

MINUTES 8 OCTOBER 2013



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 8 October 2013, commencing at 6.08pm.

PRESENT: Mayor B MacKenzie; Councillors G. Dingle; C. Doohan; S. Dover; K. Jordan; P. Kafer; P. Le Mottee; J. Morello; J Nell; S. Tucker; General Manager; Corporate Services Group Manager; Facilities and Services Group Manager; Development Services Group Manager and Executive Officer.

	No apologies were received.
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281	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 24 September 2013 be confirmed.</p>
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	<p>Cr Peter Kafer declared a less than significant non-pecuniary conflict of interest in Item 1. The nature of the interest being an association with one of the potential users of the race track.</p> <p>Cr Paul Le Mottee declared a significant non-pecuniary conflict of interest. The nature of the interest being Cr Le Mottee's clients may make planning proposals.</p> <p>The General Manager declared a pecuniary conflict of interest in Item 7. The nature of the interest being the decision may allow his appointment to the Board.</p>
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COUNCIL REPORTS

ITEM NO. 1

FILE NO: 16-2011-564-1

DEVELOPMENT APPLICATION FOR CONSTRUCTION AND OPERATION OF RACETRACK AT NO. 45 & 49 ITALIA RD. BALICKERA

REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2011-564-1, for construction and operation of a racetrack at No. 45 & 49 Italia Road, Balickera, subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
MOTION**

282	<p>Councillor Chris Doohan Councillor Steve Tucker</p>
	<p>It was resolved that Council move into Committee of the Whole.</p>

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Peter Kafer left the meeting at 6.10pm prior to Item 1 during Committee of the Whole.

	<p>Councillor Ken Jordan Councillor Chris Doohan</p>
	<p>That the recommendation be adopted.</p>

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

MOTION

Cr Paul Le Mottee left the meeting at 6.58pm during open Council.
Cr Peter Kafer left the meeting at 6.58pm during open Council.
The General Manager left the meeting at 6.58pm during open Council.

284	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the recommendation be adopted.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

BACKGROUND

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

This development application (DA) is for construction and operation of a sealed motor race track. In addition to club events and general activities, the proposal seeks approval for 4 race meetings per year, which will be events such as state and national titles operating over a 3 day weekend attracting an estimated 200 vehicles per event.

The key DA issues are potential noise impacts on nearby dwellings, flora and fauna, traffic and water quality.

The site is located off the intersection between Italia Rd and Pacific Hwy and contains an existing off road race track (approved by DA 2118 and to be rehabilitated as part of this proposal). The surrounding properties contain the MG Car Club Hill Climb facility, Boral Quarry, Port Stephens Landscape Supplies and MX Central Motorbike facility. There are approximately 17 dwellings within a 2km radius of the site. The site is located in a Hunter Water Special Area, and is part of the Grahamstown Dam catchment.

The Land & Environment Court (LEC) has previously refused an application for a motor sport facility (known as Motorplex) on the site, due to environmental and traffic impacts. Noise impacts were also a key issue, but the LEC was of the opinion that the issue did not necessarily warrant refusal following submission of a joint report from acoustic experts representing both parties involved in the case.

It should be noted that there are major differences between the Ringwood Raceway and Motorplex proposals, particularly the absence of a drag strip, grandstand and parking areas for spectators, track layout and overall development footprint.

Council has received 28 public submissions objecting to the proposal, mainly concerning potential noise impacts. Council also received 66 submissions supporting the proposed development on the basis of general public benefit and lack of motor sports facilities in NSW.

Following assessment of the DA, it is considered that environmental, traffic and water quality issues can be adequately controlled through conditions of consent, and do not warrant refusal of the application in this instance.

While it is considered that the potential noise impacts do not warrant refusal in this instance, Council staff have taken a conservative approach to the noise issue and have recommended conditions above the requirements of the Local Government Noise Guidelines, in particular reducing the number of proposed race meetings to 3, to be run over 2 day weekends and not supporting the proposed operation to 10pm on 6 days per year. These conditions have been discussed with the applicant, who has not raised any objections.

It is considered that the race track will be consistent with the Local Government Noise Guidelines and existing noise controls on the site, subject to compliance with recommended conditions. Further, the development will be consistent with the joint acoustic report submitted by both parties involved in the Motorplex LEC case. Council staff has sought assistance from independent acoustic consultants (Global and The Acoustic Group) at the commencement and completion of its assessment.

It is noted that there will likely be noise impacts on nearby residences, particularly for race meetings which may generate up to 30dB above background noise levels (perceived as being 8 times as loud as background noise), and has the potential to be an on-going concern for residents. The recommended conditions are intended to maintain a level of residential amenity considered reasonable by the relevant noise guidelines.

While not directly related to this DA, there is also an on-going issue with an existing access road through the site that provides access to properties on Barleigh Ranch Way, but is not located within the associated easement for Right Of Way (ROW).

Submissions have requested that Council deal with this matter as part of the DA, but the development does not alter the existing arrangements and is not considered to be a clear Section 79C planning matter. While the recommended conditions do not seek to resolve the matter, Council staff have discussed this issue with the applicant and owner, who advised that their intention is to investigate the matter further upon determination of this DA. Council staff are willing to facilitate discussion between the parties to resolve the matter if necessary.

There are 2 current applications lodged over the Landscape Supplies Business site, with a proposed quarry being considered the Department of Planning and a

proposed extension to the Landscape Supplies operation being considered by Council. The question of legal access is a Section 79C concern for both these DAs, and will potentially provide a trigger for resolving the on-going access/ROW issue.

