assessed by the panel comprising of the Mayor, Cr Westbury, Councillor's Dover, Tucker, Jordan, in accordance with the criteria under the Financial Assistance Policy.

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 Community Strategic Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

FINANCIAL/RESOURCE IMPLICATIONS

Council Ward Funds are the funding source for all financial assistance. Council has provided for \$36,000 per year, with \$18,000 being available on each occasion Grants are called. These Grants are limited to \$2000 per grant.

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.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Council being liable for capital projects on land other than community land should Council provide funding for such works	Low	Council's current policy restricts such provision of funding.	Yes
Council not complying with Section 356 of the Local Government Act 1993	Low	Council's current policy provides specific requirements for compliance.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The provision of the Community Grants allows organisations and groups to build relationships and provide events to the local community whilst further developing the cultural, social and economic aspects of the local government area.

CONSULTATION

- 1) Mayor;
- 2) Councillors;
- 3) General Manager;
- 4) 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

- 1) Community Grants applications received.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

No.	Organisation Name	Your Name	What is the total amount of your request (excl. of GST)?	What is the total cost of the project (excl. of GST)?	Why is the project not able to be funded from other sources?	Please provide details of how you and/or your organisation intends to expend the funds.	How will other residents of Port Stephens benefit from your activities?	Evaluation- How will you and/or your organisation know if the project/activity has successfully met the project outcomes described in question above?
1 - Page 1	Riding for the Disabled Association (NSW) Raymond Terrace & Lower Hunter Centre	Judith Oliver (Finance Officer)	\$2,000.00	51464.99	Riding for the Disabled receives no ongoing funding from the Federal or State Government. Our annual operating budget of approx \$84,000 is entirely funded by rider/driver fees and numerous annual fund raising activities that are undertaken by our volunteers. The provision of an educational, therapeutic and recreational program that meets the needs of people with a disability in our community can only be accomplished	The aim of our project is to provide an opportunity for financially disadvantaged children and young people with a disability to participate in therapeutic and educational horse riding and horse management activities in a fun, safe and supportive environment. We will provide an early intervention program that is designed to improve the quality of life of people with a disability by encouraging them to interact with people and their environment in new ways, to develop their communication skills, and build positive relationships with	Our programs and services are unique and are offered to people with disabilities who reside or attend school in the Hunter Region. Our target region has a higher proportion of people with disabilities than other areas of the State, and many of these people participate in our programs. This is supported by the Port Stephens Council Cultural Plan which outlines that 25% of our local community has some form of disability. This rate is significantly higher than the State and National averages of 18% and 20% respectively. Riders and drivers who participate in our programs are from lower socio-economic backgrounds. The Port Stephens Council Social and Community Plan highlights that people with disabilities and families with people with disabilities are far more likely than any other cultural group to have a lower socio-economic background	Our project is designed to assist financially disadvantaged children and young people with disabilities to access our therapeutic programs. Our Management Committee will be responsible for the successful completion of the project, the ongoing recreational activities and early intervention programs that will be conducted. Each potential rider will be medically assessed for suitability in the program via a medical form completed by their individual doctor or specialist. Once this information is made available, the compulsory rider registration (to cover state insurance requirements) will be paid to Riding for the Disabled Association (NSW) head office, who holds our Publicity Liability

their family, friends

(Disability, New South Wales

					with community support. The demand of additional fundraising on our volunteers for this program will result in an extended time frame (up to 6 years) before the program would begin. During this time, people with a disability will not be able to access programs that meet their unique needs due to extreme financial restrictions and a lack of other programs in our community.	and carers through increased verbal and non-verbal language. We have identified 10 people with a disability who will benefit from this early intervention program in 2012. Each person with a disability is from a lower-socio economic background and has difficulty accessing our programs due to financial concerns alone. Each person is from a single parent home and is reliant upon Government Assistance as their only source of family income. They are unable to afford the full costs of the program and are unable to access other community based programs that meet their unique needs. The RT&LH Centre appreciates the financial	ABS 1998). Our riding community benefit from the facilities our centre provides every day. Achievements are seen through improved muscle tone; balance; fine and gross motor skills; stretching of spastic muscles and decreased spasticity; increased joint motion; sensory integration; improved self-confidence; patience; self-control and discipline; friendship; interaction with a world outside themselves; fun and enjoyment; and improved eye-hand co-ordination. The success of RDA is not just measured by the improved skills and self image of our clients, but also in the wonderful supportive atmosphere that is the essence of the organisation. We have an extremely high retention rate of volunteers from the Port Stephens Local Government Area. This is not just due to our adherence to the administrative necessities of managing a large volunteer based organisation, but in our ability to retain the “feel” of the	Insurance Cover on behalf of all RDA Centres across NSW. The riders will then be accepted into an appropriate program that meets their individual needs and goals. This is determined by feedback provided on the medical form and from consultation with the riders, their families, carers and teachers. Each week, grant money will be allocated to our Centre to allow each rider to access our programs. Any information about rider fees and how they are paid will be kept within the management committee to ensure the privacy of each project participant in accordance with our policies and procedures. All of our programs are planned, implemented and evaluated by our volunteers. At the same time each week, the riders will participate in a program that is specifically designed to challenge
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MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

					<p>disadvantages faced by people with a disability and structures our fees accordingly. The minimal riding fees charged do not meet the costs of riding session operation and the short fall is raised by our volunteers and community support. Based on our most recent audited figures, it costs \$27.34 each time one person rides. The rider pays \$10 only. The shortfall is \$17.34 per ride. This shortfall must be raised via community support to ensure that our programs continue each year. We will begin our program at the Commencement of Term 2 Riding in the week beginning Monday 23 April, 2012. The project will be completed by Friday 9 November 2011.</p>	<p>initial tiny organisation while growing to our current size. We also foster a meaningful relationship between volunteers and the Centre's clients. As far as possible, volunteers always work with the same client to develop a sense of trust and understanding of the individual needs of each rider. This bond grows over time and is often cited as the single main reason our volunteers not only remain with us over the years, but also turn up on their day. They simply don't like to let the client down.</p>	<p>them on a personal and physical level. Observations and volunteer comments will be recorded after each session. These observations will be used to plan the next lesson, as well as forming part of the grant reporting procedure. The observations will be evaluated against the following projected program outcomes:</p> <ul style="list-style-type: none"> • Improved health, wellbeing and quality of life • Improved balance, posture, and core body and muscle strength • Reduction in muscle spasticity and an increase in positive muscle tone • Building of independence, self confidence, self esteem and personal empowerment • Promotion of spatial awareness • Promotion of decision making and understanding of cause/effect • Development of eye-hand coordination, gross and fine motor skills • Development of language, communication, reading and speech skills • Sensory stimulation and access to a recreational activity • Improved memory and concentration • Increased mobility and
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MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

								<ul style="list-style-type: none"> freedom • Learning the value of rules • Personal challenge leading to achievement • Learning about the need of our horses and an appreciation of their welfare • Community participation and social integration • Opportunity to take controlled risks safely
2 - Page 7	St John's Anglican Church, Raymond Terrace	Tina Summers	2000	projected cost \$3500	<p>Because the project will benefit St John's Anglican Church, Raymond Terrace and the groups such as GAPS (Grandparents as Parents) and 4 Mums & 4 U 2 (Mum's Group) which use our facilities. These groups do not have the funds to be able to help with costs.</p>	<p>St John's Anglican Church, Raymond Terrace desperately needs a safe area for children to play while their parents have a chance to connect to and with the community either through the services at St John's or through one of the groups which runs from our premises: GAPS (Grandparents As Parents) and 4 Mums & 4 U 2 (Mums' Group). At present there is a dangerous situation where children even while under supervision of caregivers can suddenly run onto oncoming traffic - a tragedy which nearly occurred recently. The Kids' Fenced Area will be joined to the Parish Ministry</p>	<p>The Kids' Fenced Area will benefit the residents of Port Stephens by providing a safe environment for children to play whilst caregivers are either, connecting to the community with groups such as GAPS and 4 Mums & 4 U 2; worshipping at St John's services; enjoying weddings and baptisms; grieving at funerals or at a special function held in the Parish Ministry Centre. Parents and caregivers from across Port Stephens will be able to rest, relax and make friends while their children are playing safely close by.</p>	<p>When the Kids' Fenced Area is being used by the aforementioned groups and during events to keep children safe.</p>

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

						Centre and will have direct access from the building, minimising potential accidents.		
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MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

3 - Page 10	Seaham Park & Wetland Committee (355b of Pt Stephens Council)	Pre McGee	1000	1000	We are a 355b Committee of Council and other sources of grants require a Council to provide 50% and Council will not commit to this at this stage.	In December 2011 a skate park was commissioned in Seaham Park. It is very well patronised and it has come to the Committee's attention that 2 small items are required for health and safety reasons. These are (1) a water bubbler to attached to an existing tap, and (2) a bike rack. The water bubbler will be installed by a Council approved plumber.	Many children and young adults are coming to the Park without water bottles and there is a health risk of dehydration. There is a tap adjacent to the skate park however others using the Park are turning the tap off very tightly because children use it and leave it dripping. A push button water bubbler similar to the ones used in schools and universities made to AS/NZS (Standard) 3718 is required. Children are riding their bikes down to the skate park and leaving the bikes on the ground which is creating a hazard for other users of the Park. There is no bike rack in the Park so bikes are left on the ground creating obstacles for other Park users to walk around or trip over. With the increased patronage of Seaham Park the bikes on the ground have become a nuisance.	The water tap will not be left dripping nor turned off so tightly that children can not turn it on. Bikes will be safely parked in the bike rack. The Committee recognises we will have to encourage some children to use the bike rack.
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MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

4 - Page 13	1st Raymond Terrace Scouts	Rachel Popowski	22000	22000	We are asking for community support a lot is relied upon community involvement and their willingness to support such an event.	The funds are a direct cost to the Jamboree which is held every three years. These cost cover travelling, meals and accommodation, plus all activities involved. This year the scouts will be travelling to Queensland.	This is an event that encourages children to get involved in a community activity, which involves families to assist and get involved with there children. As the scouts not only go away they also perform in community events such as Australia Day, Anzac Day, clean up beach day and other community activities. Raymond Terrace scouts has successfully be running for 80 years, over time as costs of living has become more expensive so has community involvement in help in raising funds. We also find it difficult to gain local support from the local newspaper.	By assisting the scouts with their Jamboree it encourages the child to stay with such on organisation. If we can encourage such an event and gain childrens interest in becoming a scout, allowing them to give back to the community.
5 - Page 16	Karuah Senior Citizens Club (Day Care)	Dawn Lyall	2000	2000	Karuah Senior Citizens Club is run solely by volunteers. We understand that since the by pass the local business's in Karuah have been doing it tough themselves.	Pay for Public liability, costs of hall fees, food, excursions in the Port Stephens area, hiring a bus to visit other Senior Citizens Clubs in Raymond Terrace and Clarence Town.	Karuah Senior Citizens Club door is open to every senior over 50 in the Port Stephens area they are most welcome to come along and visit us for morning tea and lunch. In addition in some cases it gives respite for family members who act as carers allowing a little time for themselves.	Karuah Senior Citizens Club has been running continually for 30years plus with out grants if this grant is successful we will be able to fill our wish list for our seniors.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

6 - Page 18	Tanilba & Districts Golf Club Ltd	Peter Rodd	2000	2000	The Golf Club is currently in overdraft and has to prioritise projects such as this (a toilet that is on the course and available to the public as well as players)	The toilet on the golf course was vandalised late last year and we have been unable to afford the repairs/replacement to date. We need to replace the sink, water system, toilet bowl and seat. We can concrete the toilet in ourselves and we can repair the water tank. This is basically a community toilet with disabled access (it is on the Crown land portion of the golf course).	The toilet is accessible to all residents of the peninsula, as well as the golf course users.	Once the toilet is "up and running" again, life will be a lot easier for everyone.
7 - Page 20	Port Stephens Young Christian Outreach	David Barber	500	500	Almost all our funds come from individual donations.	We wish to buy building materials to renovate part of our youth hall to 1. Improve safety 2. Maintain structural integrity and 3. Enable better usage.	There are approximately fifty families (mostly financially disadvantaged) in and around Salt Ash whose children enjoy programs in the youth hall. We hope to provide a safer and better environment for them. There are also other community groups who occasionally use the hall.	1. Continued safety of the buildings users. 2. Increased use of the building. 3. Better programs provided for the users

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

8 - Page 22	Sailability New South Wales Incorporated - Port Stephens Branch	Richard Byrne, Secretary	1927	1927	Requests for funding not granted.	The main part of the grant will be spent on replacing parts that have been damaged through wear and tear: New sails for Access Dinghy 303 \$957 New rudder box for Access Dinghy 2.3 \$11302 New foremast for 303 Dinghy \$226 New reefing pulley for 303 \$110 Replacement cordage (ropes) \$100 Also, fuel for Volunteers \$150	Our focus is to make sailing affordable and accessible for all. Hence we take children from special classes in High Schools sailing, as we do adults from Group Homes and Day Care groups. This gives particularly the latter the opportunity to interact with others outside their normal group and experience the freedom of sailing. Many of our clients come from the Council area. We also offer residents of Port Stephens the opportunity to sail on the inviting waters of Grahamstown Dam (where we are situated). We conduct several "Learn to Sail" classes each year. The grant will help us maintain our boats at a safe standard.	Essentially: all our boats are being used, with none unavailable because of broken bits.
9 - Page 25	Sailability NSW - Port Stephens Branch	Richard Byrne	1677	1677	Other requests for funding not successful.	We need to make the following repairs to the boats we use: 1 set sails for Access Dinghy 303w \$957 1 rudder box for Access Dinghy 2.3 \$302 1 foremast for Access Dinghy 303w \$226 1 reefing pulley for Dinghy 303 \$110 Freight (estimate) \$ 82 Total (exclusive of GST) \$1,677	We take residents of Group Homes and Day Care Centres sailing, giving them the experience of a degree of freedom, likewise with students from special classes in High Schools. We also teach residents of Port Stephens how to sail at a cost much less than commercial sailing schools. We do our best to allow residents take advantage of the waters of Grahamstown Dam, limited mainly by the number of volunteers we have in our membership.	We will know by having the boats the above parts are intended for available for sailing.

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10 - Page 27	Port Stephens Veteran Golfers Association	Murray Black	2000	25000	Difficult to raise sufficient start-up money each year as promotion etc starts 8 months before the event.	Advertising Tournament to previous and prospective players involves printing, stationery, postage, phone calls, transport and emails.	This event attracts up to 200 golfers and their partners from all over NSW and other states. They are here for a week spending money on accommodation, meals and entertainment to a low tourist time. With roughly 350 people averaging \$400 expenditure this amounts to \$140,000 coming into the area. This will multiply to at least \$250,000 and filter through to the community.	Accurate statistics and financial records are kept for this event and compared to budget and previous years.
11 - Page 30	1st Tilligerry Scout Group	Ross Kalie	2000	6500	We only raise funding as a local group which only covers cost and maintenance. We have unexpected costs at the moment due to Vandalism. We will have to claim on insurance since it will cost about \$8000 to renew fencing etc. So we will need to pay the excess required for the policy. We receive no financial support from Scouts Australia	To install a sprinkle system and turf an area to make a safer playing areas for the children	When completed other Scouting groups from Port Stephens will be able to use the facilities as well for camp overnight for weekend activities	This will make the scouting grounds safer for the children to play on.
12 - Page 32	Medowie Football Club	Robert Panther	1994	1994	Community based sporting club and to minimise expenses to members has not			

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

					included requirement in Registration fees			
13 - Page 34	Medowie Seniors Social Club Inc	Ray Willis	2000	3500	Medowie Seniors has limited funds and ability to raise funds. Funds available are used to pay for venue costs and subsidise members activities and costs	The purchase of carpet bowls and suitable bowls carpet to be used to play social and competitive carpet bowls in the Medowie Community Centre	All senior members of Medowie are welcome to join and participate in Medowie Seniors social activities. This will provide social opportunities, increased physical activity and opportunities to invite other community groups to participate. Medowie does not have a bowling club and limited resources to service seniors in our community, Raymond Terrace is the closest bowling venue and is not easy to access without private transport.	Increased membership and participation by members of Medowie Seniors Club. Regular scheduled games and activities as part of the clubs program of social events.
14 - Page 36	Medowie Hub	Ali Binskin	2000	2000	We are two local people in the community trying to start a website specifically for local Medowie People. I would have no idea where else to look for funding.	Tiffany Dunn and Ali Binskin are two local people from Medowie who both own homes in Medowie. We are very passionate about our community and where our town is going and growing from here. We would love to see Medowie flourish and prosper and for locals to be able to be aware of what is happening in our town. With such a nomadic existence due to the RAAF personnel that move in and out regularly,	This is a site by locals for locals, and will benefit the whole community of Medowie and anyone who regularly comes to the area. It is of benefit for locals to promote their businesses, people to easily be able to find businesses they need to, a social outlet for new community members to meet people. There will be hot topics within the website, as well as calendars of events, promotion of local businesses within the community etc.	on 17th January we launched the facebook group Medowie Hub. We already have 30 people who have joined the page and already requests for advertising their businesses. If this number on facebook continues to rise then this part has been a success. We plan to build interest on the facebook site within the next two weeks so we can launch www.medowiehub.com.au on January 31. Very quickly we will be able to see how successful this is by how many people use

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

					<p>we want somewhere that new people to the community can access a website and facebook group and find out where they can get anything they need. When the local markets are on, where they can find local hairdressers, doctors, dentists etc and also for local work at home mums and local businesses as well as not for profit organisations can market themselves and their business. the funding will be used solely for the purpose of printing of flyers, car stickers, fridge magnets etc. This will ensure that everyone in the community is aware of the website and facebook page and can instantly support within our community wherever possible. Unsure if I am supposed to break down the marketing costs for you, but I am able to if need be.</p>		<p>the directory to register their businesses, by the amount of people voting on our hot topic section, chats on the forums, and a few other things planned.</p>
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MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

15 - Page 39	Corlette Hall Parks & Reserves 355c Committee of Port Stephens Council	Margaret Wilkinson, Hon Secretary	1800	1800	This Committee received no Council Financial Assistance Grants in either the February or July 2011 rounds. From the Balance in cashbook as at 31.12.11 commitments totalling over \$5,500, including a small environmental grant and the Conroy tap/shower, are to be paid out during January/Feb with the remaining \$2,500 set aside to returf Conroy Park and contribute to internal painting of the hall.	<ul style="list-style-type: none"> • Install two heritage and interpretative signs, one adjacent the cycleway near the Middle Bagnall Beach carpark and the other adjacent the Bartlett Cycleway sign at West Bagnall Beach (Pantowara) Reserve • The style and format used would be consistent with the previous signage erected last year at the entrance to the Bridle Path at Dutchies and would act as a continuing education for passers by as they ride/walk from Dutchies along the Bartlett cycleway. • The expertise of Council environmental staff, indigenous leaders and local historians would be sought to ensure the correct information is displayed on signage. • There is an opportunity to consider including the achievements of the late John Bartlett (after whom the cycleway has been named) on one of the signs located near the Bartlett Cycleway 	<ul style="list-style-type: none"> • Provide an educational aspect to enrich cycling and walking experiences as seen at other locations across the world. • The value of increasing the biodiversity of the bush area to provide habitat for birdlife and other species would be acknowledged and would increase people's knowledge and understanding. • The aboriginal heritage of the beach as highlighted previously in the Foreshore Management and Waterfront Masterplans would provide an education to locals and visitors. • Giving the area a sense of "being cared" for may reduce vandalism of the area generally and encourage respect amongst residents. 	<ul style="list-style-type: none"> • People reading the signs and providing positive feedback on the information and presentation • Increase in volunteers to care for the bush • Reduction in vandalism of signs
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MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

						entry point at West Bagnall.		
16 - Page 42	Nelson Bay Croquet Club	Ron Exton	1800	\$1800 est	Club reserves have been built up since 1999, and are now used to fund ground maintenance budgeted at \$12000 per annum. A substantial amount is earmarked for equipment replacement. The club is responsible for playing area maintenance and as such has to supply fine-cut mowers, sprayers, scarifiers etc. These units are expensive, depreciate with heavy use, and are costly to maintain.	The clubhouse, which is used to provide refreshment during breaks in play, and is used to prepare lunches during visits by neighbouring clubs, is fitted with a sink and cold water only. Hot water is provided by the use of an urn situated on a bench adjacent to the sink. The committee consider this has the potential to cause an accident with people crowding around trying to fill cups with boiling water. Should the urn be pushed off the bench serious injury could occur. It is proposed to install a ZIP wall mounted water heater over the sink. This is a safe solution to a potentially hazardous situation.	The club provides a physical and social outlet for some 60 + residents (mainly retirees) of Nelson Bay. Membership is open and it is expected to be expanded steadily as further services are offered. We have hosted pennant competition and a number of holidaying visitors to the Bay. Our club, by welcoming visiting players is providing another outlet for people who visit our community. We have regular weekly competition, open days to introduce interested people to the sport, and instruction is given to new players who therefore pick up new skills.	Installation of a hot water system will be immediately visible and useable and safe to use.

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17 - Page 45	BAY BOOTSCOOTING LINE DANCE CLUB	MEL SMITH	1000	1000	THE COMMITTEE DID NOT APPLY FOR FUNDING FROM ANY OTHER SOURCE	1: COSTUME HIRE 2: HIRE OF TOMAREE HIGHT SCHOOL HALL FOR DANCE WORKSHOP & SOCIAL 3: PRIZE MONIES FOR THE SHOWCASE WINNING GROUPS IE: 1ST 2ND & 3RD 4: DECORATIONS FOR VENUE	THE DANCE CLUB ACTIVELY ASSISTS IN THE ORGANISATION OF THE LINE DANCE COMPONENT OF THE JUNE COUNTRY MUSIC FESTIVAL AND ORGANISE OPEN INVITATIONS TO ALL LOCAL DANCE GROUPS TO PARTICIPATE IN THE DANCE TALENT SHOWCASE. THE DANCE SHOWCASE/WORKSHOP/S OCIAL ARE GREAT OPPORTUNITIES TO PROMOTE LOCAL DANCE GROUPS AND INDIVIDUAL TALENT AND INTERACT WITH THE COMMUNITY.	THE SUCCESS OF THE PROJECT WILL BE JUDGED BY THE NUMBER OF DANCE GROUPS PARTICIPATING AND THE NUMBER OF PEOPLE ATTENDING EACH EVENT
18 - Page 48	Nelson Bay and District Business Chamber Ltd	Marian Sampson	2000	50000	The event is of a large scale and is celebrating fifty years of the NSW Game Fishing Tournament in Nelson Bay and Port Stephens. While the project has created its own income stream an injection of an additional \$2000 will see us able to provide more free entertainment to Port Stephens residents and visitors to the region.	The funds attained through the council grant program will be expended on enhancing the experience of attendance at the event by provision of additional local performing artists and stage installation on the foreshore. On February 18-19 and 25-26 there will be free entertainment and markets on the foreshore on March 3- 4 we will be holding a celebration of the 50th anniversary of the NSW Game Fishing Tournament in Port Stephens.	The event will be held on the Nelson Bay Foreshore precinct and all residents of Port Stephens and the greater region are welcome to attend the free event which will provide free entertainment on 3 stages, and a fireworks exhibition on the night of March 3rd, 2012. The dinner on March 3 is a ticketed event. Local businesses will experience an increase in business which in turn will create employment opportunities for Port Stephens Residents. Interest groups from Port Stephens such as the Seaside Singers, bootscooters etc and other groups including those with an environmental focus have the opportunity to perform and	A survey will be conducted at the event which will measure the following: Economic impact through measurement of dollars spent as a result of the event Event success via attendance count, ticket sales, method of travel to the event, a scale of how well liked the event is and whether attendees would attend the event again. This data is tabulated along with feedback from local business, event participants and a report made available.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

						Free fireworks and a gala dinner will be held in the Game Fish Marquee. The celebration on March 3-4 will include a food wine and blues festival which will provide free entertainment on 3 stages, a food and wine experience which will be promoted on KO FM and on local radio and in the local papers. The funds from council will be used exclusively to provide staging on the foreshore and pay local entertainers to provide additional free entertainment on the Foreshore precinct.	gain exposure and new membership at the event.	
19 - Page 52	Nelson Bay Croquet Club	Ron Exton	2000	2214	While the club has some reserves they have been built up since incorporation in 1999 and are earmarked for the purchase of replacement equipment necessary to maintain the infrastructure. eg lawn mowers. These are	The funds will be expended through the purchase and installation of retractable roller awnings designed to extend the useable area of the clubhouse by providing shelter to users of an open roofed space attached to the club house .Membership has grown 20% since occupying the clubhouse, and	The club offers a social and physical outlet to the growing population of retirees in the Port Stephens municipality. Training and instruction is provide giving people who may not have participated in sport the opportunity to become active in a non pressured environment. In addition to regular organised playing days visitors from other areas attend from time to time giving members the opportunity to mix with, and establish contacts with people	We already use the area when weather permits. By providing shelter from the most from wind and rain from the most exposed S/SW direction the area will be useable more frequently and thus meet our objective in providing members with the space to conduct social activities.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

					expensive items which depreciate and must be replaced.	further growth is anticipated. Installation will be completed by "Shadey Deals Pty Ltd (Aussie Bills Blinds & Awnings), Warners Bay NSW 2282"	from outside the area. The space under consideration in this proposal is used to host BBQ's on a regular monthly basis for members and on an ad hoc basis when other clubs visit.	
20 - Page 55	Tomaree Accommodation Services Inc	Pamela Raeburn	1800	4000	We are only seeking funding now due to change of committee and expansion of clients in the community	to supply approximately six month of entertainment for the monthly disability function	By Intergrates of them into the general community . Provides social outlets for expansion of networking and friendships giving members a sense of greater acceptance of the who they are. Which is greatly appreciate by the members, families carers due to previous lack of socialisation opportunity	monitor the attendance numbers of social members who attend the monthly social and feedback form the members, carers and general public
21 - Page 57	Rotary Club of Nelson Bay	Mr Greg Flux	2000	4000	Project is not gov't funded, Partial sponsorship is sought, other funds in club accounts are allocated to other community projects/events. Project is being run on PSC property and compliments PSC aims.	The request for funding of \$2000 goes toward 50% of the running costs. These costs include 1. Fees to presenters which in fact are mainly travel type expenses 2. Special plastic wrist bracelets for students that are used for group ID and also have supportive web site address imprinted on them. 3. Room dividers that turn the hall area into useful training sections for the 5 indoor sessions. (the outdoor session is demonstrations of	This program aims to educate young person in the needs for safe driving. They are about to embark on driving on our roads. It is believed that the program can save lives and avoid injury of both these young people and others on the road. And in this case that is primarily the residents of Port Stephens.	The evaluation of the course is 4 part. We detail questions and responses from. 1. The students, 2. The presenters 3. The Rotary assistants and school teachers 4. Others that visit the program such as PSC councillors.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

						safe driving, specifically stopping distance) 4. Food and refreshments for approx. 160 students and 40 aids, parents, presenters.		
22 - Page 60	Corlette Hall Parks & Reserves 355c Committee of Port Stephens Council	Margaret Wilkinson, Hon Secretary	2000	2100	This Committee received no Council Financial Assistance Grants in either the February or July 2011 rounds. From the Balance in cashbook as at 31.12.11 commitments totalling over \$5,500, including a small environmental grant and the Conroy tap/shower, are to be paid out during January/Feb with the remaining \$2,500 set aside to turf Conroy Park and contribute to internal painting of the hall. The	Provide 3 bench seats with backrests manufactured by officers at the Council maintenance workshop at each of the three public foreshore access areas along Sandy Point Road, Corlette (Adjacent Nos 86; 48 and 18-20) The need for this seating was identified by our Committee in a 2008 audit of seating requirements and is a project which we aim to have completed during 2012 provided additional funding can be provided. There are other locations which we will also be lobbying to have furniture provided as per our 2008 seat audit. (Note: The guidelines for these	<ul style="list-style-type: none"> • The placement of these seats will provide rest points for walkers along the beautiful foreshore between Bagnall Beach and Conroy Park and between Conroy Park and Corlette Point Park. • The seats will be visible from Sandy Point Road and people will be aware that there is public space for them to relax and enjoy close to the foreshore. • All ratepayers and visitors will benefit from having designated public seating available to them as currently some of the area has private seating which intrudes on public space. • To walk along the public area adjacent the foreshore at present can feel intrusive, yet this is public space open to everyone. • Other access points along Soldiers Point Road have furniture. 	Feedback from walkers and visitors

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					bulk funding of bench seating by Council was intimated 3 years ago and limited additional furniture has been provided at our reserves (as per our 2008 Seating Audit) These foreshore access point seats are now our highest priority and we do not have funds available.	grants include furniture as examples of type of funding available)		
23 - Page 63	ROTARY CLUB OF NELSON BAY Inc	PETER BUCKLEY	1000	\$20000 APPROX	Funding does come from other sources. See above.	The monies will be used to fund a mental health and suicide prevention training practitioner as a resource for the high school in Nelson Bay and local community	The community will benefit by education and becoming more aware of the problems that young people can face when dealing with mental health issues.	The Club intends to meet with the training practitioner during and at the end of the project to determine whether the activity achieved the desired results.
24 - Page 66	West's Nelson Bay Diggers Bowls	Thoams Ford	500	860	It is through our raffles and being a sub club of West's	A lot of our members are due for new playing shirts at a costs of \$30.00 each. We subsidise the shirts at \$11.00 each to make it affordable to play and any balance towards day trip away.	We purchase all our shirts from Samurai clothing at Anna Bay NSW. We also subsidise trips away and we use the Raymond Terrace bus company.	Buy the numbers of shirts we purchase and the numbers we have on the bus trips.

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25 - Page 74	Hunter Region Botanic Gardens Limited	Janette Noble	2000	4920	HRBG funds are extremely limited for projects outside the current operational costs of maintaining and operating the Gardens. The stipend provided through the Royal Botanic Gardens has remained unchanged for many years. The opportunities to raise funds are limited to fund raising projects run by volunteers (including Father's Day, Mother's Day, The Spring Fair, Children's Days and art displays) and car park gate takings.	The funds would be expended in the construction of a new lining and purchase of a new pump for the Lord Howe Island Pond. The current rubber lining of the pond needs to be replaced as it has been damaged by falling limbs and animal claws. The poor state of the lining results in water being lost unnecessarily. The objective is to replace the current liner with a 100mm concrete reinforced shell. Replacement of the worn pump will ensure functioning of the water feature and recirculation of water to maintain water plants and animals (including a variety of frog species).	Funds would be expended to upgrade the Lord Howe Island Pond which is an important and attractive water feature and garden display, greatly appreciated by residents and visitors to Port Stephens. The pond supports a variety of plants that require a moist humid environment. It also supports frogs and insects which are important to the bio-diversity of Gardens and the area in general. This feature is particularly popular with children. It is often used as a back drop for photographic displays and for promotion of the Gardens. It is frequently used by wedding groups for feature photographs. The reduction in water consumption is important to allow the Gardens to operate within the agreed Hunter Water allocation and to enable redirection of water to areas of need within the Gardens in line with the sustainability policy within the Gardens and Port Stephens.	The results will be seen and measured immediately. Monitoring of water will occur as soon as the repairs are completed and the water is turned on. Both the reduction in water consumption and the improved health of the pond life will be recorded. The project should improve biodiversity in the immediate area (measured by plant survival and frog breeding) and maintain a popular visitor site within the Gardens (measured by visitor numbers).
26 - Page 77	Newcastle Neptunes Underwater Club Incorporated	Dallas Davies	500	11 000	Sponsorship is sought from other individuals and companies to assist with total funding, this is usually in the form of prizes to be awarded to competitors. Proceeds of fish auction paid to Westpac Helicopter Service	Council Site Fees	Many Newcastle Neptunes members are residents of Port Stephens Council area. The competitors in the Australian Pacific Coast Spearfishing Championship from out of the area use local accommodation, food and fuel suppliers etc. The annual fish auction draws tourists to the area. The Westpac Helicopter Service is used by Port Stephens residents.	Fish auction is successful and a donation is made to Westpac Helicopter Service

ITEM NO. 15

FILE NO: 1190-001

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER’S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a) Rapid Response – Cr MacKenzie – Hunter Valley Appaloosa Horse Club - Donation towards the purchase costs of portable stabling area - \$500.00 (Central Ward);
 - b) Requisition for Funds – East Ward Councillors – Port Stephens Native Flora Garden – Donation towards the cost of repairs to ride-on mower and cost of two tyres - \$500.00;
 - c) Requisition for Funds – Mayoral Funds – Ngioka Centre Committee – Donation towards the costs of removal of old, dilapidated collapsed wall, battering down the slope and returfing of area on Dixon Drive adjacent to the public car park - \$2,000.00.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

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

ORDINARY COUNCIL MEETING – 27 MARCH 2012

056	<p>Councillor Ken Jordan Councillor Glenys Francis</p>
	<p>It was resolved that the Council Committee 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:

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

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

Hunter Valley Appaloosa Horse Club	Donation towards the purchase costs of portable stabling area	\$500.00
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EAST WARD – Councillors Westbury, Nell, Ward & Dover

Port Stephens Native Flora Garden	Donation towards the cost of repairs to ride-on mower and contribution towards cost of two tyres	\$500.00
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MAYORAL FUNDS

Ngjoka Centre Committee	Donation towards the costs of removal of old, dilapidated collapsed wall, battering down the slope and returfing of area on Dixon Drive adjacent to the public car park	\$2,000.00
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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 13 March 2012.

No:	Report Title	Page:
1	ABORIGINAL STRATEGIC COMMITTEE	
2	CASH & INVESTMENTS HELD AT 29 TH FEBRUARY 2012	

COUNCIL COMMITTEE MEETING – 13 MARCH 2012
RECOMMENDATION:

	Councillor Sally Dover Councillor Caroline De Lyall
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

057	Councillor Glenys Francis Councillor Steve Tucker
	It was resolved that the Council Committee recommendation be adopted.

COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

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 7 February 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 7 February 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 7 FEBRUARY 2012
AT KARUAH ABORIGINAL RESERVE**

Present:

David Feeney	Karuah LALC
Sharon Feeney	Karuah LALC
Dale Greentree	Karuah LALC
Cr Dover	PSC
Paul Procter	PSC

Apologies:

Cr Westbury	PSC
Cr O'Brien	PSC
Cr Kafer	PSC
Jason Linnane	PSC
Steve Bernasconi	PSC

1. WELCOME

KLALC CEO acknowledged elders past/present and welcomed everyone to the traditional lands of the Worimi Nation.

2. BUSINESS ARISING FROM PREVIOUS MINUTES

The following items of business arising from the meeting held on 14 June 2011 were discussed:

ITEM 1: Street Gutter Cleaning

Following last meeting Council's gutter sweeper came and swept the street gutters. However no further cleaning has occurred and it is required periodically.

Action:	1. Council's Social Planning Co-ordinator to lodge customer request pertaining to cleaning of gutters and issuing KLALC with a copy of cleaning schedule.
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ITEM 2: Tarean Rd Speed Limit

Council's Social Planning Co-ordinator indicated that Council's Road Safety Officer has assessed Tarean Rd (Town Centre Section) with regard to the sight lines from both a pedestrian and motorist viewpoint. As a result they are of the opinion that the existing sight lines are not impeded for motorists or pedestrians at this location. Their assessment included taking photographs for Council records and for future comparison should the need arise.

ITEM 3: Request for New Bus Shelter, Mustons Rd

New bus shelter has been provided and installed by Council. KLALC CEO expressed appreciation for this.

ITEM 4: Karuah Riverside Baths

Council's Social Planning Co-ordinator reported that pool fence has been repaired.

ITEM 5: Port Stephens Gateway Signs

Council's Social Planning Co-ordinator has provided KLALC with a map showing content and location of gateway and locality signs throughout Port Stephens. Gateway signs state 'Land of the Worimi Nation' as an acknowledgement to the traditional landowners.

KLALC CEO also indicated that Great Lakes Council acknowledges traditional landowners on sign bordering Port Stephens and Great Lakes local government areas.

3. REVIEW OF ABORIGINAL PROJECTS FUND AND CULTURAL PROJECTS FUND

Council's Social Planning Co-ordinator indicated that Council has resolved to conduct a review of these grant programs in accordance with outcomes of recent sustainability review of Council's Social Planning Service Package. These grant programs have been in existence for some time and it is timely to review the programs to identify any potential opportunities where improvements could be made. The review process is currently being developed and the review will include opportunities for the Karuah and Worimi Local Aboriginal Land Council's to participate and contribute.

4. GENERAL BUSINESS

2012 Joint Meeting:

KLALC CEO suggested consideration be given to inviting recipients of 2011 Council's Aboriginal Project Fund to this year's joint meeting to discuss and showcase their projects.

Connect Karuah Day:

Council's Social Planning Co-ordinator informed members of a visit planned by Centrelink Mobile Office on 29 Feb 2012 at the Karuah Centre. The mobile office will give residents direct access to Centrelink representatives and will also include a seminar for community members on age pensions.

Street Drainage:

KLALC CEO reported drainage problem on Cnr section of Buudhang Close. They indicated that the problem has occurred since kerb and guttering works were carried out on Boronia Rd.

Actions:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator to lodge customer request pertaining for drainage issue to be investigated.2. Council's Social Planning Co-ordinator to follow up timing of next stage of kerb and guttering works.
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5. NEXT MEETING

3 April 2012.

INFORMATION ITEM NO. 2

CASH AND INVESTMENTS HELD AT 29 FEBRUARY 2012

REPORT OF: TIM HAZELL – ACTING 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 29 February 2012.

Please note: The "Prelude Europe CDO Ltd" investment was redeemed in January for its full face value of \$1M.

ATTACHMENTS

- 1) Cash and Investments held at 29 February 2012;
- 2) Monthly Cash and Investments Balance February 2011 – February 2012;
- 3) Monthly Australian Term Deposit Index February 2011 – February 2012.

ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 29 FEBRUARY 2012

INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value	Market Value	Market Value	Current Mark to Market Exposure
							December	January	February	
GRANGE SECURITIES										
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	\$1,000,000	3.10%	5.93%	\$952,500	\$952,500	\$952,500	-\$47,500
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO	A+p	23-Jun-15	\$412,500	1.28%	0.00%	\$294,113	\$305,250	\$305,250	-\$107,250
HELIUM CAPITAL LTD "ESPERANCE AA+"	Floating Rate CDO	CC C-(sf)	20-Mar-13	\$1,000,000	3.10%	4.47%	\$0	\$185,200	\$185,200	-\$814,800
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CC C	20-Mar-14	\$1,000,000	3.10%	5.83%	\$126,300	\$122,900	\$122,900	-\$877,100
GRANGE SECURITIES "COOLANGATTA AA"	Floating Rate CDO	C	20-Sep-14	\$1,000,000	3.10%	0.00%	\$0	\$0	\$0	-\$1,000,000
TOTAL GRANGE SECURITIES				\$4,412,500	13.66%		\$1,372,913	\$1,565,850	\$1,565,850	-\$2,846,650
ANZ INVESTMENTS										
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	matured					\$959,200			
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876	3.15%	0.00%	\$757,555	\$750,043	\$750,043	-\$267,833
TOTAL ANZ INVESTMENTS				\$1,017,876	3.15%		\$1,716,755	\$750,043	\$750,043	-\$267,833
RIM SECURITIES										
COMMUNITY CPS CREDIT UNION	Term Deposit	N/R	13-Mar-12	\$1,000,000	3.10%	5.65%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
SUNCORP METWAY	Term Deposit	A1	26-April-12	\$1,000,000	3.10%	5.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
BEIRUT HELLENIC BANK LTD	Term Deposit	matured					\$1,000,000			
POLICE CREDIT UNION LIMITED	Term Deposit	N/R	8-May-12	\$1,000,000	3.10%	5.90%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
WIDE BAY AUSTRALIA LTD	Term Deposit	A3	6-Mar-12	\$1,000,000	3.10%	5.70%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
CITIGROUP PTY LTD	Term Deposit	matured					\$1,000,000			
NATIONAL AUSTRALIA BANK LIMITED	Term Deposit	A1+	18-Apr-12	\$1,000,000	3.10%	5.65%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
INVESTEC BANK AUSTRALIA LIMITED	Term Deposit	P3 (Moody)	19-Mar-12	\$1,000,000	3.10%	5.93%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
TOTAL RIM SECURITIES				\$6,000,000	18.57%		\$8,000,000	\$6,000,000	\$6,000,000	\$0
CURVE SECURITIES										
BANK OF CYPRUS AUSTRALIA LIMITED	Term Deposit	matured					\$1,000,000	\$1,000,000		
DEFENCE FORCE CREDIT UNION	Term Deposit	N/R	5-Mar-12	\$1,000,000	3.10%	5.70%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
ME BANK	Term Deposit	A2/BBB	10-Apr-12	\$1,000,000	3.10%	5.95%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
ING BANK AUSTRALIA	Term Deposit	A1/A	24-Apr-12	\$1,000,000	3.10%	5.60%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
PEOPLES CHOICE CREDIT UNION	Term Deposit	matured					\$1,000,000	\$1,000,000		
AMP BANK LTD	Term Deposit	A1/A	14-May-12	\$1,000,000	3.10%	5.80%			\$1,000,000	\$0
ME BANK	Term Deposit	A2/BBB	21-May-12	\$1,000,000	3.10%	5.90%			\$1,000,000	\$0
AMP BANK LTD	Term Deposit	A1/A	22-Jun-12	\$1,000,000	3.10%	5.80%			\$1,000,000	\$0
TOTAL CURVE SECURITIES				\$6,000,000	18.57%		\$5,000,000	\$5,000,000	\$6,000,000	\$0
LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000	1.55%	0.00%	\$493,800	\$495,550	\$497,400	-\$2,600
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	A+	7-Sep-12	\$500,000	1.55%	0.00%	\$481,700	\$483,300	\$485,300	-\$14,700
TOTAL LONGREACH CAPITAL				\$1,000,000	3.10%		\$975,500	\$978,850	\$982,700	-\$17,300

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

ATTACHMENT 1

COMMONWEALTH BANK										
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	AA	05-Nov-12	\$500,000	1.55%	3.00%	\$488,050	\$492,250	\$494,200	-\$5,800
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	BBB+	09-Nov-12	\$500,000	1.55%	5.57%	\$493,035	\$493,645	\$494,335	-\$5,665
BANK OF QUEENSLAND BOND	Bond	BBB+	16-Mar-12	\$1,000,000	3.10%	5.35%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
TOTAL COMMONWEALTH BANK				\$2,000,000	6.19%		\$1,981,085	\$1,985,895	\$1,988,535	-\$11,465
FIG SECURITIES										
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note	A+	30-Nov-14	\$500,000	1.55%	5.60%	\$500,000	\$500,000	\$500,000	\$0
ING BANK AUSTRALIA LIMITED	Term Deposit	A1/A	26-Jun-12	\$1,000,000	3.10%	5.81%			\$1,000,000	\$0
TOTAL FIG SECURITIES				\$1,500,000	4.64%		\$500,000	\$500,000	\$1,500,000	\$0
MAITLAND MUTUAL										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	30-Jun-13	\$500,000	1.55%	5.98%	\$500,000	\$500,000	\$500,000	\$0
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	31-Dec-14	\$500,000	1.55%	5.98%	\$500,000	\$500,000	\$500,000	\$0
MAITLAND MUTUAL	Term Deposit	N/R	06-Apr-12	\$1,000,000	3.10%	5.90%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
TOTAL M'L AND MUTUAL				\$2,000,000	6.19%		\$2,000,000	\$2,000,000	\$2,000,000	\$0
FARQUHARSON SECURITIES										
RAILWAYS CREDIT UNION	Term Deposit	matured					\$1,000,000	\$1,000,000		
BANK OF QUEENSLAND	Term Deposit	A2	15-May-12	\$1,000,000	3.10%	5.85%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
BENDIGO AND ADELAIDE BANK LTD	Term Deposit	A2	16-Apr-12	\$1,000,000	3.10%	5.70%		\$1,000,000	\$1,000,000	\$0
TOTAL FARQUHARSON SECURITIES				\$2,000,000	6.19%		\$2,000,000	\$3,000,000	\$2,000,000	\$0
TOTAL INVESTMENTS				\$25,930,376	80.27%		\$23,546,253	\$21,780,638	\$22,787,128	-\$3,143,248
AVERAGE RATE OF RETURN ON INVESTMENTS						4.68%				
CASH AT BANK				\$6,372,289	19.73%	4.20%	\$2,101,173	\$2,908,690	\$6,372,289	\$0
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH						4.58%				
TOTAL CASH & INVESTMENTS				\$32,302,665	100.00%		\$25,647,426	\$24,689,328	\$29,159,417	-\$3,143,248
BBSW FOR PREVIOUS 3 MONTHS						4.47%				

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

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

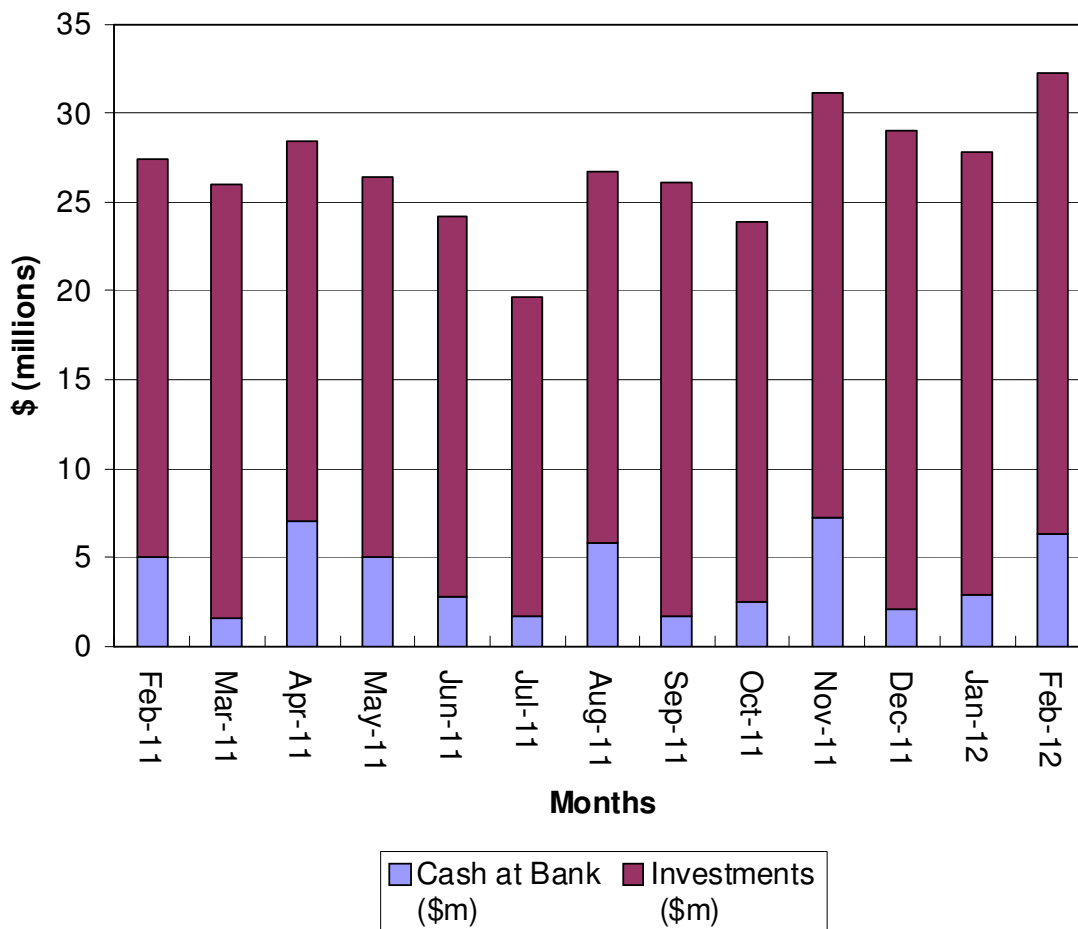
I, Peter Gesling, being the Responsible Accounting Officer of Council, hereby certify that the investments have been made in accordance with the Local Government Act 1993, the Regulations and Council's investment policy.
P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Feb-11	4.988	22.430	27.419
Mar-11	1.604	24.430	26.035
Apr-11	6.975	21.430	28.406
May-11	4.976	21.430	26.406
Jun-11	2.752	21.430	24.182
Jul-11	1.657	17.930	19.588
Aug-11	5.767	20.930	26.697
Sep-11	1.676	24.430	26.106
Oct-11	2.476	21.430	23.906
Nov-11	7.240	23.930	31.171
Dec-11	2.101	26.930	29.032
Jan-12	2.909	24.930	27.839
Feb-12	6.372	25.930	32.303

Cash and Invested Funds for the Period ended 29/02/2012

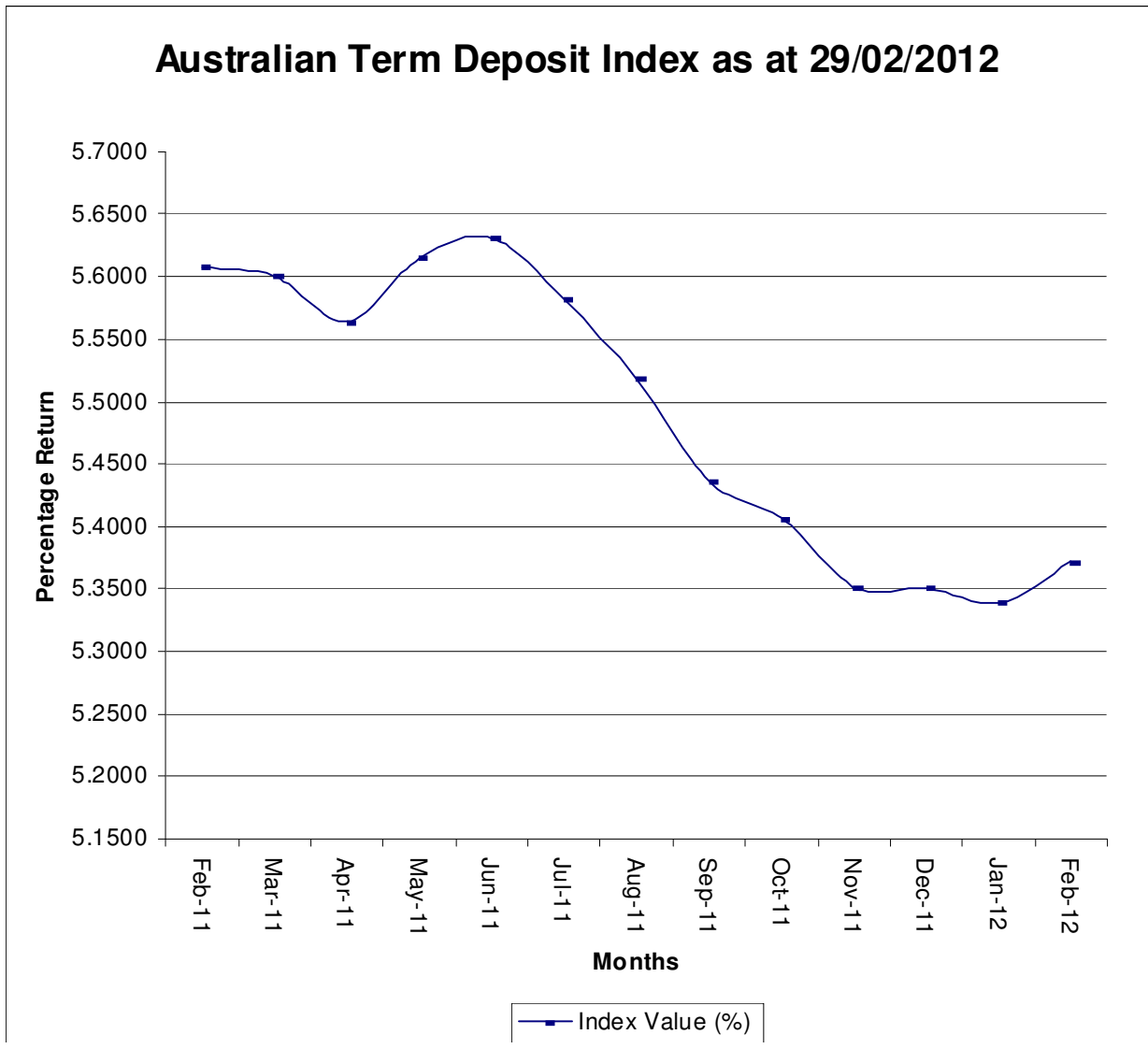


ATTACHMENT 2

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Feb-11	5.6079
Mar-11	5.6000
Apr-11	5.5637
May-11	5.6147
Jun-11	5.6312
Jul-11	5.5814
Aug-11	5.5178
Sep-11	5.4358
Oct-11	5.4065
Nov-11	5.351
Dec-11	5.3504
Jan-12	5.3389
Feb-12	5.3715

Australian Term Deposit Index as at 29/02/2012



GENERAL MANAGER'S REPORT

**PETER GESLING
GENERAL MANAGER**

ITEM NO. 1

FILE NO: PSC2005-2662

COMMENTS FOR NSW STATE GOVERNMENT REVIEW OF THE NSW WASTE AND ENVIRONMENT LEVY

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

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the submission as Councils comments to the NSW State Government on the review of the NSW Waste and Environment Levy.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

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

BACKGROUND

On the 17th of January 2012 the Minister for the Environment & Heritage the Hon. Robyn Parker announced that the NSW Government was seeking submissions from local councils, the recycling industry and the wider community on the impacts and operations of the levy imposed on each tonne of waste disposed of at landfill.

The NSW Waste and Environment Levy regulation was introduced by the NSW Government in 2000 and involves a payment to the NSW Government for each tonne of waste disposed of at a landfill. The regulation was introduced as the NSW Government wanted to increase the cost of landfilling to drive the generators of waste towards the recycling, reuse and recovery of their waste materials.

Currently the NSW Waste and Environment Levy is \$78.60 per tonne and will increase to \$120 per tonne by 2015/16. Under the current process 1/3 of the revenue collected from this levy is returned to local government via a 50/50 split between the Waste and Sustainability Improvement Program (WaSIP) and other environmental grants. While the other 2/3 of the revenue raised from this levy is put straight into the NSW Government general revenue pool.

The Minister appointed KPMG as an independent body to compile the review and make recommendations to the NSW government. KPMG have held consultation sessions with the waste industry, local government and the wider community since then and Council staff have attended these.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

Minister Parker listed the following terms of reference that could be commented on as part of the review:

- the impact on the recycling industry;
- the impact on households;
- funding arrangements to facilitate greater investment in infrastructure with local councils and industry, and;
- the impact on illegal dumping, including the proper disposal of asbestos.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications associated with the submission of these comments to the waste levy review process.

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications associated with the submission of these comments to the waste levy review process.

However not making a submission or making a poor submission may result in a reputation risk.

Also not making a submission may reduce our position in the future to challenge the application of the waste levy regulations, which in 2010/11 cost the residents of Port Stephens \$747,420.00.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Reputation risk due to making no or a poor submission to the review	Low	Accept Recommendation	Yes
Reduced position in the future to challenge the Waste Levy Regulations	Low	Accept Recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no sustainability implications associated with the submission of these comments to the waste levy review process.

CONSULTATION

Council's Waste Management Coordinator attended a forum held in Maitland by the independent consultants KPMG with all the other Local Council's representatives on the 24th of February 2012 to discuss the review.

OPTIONS

- 1) Approve the submission to the NSW State Government on the review of the NSW Waste and Environment Levy as shown in Attachment 2 of this report;
- 2) Make amendments to the submission to the NSW State Government on the review of the NSW Waste and Environment Levy as shown in Attachment 2 of this report; or
- 3) Reject the submission to the NSW State Government on the review of the NSW Waste and Environment Levy as shown in Attachment 2 of this report.

ATTACHMENTS

- 1) The NSW State Government's media release calling for submissions on the waste levy review; and
- 2) Suggested comments to be made by Council on the waste levy review.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**The Hon Robyn Parker MP Minister for the
Environment Minister for Heritage**

MEDIA RELEASE

17 January

NSW Environment Minister announces waste levy review

NSW Minister for the Environment Robyn Parker today called for submissions on the review of the NSW Waste and Environment Levy.

Ms Parker said the NSW Government was seeking input from local councils, waste and recycling industries and the wider community on the impacts and operations of the levy imposed on each tonne of waste disposed in landfill.

“The Waste and Environment Levy is an important driver of resource recovery in NSW, and as Minister for the Environment, I am committed to increasing recycling to meet the bold targets laid out in the O’Farrell Government’s *NSW 2021: A plan to make NSW number one*”, Ms Parker said.

“The Levy is our State’s most significant environmental market-based instrument encouraging waste avoidance and resource recovery, and it is crucial to ensure that it achieves precisely that.”

Minister Parker said independent consultants KPMG are leading the review and chairing a series of consultation sessions across NSW in February. The consultation period will run until 13 April 2012.

“The waste levy is designed to reduce waste to landfill and increase recycling and there are very strong and diverse opinions among stakeholders about the levy and how it should be spent,” Ms Parker said.

“KPMG has been appointed to lead an independent process that will provide an opportunity for the waste industry, local government and the broader community to share their views and contribute to the debate.”

Consultation sessions and workshops will be held in Ballina, Port Macquarie, Maitland, Sydney CBD, Parramatta and Kiama during late February. Submissions close on 13 April 2012.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

Interested parties are invited to provide written submissions addressing one or more of the terms of reference:

- the impact on the recycling industry
- the impact on households
- funding arrangements to facilitate greater investment in infrastructure with local councils and industry, and;
- the impact on illegal dumping, including the proper disposal of asbestos.

“Ultimately, I want to ensure that the levy is maximising opportunities to recycle and that we have a strong and robust recycling industry in NSW,” Ms Parker said.

Full details, including a web based community engagement forum for people unable to attend a stake holder event, visit the OEH website at

www.environment.nsw.gov.au/waste/levyreview.htm

Media contact: Steve Warnock 0428 968 499

Waste and Environment Levy fact sheet

- Achieving the 2014 recycling targets and reviewing the levy have been identified as priority actions for Government under Goal 23 in *NSW 2021: A plan to make NSW number one*.
- The Waste and Environment Levy is the NSW Government's key market-based instrument for driving waste avoidance and resource recovery in NSW.
- The review of the levy is to ensure that the levy fully supports and complements the initiatives to meet the recycling targets.
- Some form of waste levy has been in place in NSW since 1971. Similar instruments are used by jurisdictions around the world.
- Recycling rates in NSW have increased from 45% in 2003 to 60% today.
- Of the 152 councils in NSW, six are currently achieving more than the 66% recycling target for household waste. 16 councils are recycling more than 55%. 88 councils are below the current State average of 44%.
- The levy was extended beyond Sydney into the Extended Regulated Area (ERA) in 1996 and the Regional Regulated Area (RRA) in 2009. It covers 72 local government areas
- The waste levy does not apply to waste that is recycled.
- Municipal (household) waste accounts for 32% of all waste landfilled in the levy paying areas. Commercial and Industrial sources accounts for 36% and Construction and Demolition waste, 32%.
- The more waste that is recycled, the less needs to go to landfill and the less levy needs to be paid.
- The levy is scheduled to increase annually by \$10/tonne plus CPI adjustments for the next five years.
- By 2015/16 it will have reached \$122.20 per tonne, in today's dollars, in the Sydney Metropolitan Area and the Extended Regulated Area and about \$71.10 per tonne, in today's dollars, in the Regional Regulated Area. It is projected to generate about \$1.8 billion in revenue over the next four years.
- Approximately two thirds of the funds raised by the levy goes to general revenue to support core services like schools and hospitals. Approximately one third is allocated to waste and other environmental initiatives.
- The review is focussing only on the allocation of funding to environmental programs.

ATTACHMENT 2

Waste Levy Review
Office of Environment & Heritage
PO BOX A290
South Sydney NSW 1232

Re: Submission for Waste & Environment Levy Review

Port Stephens Council wish to make the following comments on the Waste and Environment Levy Review

- **Impact on Households**

Comment 1: Cost of Waste Disposal

In the current financial climate households have become very conscious of what things cost and what they are spending their money on. The cost of waste disposal is a common complaint from the residents and ratepayers in Port Stephens. The waste levy has not only raised the household waste disposal costs when people take material direct to landfill, but it also puts upward pressure on the Domestic Waste Management Charge that ratepayers pay as part of their rates. In short, people are now paying far more for waste disposal which in turn means less spent in the local economy.

Secondly, a general lack of awareness amongst the community about the very existence of the NSW waste levy leads to residents placing the full blame for increasing waste disposal costs on the local government body. The result of this wrath is a public perception that the landfill operator, in most cases in regional NSW a Council, are gouging money by charging over inflated rates for waste disposal when the reality is that the waste generator is being taxed by the state.

In summary the NSW waste levy has (1) increased household running costs above and beyond inflation and (2) has created a relationship wedge between the residents and the local Council based on the misconception that Councils and landfill operators are gouging revenue from ratepayers from overly inflated waste disposal costs.

- **Funding Arrangements to Facilitate Greater Investment in Infrastructure With Local Councils and Industry**

Comment 1: Waste and Sustainability Improvement Payment Program (WaSIP)

Port Stephens Council is very disappointed with the change to regulations that allocated WaSIP funding for the 11/12 financial year. Specifically the expected payment to Port Stephens Council dropped by some \$30,000 from what was expected by the initial projections of this program. This means that while the State Government collected increased revenue through the waste levy for that financial year the funding to local governments for waste reduction and sustainability projects decreased.

In addition to this Council can see plenty of room for improvement in the way the WaSIP is administered. Specifically Council recommends that the program return to its original intention which was to provide an incentive payment to those Councils that agreed to deliver improvements to their resource recovery programs (and later on their environmental sustainability programs). A return to a simple annual payment for the agreement to deliver on said improvements would enable Councils and the State to reduce the administration costs associated with the current protracted processes.

The current process is cumbersome, wasteful of time and thus money and implies that the NSW Office of Environment and Heritage thinks that local government is not capable of managing the WaSIP funds without excessive state government approval processes. An example of this inefficiency is the fact that a Council can be "deemed" eligible to receive the WaSIP fund by agreeing to deliver the annual standards; it can then receive the funds up front; but it then is required to have every single project to be either fully or part funded by WaSIP (and there can be lots) to be approved by the NSW Office of Environment and Heritage. This NSW Office of Environment and Heritage project approval process occurs after the General Manager and the Chief Financial Officer of the Council have already given their scrutiny and approval for the same projects.

It is recommended that the "project approval" phase of the current WaSIP process be abolished and the allocation of WaSIP funds rest with the Council that has already received the funds. If NSW Office of Environment and Heritage is concerned about probity and proper allocation of the funds, then the inclusion of WaSIP projects in the annual Operational Plan should suffice as the method for publically endorsing these projects.

Comment 2: Cost of Organics Processing

Port Stephens Council was the first Council in New South Wales to process their residual household waste through an Advanced Waste Treatment facility (AWT). The Council has never received any financial support from the state government for the delivery of this infrastructure or sustainable service delivery since it started in 2000. This means that whilst Port Stephens Council can claim to delivering an early solution to its domestic waste landfilling problems by adopting AWT early on it has been financially disadvantaged compared to other Councils that have been the recipient of state intervention and funding of AWT services.

The increasing value of the waste levy of the past 5 or so years has aided in closing the gap between the previously more expensive option of processing the household residual waste stream via an AWT and the historically cheaper option to landfill this waste stream. However, the gap was reopened by the changes to the regulations made in 2010 to the requirements for compost material produced from a mixed waste source as the changes made this processing method a more labour and cost intensive disposal option for Council - a cost that the end user has been required to absorb with no direct tangible benefit to their "at kerbside" level of service.

Port Stephens Council recommends that the two thirds of the waste levy revenue that the state currently directs to treasury should all be used 100% to deliver on the ground waste diversion solutions. These solutions might include for example;

- a) Subsidies to operators running AWT facilities and or Councils using an AWT for the processing of their household residual waste stream to enable them to increase or update their infrastructure or reduce the cost they charge for the processing of MSW waste.
- b) The availability of no interest loans to Councils or private operators that produce a business case for infrastructure that will divert waste streams from landfill.

Comment 3: Cost of Recycling Niche Waste Streams

Even with the cost of the waste level driving landfill costs up there are some waste streams such as E-waste, tyres, mattresses, batteries and florescent tubes to name a few that have a recycling cost so high that it is unlikely for them to genuinely compete against landfilling without financial subsidies for recycling.

Due to the hazardous nature and operational issues involved with these waste streams, some Council's run programs to recycle these items, which the residents fund via their waste charges. However, these types of programs are at times quite difficult to sell to the public as the gap between both the social and environmental benefits and the real cost to recycle the waste stream is so large that the public can lose desire to continue to support this products recycling.

Council believes that operators running facilities involved in the recycling of these items should be given subsidies to enable them to reduce their processing costs that they charge for the recycling of these items. This will in turn reduce the Council's waste charges to its residents.

- **Impact on Illegal Dumping, Including the Proper Disposal of Asbestos**

Comment 1: General Illegal Dumping

Over the past two to three years the volume of illegal dumping within the Port Stephens area has increased to a point where in the middle of 2011 the Port Stephens Council Rangers allocated two resources to focus specifically on illegal dumping. This increased level of service to investigate incidents of illegal dumping causes a drain on both the availability of Council's rangers for other services and on Council's general revenue funds.

Comment 2: Dumping of Waste on Charities

Within the Port Stephens area there are many charity stores operating and all of these stores have experienced a large increases in the amount of waste illegal dumped upon them. To assist these charities the Port Stephens Council provides financial assistance for their waste disposal.

In just three years the cost of this program has grown from around \$49,000 in 2008/09 to \$94,500 in 2010/11. These figures show a clear link between the increased landfill prices and the growing cleanup costs that local governments are experiencing from the acts of illegal dumpers.

Comment 3: Dumping of Asbestos

Dumped asbestos is commonly found in the Port Stephens area and it is believed that this is a result of the cost involved in the disposal of asbestos. The disposal cost for asbestos is incredibly high compared to other wastes and this is largely due to the regulatory controls around asbestos handling and burial and the waste levy. The fact that asbestos attracts the waste levy seems contradictory to its purpose in that the levy is meant to promote recycling however there are no recycling options for asbestos. In the interest of intergenerational equity it is recommended that the current generation not be required to pay for the waste levy for asbestos – a material that once was low cost and prolific and now is a health hazard and costly to handle and dispose.

Yours faithfully

P.G. GESLING
GENERAL MANAGER
Date: 2 April 2012

ITEM NO. 2

FILE NO: PSC2008-0204

COMPULSORY ACQUISITION OF EASEMENT FOR FOOTPATH/CYCLEWAY OVER LOT 2 IN DP 867862 AND LOT 1 IN DP 862816 - KING STREET, RAYMOND TERRACE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Continue discussions with all parties associated with this matter and report back to Council on the outcome.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

059	<p>Councillor Glenys Francis Councillor Caroline De Lyall</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1. Continue discussions with all parties associated with this matter and report back to Council on the outcome; 2. That Item 2 be deferred to allow Councillors to attend a site inspection.
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Please note:
Council at its meeting on 28 February 2012 resolved to defer this item to the March Ordinary Council meeting to allow for a site inspection and public access.
Both the site inspection and public access occurred on 13 March 2012.

BACKGROUND

The purpose of this report is to seek Council's consent for the compulsory acquisition of an easement over two parcels of land located at 26 King Street and 24A King Street, Raymond Terrace (**Attachment 1**).

In recent years Council has undertaken the construction of a combined footpath/cycleway commencing at the boat ramp adjacent to King Park, underneath the Fitzgerald Bridge, then along the levy bank of the Hunter River and terminating in a dead end at Barnier Lane.

The intention is to complete the construction of the footpath/cycleway along the remaining section of levy bank in a south westerly direction in order to complete the connection to Riverside Park thus providing continuous access of travel of

pedestrians and cyclists from the sport fields through to Riverside Park in either direction.

Council owns the remaining properties between Barrier Lane and the subject properties and an easement exists over the land occupied by the Defence Housing building.

Ownership of the subject properties extends to the high water mark of the Hunter River. Consultation with both property owners over a significant time to have them agree to the creation of an easement has been unsuccessful, therefore Council has been unable to complete the infrastructure project.

FINANCIAL/RESOURCE IMPLICATIONS

The compulsory acquisition will require a valuation to be undertaken by the Valuer General's Office after gazettal of the easement in Council's ownership. The Valuation will be prepared in accordance with recognised valuation principles and under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991. This will determine the compensation payable to the respective landowners.

The creation of new infrastructure is a financial impost on Council. Notwithstanding that whilst the proposal comes at a cost to Council by way of compensation there is a significant overall benefit to the community to complete the footpath/cycleway link.

LEGAL, POLICY AND RISK IMPLICATIONS

Council is empowered to compulsorily acquire land for the construction of infrastructure through provisions in the Local Government Act. The compulsory acquisition process is a Statutory procedure and requires Minister's consent.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
The valuation of the interest to be acquired will be assessed by a Property Valuer appointed by the Valuer General's Office. The value will be assessed by appropriate valuation methodology and the report will need to be assessed to ensure the correct approach and sales evidence is provided.	High	Assessment of the Report provided by the Valuer General to ensure appropriate methodology and sales evidence is provided in the report so that a correct assessment of value has been provided to Council.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The benefits to the community by the completion of the infrastructure will allow continuous access along the river frontage for approximately 1.4 kilometres. This will link two recreation areas of Raymond Terrace, the sports fields and associated recreation areas in the north east and the picnic areas of Riverside Park in the south west. The interaction of walkers and riders utilising the infrastructure is a positive, healthy and social outcome.

There are no environmental implications involved in the construction of this infrastructure as it is proposed to be constructed along the ridge of the existing levy bank.

CONSULTATION

- 1) There has been considerable consultation between Council and both property owners over a lengthy period of time;
- 2) Group Manager Commercial Services;
- 3) Property Advisory Panel;
- 4) Civil Assets Manager.

OPTIONS

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

ATTACHMENTS

- 1) Aerial photograph; and
- 2) Cadastral plan.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

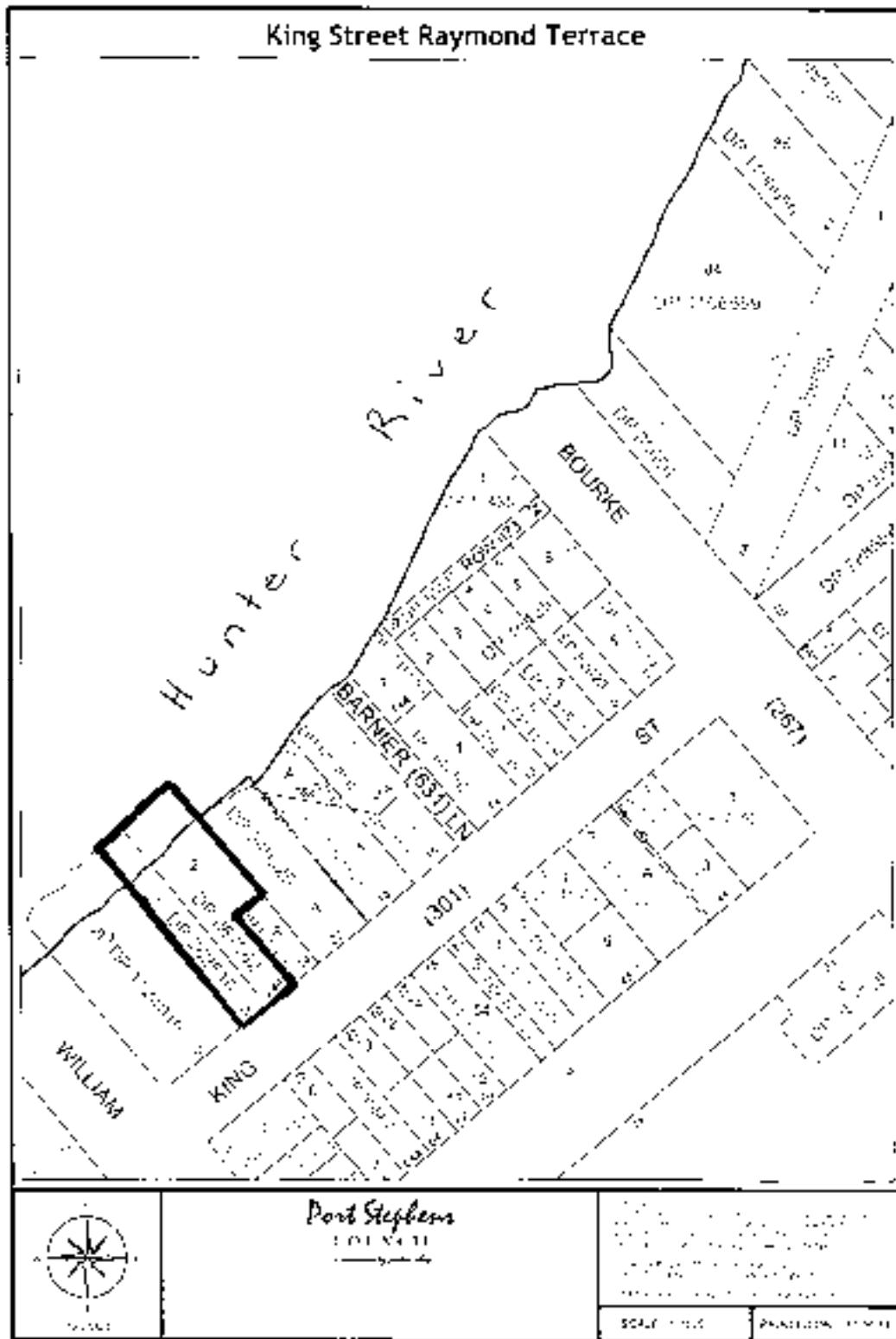
Nil.

ATTACHMENT 1



118 Adelaide Street, Raymond Terrace NSW 2264. Phone: (02) 49232152 Fax: (02) 49232152 Email: council@portsteps.nsw.gov.au

ATTACHMENT 2



ITEM NO. 3

FILE NO: A2004-0284

PAYMENT OF EXPENSES & PROVISION OF FACILITIES TO COUNCILLORS POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the reimbursement request from the Mayor for the replacement of his computer.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

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

BACKGROUND

The purpose of this report is to present Council with a reimbursement request from the Mayor for the replacement of a computer.

The Mayor recently experienced a power outage at his home which resulted in damage to his computer. This computer is used for Council business as part of his civic role. The replacement cost is \$2,701.00.

Section 2.12.1 of Council's *"Payment of Expenses & Provision of Facilities to Councillors Policy"* sets a maximum reimbursement limit of \$3,000.00 per term for purchase of a personal computer/laptop, multifunction device, etc. The policy requires a Council resolution for any amount above the \$3,000.00 limit.

The Mayor has reached the \$3,000.00 limit and is seeking Council's approval to be reimbursed on this occasion.

If granted this is a one off approval and does not in any way amend or change the limits within the policy.

FINANCIAL/RESOURCE IMPLICATIONS

Council's policy has a limit of \$3,000.00 per term for personal computer/laptop, multifunction device, etc. Should Council approve this request the funds would need to be sourced from general revenue.

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required under the Local Government Act 1993, to develop a policy for the Payment of Expenses and Provision of Facilities to Councillors.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
To fulfil the role of Mayor a computer is an essential part of daily business. If this request was not approved this would limit the Mayor undertaking his role.	High	Provide reimbursement as a one off to the Mayor for the replacement of the computer.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor; and
- 2) General Manager.

OPTIONS

- 1) Resolve to reimbursement the Mayor for the replacement of his computer as a one off approval; or
- 2) Reject the request for reimbursement.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

FILE NO: PSC2011-00718

PROMOTING BETTER PRACTICE REVIEW

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the Report.

ORDINARY COUNCIL MEETING – 27 MARCH 2012

061	Councillor Steve Tucker Councillor Sally Dover
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to provide Council with a quarterly report on Code of Conduct complaints relating to Councillors.

Council will recall in December 2011, the Promoting Better Practice (PBP) Review Final Report, prepared by the Division of Local Government was tabled at the Council.

Recommendation 20 of the PBP report requires a report be provided to Council regarding Code of Conduct complaints relating to Councillors on a quarterly basis rather than annually for the next twelve months after the release of the PBP Report.

Since the tabling of the PBP Report, no Code of Conduct complaints relating to Councillors have been received.

Council will be provided with further reports in June, September and December 2012.

FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with this report are covered within the existing budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Council has an obligation to respond to the Division of Local Government with respect to the Promoting Better Practice Review. These Reviews are linked to legislative processes under the Local Government Act 1993.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
That Council not respond to the Recommendations within the PBP Report.	Medium	That Council respond to all 36 Recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor;
- 2) Councillors.

OPTIONS

- 1) Adopt the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: PSC 2011-02797

REGIONAL PROCUREMENT INITIATIVE TENDER: T41112HUN - SUPPLY OF LINEMARKING SERVICES

REPORT OF: PETER MURRAY – OPERATIONS MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 1 on the Ordinary Council agenda namely **Regional Procurement Initiative Tender T41112HUN – Supply of Linemarking Services.**
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Regional Procurement Initiative Tender T41112HUN – Supply of Linemarking Services.**
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
 - 5) Accept the tenders from Allstate, Ultra Line Marking, Avante, Complete Line Marking, Workforce Road Services, Santana Line Marking, J & M Road Marking, Atlantis and Guidance Road Management as part of the Regional Procurement Initiative panel tender for the provision of linemarking services for a period of 2 years, with an option of a further 12 month extension.
-

ORDINARY COUNCIL MEETING – 27 MARCH 2012

062	Councillor Steve Tucker Councillor Glenys Francis
	It was resolved that Council accept the tenders from Allstate, Ultra Line Marking, Avante, Complete Line Marking, Workforce Road Services, Santana Line Marking, J & M Road Marking, Atlantis and Guidance Road Management as part of the Regional Procurement Initiative panel tender for the provision of linemarking services for a period of 2 years, with an option of a further 12 month extension.

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel for the provision of road linemarking services.

Council purchases these services as part of our road maintenance and construction activities. It is anticipated that purchasing these services via a bi-annual contract, with an option of a 12 month extension ensures Council will receive the best market rate for these services. The granting of the contract extension would be based on the performance of the contractors over the initial contract period and being satisfied with the renegotiated schedule of rates for the extension period. This process is conducted in accordance with the requirements of Councils Community Strategic Plan clause 5.1.3 to "ensure Councils procurement activities achieve best value for money."

Regional Procurement Initiative, a division of Hunter Councils Inc. has been established in response to a need for a collaborative approach to regional tendering and contracting. It is estimated the Regional Procurement Initiative members contribute upwards of \$200 dollars to the region through their tenders and contracts. Port Stephens Council along with other Hunter Council members were approached by Regional Procurement to see if running a group tender for the supply of line marking services was viable. It was established none of the member Council's had tenders in place which presented an opportunity for the smaller Councils to gain cost benefits while not necessarily requiring a tender, and larger Council's to take advantage of group purchasing power while satisfying legislative requirements. By utilising Regional Procurement to facilitate the tender process we support the Memorandum of Agreement signed by the General Managers of each of the Hunter Council's that agrees to support Regional Procurement and accept the outcomes of tenders where there is an equal to or better outcome than alternative sources.

Regional Procurement called Tenders for the provision of these services across a number of member LGAs that included Dungog Shire Council, Singleton Council, Muswellbrook Shire Council, Cessnock City Council, Upper Hunter Shire Council, and Mid-Western Regional Council. Regional Procurement received nine (9) conforming tender submissions.

Each bid was evaluated against "Value Selection" criteria and allocated a weighted score for each assessed criteria. This evaluation allows each bid to be ranked according to its performance against a pre determined set of criteria. The "Value selection" method for the supply of linemarking services included consideration of the tenders against criteria that included price, physical resources, referees, OH & S, previous experience, quality assurance, and ESD.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$100,000 per annum for the Facilities and Services Group. The actual annual expenditure varies and is dependant on the extent of linemarking specified in the reseal and road construction capitol works programmes and what works the Roads and Maritime Authority purchase from us under the State Roads Maintenance Contract. The procurement of the "best value for money" services is critical to providing sustainable services to the community.

LEGAL, POLICY AND RISK IMPLICATIONS

This tender process complies with the Local Government Act 1993 and Local Government (tendering) Regulations. Each bid was assessed using a "Value Selection" method with weighted selection criteria.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Contract line marking services not available	Medium	Appoint multiple providers as part of panel tender	Yes
Projects delayed or cancelled due to lack of available line marking services	Medium	Appoint multiple providers as part of panel tender	Yes
Line marking not completed to standard	High	Appoint only suitably qualified tenders from panel	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A two (2) year annual contract also allows Council to program linemarking projects with known costs and thereby provides for improved project scheduling, cost accuracy, and budget management.

CONSULTATION

- 1) Procurement and Contracts Co-ordinator;
- 2) Roads and Construction Co-ordinators;
- 3) Operations Manager;
- 4) Group Manager Facilities and Services; and
- 5) Works Manager.

OPTIONS

- 1) As Recommended;
- 2) Reject panel tender from Hunter Regional Procurement and recall tenders.

ATTACHMENTS

- 1) Confidential -"Value Selection" methodology Summary.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: PSC2011-02798

REGIONAL PROCUREMENT INITIATIVE TENDER: T51112HUN - SUPPLY OF TRAFFIC CONTROL SERVICES

REPORT OF: PETER MURRAY – OPERATIONS MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item 2 on the Ordinary Council agenda namely **Regional Procurement Initiative Tender T51112HUN – Supply of Traffic Control Services.**
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Regional Procurement Initiative Tender T51112HUN – Supply of Traffic Control Services.**
 - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
 - 5) Accept the tenders from Men at Work Traffic Services, Global Traffic Management, Dialtone Traffic Control and Training, Evolution, Clearwater Asset Services, Altus Traffic, Workforce Road Services, Atlas Cleaning & Security and Guardian Traffic Services as part of the Hunter Regional Procurement panel tender for the provision of Traffic Control Services for a period of 2 years, with an option of a further 12 month extension.
-

ORDINARY COUNCIL MEETING – 27 MARCH 2012

063	Councillor Ken Jordan Councillor Caroline De Lyall
	It was resolved that Council accept the tenders from Men at Work Traffic Services, Global Traffic Management, Dialtone Traffic Control and Training, Evolution, Clearwater Asset Services, Altus Traffic, Workforce Road Services, Atlas Cleaning & Security and Guardian Traffic Services as part of the Hunter Regional Procurement panel tender for the provision of Traffic Control Services for a period of 2 years, with an option of a further 12 month extension.

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel for the provision of traffic control services.

Council purchases these services as part of our road maintenance and construction activities. It is anticipated that purchasing these services via a bi-annual contract, with an option of a 12 month extension ensures Council will receive the best market rate for these services. The granting of the contract extension would be based on the performance of the contractors over the initial contract period and being satisfied with the renegotiated schedule of rates for the extension period.

This process is conducted in accordance with the requirements of Councils' Community Strategic Plan clause 5.1.3 to "ensure Councils procurement activities achieve best value for money."

Regional Procurement Initiative, a division of Hunter Councils Inc. has been established in response to a need for a collaborative approach to regional tendering and contracting. It is estimated the Regional Procurement Initiative members contribute upwards of \$200 Million to the region through their tenders and contracts. Port Stephens Council along with other Hunter Council members were approached by Regional Procurement to see if running a group tender for the supply of traffic control services was viable. It was established none of the member Council's had tenders in place which presented an opportunity for the smaller Councils to gain cost benefits while not necessarily requiring a tender, and larger Council's to take advantage of group purchasing power while satisfying legislative requirements. By utilising Regional Procurement to facilitate the tender process we support the Memorandum of Agreement signed by the General Managers of each of the Hunter Council's that agrees to support Regional Procurement and accept the outcomes of tenders where there is an equal to or better outcome than alternative sources.

Regional Procurement called tenders for the provision of these services across a number of member LGA'S that included Dungog Shire Council, Singleton Council, Muswellbrook Shire Council, and Cessnock City Council. Regional Procurement received nine (9) conforming tender submissions for Traffic Control Services.

Each bid was evaluated against "Value Selection" criteria and allocated a weighted score for each assessed criteria. This evaluation allows each bid to be ranked according to its performance against a pre determined set of criteria. The "Value Selection" method for the provision of traffic control services were assessed against criteria that included establishment costs, price across a range of services, insurances, physical resources, referees, quality assurance, OH &S and previous experience.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$40,000 per annum for the Facilities and Services Group. The actual annual expenditure varies and is dependant on the extent of Traffic Control specified in the reseal and road construction capital works programmes and what works the Roads and Maritime Authority purchase from us under the State Roads Maintenance Contract. The procurement of the "best value for money" services is critical to providing sustainable services to the community.

LEGAL, POLICY AND RISK IMPLICATIONS

This tender process complies with the Local Government Act 1993 and Local Government (tendering) Regulations. Each bid was assessed using a "Value Selection" method with weighted selection criteria.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Contract traffic control services not available	Medium	Appoint multiple providers as part of panel tender	Yes
Projects delayed or cancelled due to lack of available traffic control	Medium	Appoint multiple providers as part of panel tender	Yes
Traffic control not completed to standard	High	Appoint only suitably qualified tenders from panel	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A two (2) year annual contract also allows Council to program traffic control projects with known costs and thereby provides for improved project scheduling, cost accuracy and budget management.

CONSULTATION

- 1) Procurement and Contracts Co-ordinator;
- 2) Roads and Construction Co-ordinators;
- 3) Operations Manager;
- 4) Group Manager Facilities and Services; and
- 5) Works Manager.

OPTIONS

- 1) As recommended;
- 2) Reject panel tender from Hunter Regional Procurement and recall tenders.

ATTACHMENTS

- 1) Confidential - "Value Selection" methodology Summary - Traffic Control Services – under separate cover.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

FILE NO: T01-2012

LEGAL SERVICES TENDER T01-2012

REPORT OF: WAYNE WALLIS - ACTING GENERAL MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d)(i) of the Local Government Act 1993, the Council resolve to close to the public the meeting for only as much time as is required to table and consider the confidential attachment;
 - 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The attachment will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the attachment includes confidential pricing information in respect of legal fees;
 - 3) That on balance, it is considered that receipt and discussion of the confidential attachment in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts;
 - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the Local Government (General) Regulation 2005;
 - 5) Accepts the tenders offered by and appoints Harris Wheeler Lawyers and Local Government Legal to Council's legal services panel;
 - 6) Accepts the tender offered by and appoints Lindsay Taylor Lawyers to Council's legal services panel for matters concerning s94 of the *Environmental Planning and Assessment Act 1979*.
-

ORDINARY COUNCIL MEETING – 27 MARCH 2012

064	Councillor Ken Jordan Councillor Geoff Dingle
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2)(d)(i) of the Local Government Act 1993, the Council resolve to close to the public the meeting for only as much time as is required to table and consider the confidential attachment;2) That the reasons for closing the meeting to the public to consider this item be that:<ol style="list-style-type: none">i) The attachment will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; andii) In particular, the attachment includes confidential pricing information in respect of legal fees;3) That on balance, it is considered that receipt and discussion of the confidential attachment in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts;4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the Local Government (General) Regulation 2005.

BACKGROUND

The purpose of this report is to seek approval for the tender and to appoint Harris Wheeler Lawyers, Local Government Legal and Lindsay Taylor Lawyers to Council's legal services panel for the period two (2) years with a further two years as an option.

Council appointed the current legal services provider, Harris Wheeler Lawyers, as its sole provider on 9 October 2007 (Min 308). The tender was for a period of two years plus an option period which was exercised.

In accordance with Council's tender procedures, a Legal Services specification was prepared and tenders were called in early February and closed at 2.00pm on Tuesday, 28 February 2012. The tender called for submissions for provision of legal services with respect to five areas of law:

- Administrative and Local Government;

- Commercial;
- Employment;
- Planning and Environmental;
- Property.

Seventeen (17) tenders were received, all conforming.

An assessment panel of four staff reviewed the tender submissions and reviewed price and non-price attributes of the tenders using the 'value selection' methodology. The evaluation criteria for the tender were:

EVALUATION CRITERIA	WEIGHTING %
COST	20
Non Points attributes	
Qualifications	10
Experience & Results	20
Business Ethics (including no conflict of interest)	10
Service Response and Quality Assurance	10
Reporting (information management)	10
Barristers/Third Party Providers and Staffing Allocations	10
Briefing & Debriefing and Value-added Services	10
TOTALS	100

Based on the Value Selection Methodology, the tender selection panel concluded that the tenders submitted by Harris Wheeler Lawyers and Local Government Legal offered the best value for Council for the areas of law for which they tendered. The panel also resolved that Lindsay Taylor Lawyers should be appointed for matters concerning s94 of the *Environmental Planning and Assessment Act 1979*. These findings are reflected in the recommendation to Council.

FINANCIAL/RESOURCE IMPLICATIONS

The appointment of these three firms to Council's legal services panel will provide Council with access to expertise in all the areas of law for which tenders were called. Prices are fixed for period 2012-2014.

LEGAL, POLICY AND RISK IMPLICATIONS

The tendering process complied with Council's procurement guidelines and requirements under the Local Government Act 1993 and Local Government (General) Regulation 2005. Contracts for an amount of \$150,000 or more or for a period of two (2) years or more require Council approval.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
Lack of access to timely and expert legal advice and representation	High	Adoption of tenders and appointment of tenderers to Legal Services panel	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant implications from this recommendation.

CONSULTATION

- 1) Selection panel comprising Group Manager Corporate Services, Group Manager Development Services, Property Services Manager and Executive Officer;
- 2) Contracts and Procurement Co-ordinator; and
- 3) Manager Legal Services.

OPTIONS

- 1) Adopt the recommendation;
- 2) Adopt the recommendation as amended; or
- 3) Not adopt the recommendation.

ATTACHMENTS

- 1) Confidential - Legal Services Tender – Selection Summary – under separate cover.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

TILLIGERRY MEN'S SHED

COUNCILLOR: TUCKER, MACKENZIE

THAT COUNCIL:

- 1) Allocate \$33,000.00 from the Tilligerry Repealed Section 94 funds to the Tilligerry Men's Shed Committee for construction of a Men's Shed at Mallabula.
-

ORDINARY COUNCIL MEETING – 27 MARCH 2012

065	Councillor Steve Tucker Councillor Shirley O'Brien
	It was resolved that the Notice of Motion be adopted.

BACKGROUND REPORT OF: STEVE BERNASCONI, MANAGER COMMUNITY & RECREATION AND PETER MARLER, ACTING MANAGER COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES

BACKGROUND

On the Tilligerry Peninsula there is strong interest amongst a number of residents to have their own men's shed. The Tilligerry Mens Shed Association has been established and formalised and consists of 74 financial members (as at 12th March 2012). A Central Ward Fund allocation of \$22,000.00 was endorsed by Council on 22 September 2011. Discussions have been held with Council staff and the Tilligerry Men's Shed Association. A potential venue (next to Council's Parks Depot at Mallabula Sports Complex) has been identified and a project plan has been developed for the planning and delivery of a Tilligerry Men's Shed.

Advice from Crown Lands is that, prior to any licences or leases on Crown Reserves for Men's Shed activities are considered, the Men's Shed group must prepare and submit a business plan that details the medium and long term structure, financial capacity and direction of the group. The Tilligerry Men's Shed Association is in the process of preparing a business plan and this plan will be included in the project plan and formal requests for use of part of the Crown Reserve at Mallabula (next to Council's Parks Depot at Mallabula Sports Complex).

Prior to the Central Ward Fund allocation Council had previously given this matter some consideration. At the Ordinary Meeting of Council on 14 December 2010

MINUTES FOR ORDINARY MEETING – 27 MARCH 2012

Council considered a report on improvements to Tilligerry Fire Station Facilities with Council resolving to: -

- 1) Locate the new Tanilba Bay Fire Station at RAF Park, Tanilba Bay;
- 2) Seek funding for this project through a building grant from the NSW Rural Fire Fighting Fund with the required Council co-contribution funded from Section 94 Developer Contributions;
- 3) On commissioning of the new facility, authorise the General Manager to negotiate with "Land & Property Management Authority" (now Crown Lands) to permit other uses for the existing Tanilba Bay Fire Station facility to occur, such as a Men's Shed, consulting rooms or other uses of community benefit.

The new Tanilba Bay Fire Station site is on hold until the new station is confirmed and built. Grant funding for the new building was not forthcoming this year, so project will be resubmitted for next year.

In regards to the use of Section 94 repealed funds, Council resolved on 26 September 2006 to allocate the remaining funds from the repealed Section 94 Plans to a total of seventy one (71) approved projects across Port Stephens. There is currently \$103,562 remaining in the Tilligerry catchment repealed bucket. The proposed allocation of \$33,000 to the Men's Shed at Tilligerry will leave a balance of \$70,562 in Section 94 repealed funds for the Tilligerry catchment.

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 – 27 MARCH 2012

066	Councillor Ken Jordan Councillor Bruce MacKenzie
	It was resolved that Council move into confidential session.

The following Council officers were present for the Confidential Session:

Stephen Crowe – Communications and Customer Relations Manager;
Emma Shanks – Communications and Marketing Coordinator;
Steve Bernasconi – Community and Recreation Services Manager; and
Aaron Malloy – Waste Management Coordinator.

CONFIDENTIAL

ITEM NO. 7

FILE NO: T01-2012

LEGAL SERVICES TENDER T01-2012

REPORT OF: WAYNE WALLIS - ACTING GENERAL MANAGER

GROUP: CORPORATE SERVICES GROUP

ORDINARY COUNCIL MEETING – 27 MARCH 2012

067	Councillor Ken Jordan Councillor Steve Tucker
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Accepts the tenders offered by and appoints Harris Wheeler Lawyers and Local Government Legal to Council's legal services panel;2) Accepts the tender offered by and appoints Lindsay Taylor Lawyers to Council's legal services panel for matters concerning s94 of the <i>Environmental Planning and Assessment Act 1979</i>.

CONFIDENTIAL

ITEM NO. 1

FILE NO: PSC2005-2675

DEED OF AMENDMENT TO WASTE DISPOSAL AGREEMENT WITH PORT STEPHENS WASTE MANAGEMENT GROUP

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

ORDINARY COUNCIL MEETING – 27 MARCH 2012

068	Councillor Bruce MacKenzie Councillor Caroline De Lyall
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1. Approve the draft Deed of Amendment to the Waste Disposal Agreement which releases Port Stephens Council from any obligation to the trust within the Tripartite Agreement.2. Approve the draft Deed of Amendment to the Waste Disposal Agreement which:<ol style="list-style-type: none">a) alters the per tonne waste disposal fee for the municipal waste delivered to the composting facility;b) alters the 50:50 sharing of the NSW State Government Waste Levy for all Council produced waste delivered direct to landfill and residual waste from the compost facility.3. Authorise the affixing of the Council's seal to the deed of amendment.

ITEM NO. 2

FILE NO: PSC2012-01059

STOCKTON BIGHT TRACK AT WILLIAMTOWN

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

ORDINARY COUNCIL MEETING – 27 MARCH 2012

Cr Bruce MacKenzie left the meeting at 6.43pm prior to Item 2.

069	Councillor Frank Ward Councillor Geoff Dingle
	It was resolved that Council: 1) Notes expert legal advice on Council's position is being sought; 2) Makes submissions to the Minister in relation to the requested modification of the project approval for Mackas Sand Pty Limited to use the Stockton Bight Track as an alternative access route; 3) Considers any submissions which may be made to Council by Mackas Sands Pty Limited; 4) That the matter of the detailed agreement and financial details be provided to Council.

There being no further business the meeting closed at 7.21pm.

I certify that pages 1 to 207 of the Open Ordinary Minutes of Council 27 March 2012 and the pages 208 to 261 of the Confidential Ordinary Minutes of Council 27 March 2012 were confirmed by Council at its meeting held on 24 April 2012.

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Cr Bob Westbury
MAYOR