FINANCIAL/RESOURCE IMPLICATIONS

Determination of the development in accordance with the recommendations does not present any significant financial or resource implications for Council. While on-going acoustic monitoring and reporting recommended in the conditions will require Council staff involvement, it is not likely to be outside the scope of existing resources and is to be expected for a development of this nature.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The DA is consistent with Council Policy, subject to determination in accordance with the recommendations. However, there are likely to be risk implications associated with approving the DA due to potential for noise impacts.

Public submissions raised concern regarding compliance with recommended noise conditions. Council has the option of investigating noise complaints and taking compliance action where necessary, which the recommended conditions seek to facilitate.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that approving the DA will result in noise impacts on residences.	Medium	Determine DA as per recommendations. Investigate any noise complaints and take action where necessary.	Yes
There is a risk that Council's decision will be subject to appeal.	Low	Determine DA as per recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The development is not likely to have any adverse social impacts on the wider community, but may impact the residential amenity of nearby residents through generation of noise. It is considered that recommended conditions provide an appropriate response to both potential noise and environmental impacts, and do not warrant refusal of the application in this instance.

It is noted that the large race meetings have the potential to provide positive social and economic impacts as result of competitors travelling to and staying in the Local Government area, which was highlighted by the number of submissions received supporting the proposal.

Council's economic modelling tool - REMPLAN estimates that in addition to the \$4m injection into the local economy during the construction phase, the proposal will provide a further economic output of \$2.5m via the supporting of goods and services being supplied during the construction (from other sectors in the economy). A further \$900,000 worth of economic output will occur as those working on the project get paid and spend money in the local economy, meaning total economic output for this development (direct, indirect and via consumption) is in the order of \$7.4m.

From a direct increase in output of \$4 million the corresponding creation of direct jobs is estimated at 4 additional jobs. Additionally a further 11 jobs will be created as a result of employment creation occurring as a result of the indirect and consumption effects, meaning total employment for this development (direct, indirect and consumption) is in the order of 15 jobs.

CONSULTATION

The application has been publicly exhibited in accordance with Council policy, with 28 submissions received objecting to the DA and 66 submissions received supporting the DA. These are discussed in the Attachments.

OPTIONS

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

ATTACHMENTS – All listed below provided Under Separate Cover

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

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2

FILE NO: PSC2012-04560

PROPOSED ALTERATION TO THE PORT STEPHENS FEES AND CHARGES 2013 – 2014 (FEES AND CHARGES POLICY)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the draft fees and charges with respect to planning proposals to the Port Stephens Fees and Charges 2013 – 2014 as at **(ATTACHMENT 1)**.

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
 COMMITTEE OF THE WHOLE RECOMMENDATION**

Cr Paul Le Mottee left at 6.22pm prior to Item 2 during Committee of the Whole.
 Cr Peter Kafer returned at 6.23pm during Committee of the Whole.

	<p>Councillor John Nell Councillor:</p>
	<p>That Council defer Item 2 to allow for further consideration.</p>

The above motion lapsed due to no seconder.

	<p>Councillor Geoff Dingle Councillor Peter Kafer</p>
	<p>That Council:</p> <ol style="list-style-type: none"> 1) Endorse Category A & B; and 2) Reject the Fees & Charges Category C and establish a model with a set base fee and an hourly rate.

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

Those for the Motion: Crs Peter Kafer, Geoff Dingle and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan, Chris Doohan, Steve Tucker, John Morello and Sally Dover.

The motion was lost.

	Councillor Steve Tucker Councillor Sally Dover
	That Council adopt the draft fees and charges with respect to planning proposals to the Port Stephens Fees and Charges 2013 – 2014 as at (ATTACHMENT 1) .

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

Those for the Motion: Mayor Bruce MacKenzie , Crs Ken Jordan, Chris Doohan, Steve Tucker, John Nell, John Morello and Sally Dover.

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

MOTION

285	Councillor Ken Jordan Councillor John Morello
	It was resolved that Council adopt the draft fees and charges with respect to planning proposals to the Port Stephens Fees and Charges 2013 – 2014 as at (ATTACHMENT 1) .

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

Those for the Motion: Mayor Bruce MacKenzie , Crs Ken Jordan, Chris Doohan, Steve Tucker, John Nell, John Morello and Sally Dover.

Those against the Motion: Cr Geoff Dingle.

BACKGROUND

At its meeting on 13 August 2013 Council resolved to amend the Port Stephens Fees and Charges 2013 – 2014 with respect to planning proposals for the purposes of public exhibition for a period of 28 days in accordance with Section 610F of the Local Government Act 1993.

The proposed payment fee structure includes a Category A, B and C depending on the complexity of a proposal rather than its size alone. This ensures adequate revenue is obtained to meet the cost to Council and resources required to

adequately assess the proposal while maintaining a level of consistency and fairness for applicants depending on the scale of their proposal.

The payment fee structure for each of the three categories is in three stages with payment due based on key stages under the Department of Planning and Infrastructure's (DoPI) Gateway process which all planning proposals are required to follow including:

- Stage 1 – Lodgement (up to Gateway);
- Stage 2 - Post Gateway (exhibition); and
- Stage 3 – Gazettal.

Public Exhibition

The draft amendment was placed on public exhibition from Thursday 22 August 2013 to Thursday 19 September 2013, with a copy of the Council report of 13 August 2013.

During the exhibition period a total of four (4) submissions were received. A summary of issues raised and Council's response to each is included as at **(ATTACHMENT 3)**. A copy of the submissions are available upon request.

An administrative error occurred when the proposed Port Stephens Fees and Charges went on exhibition. Council's resolution of 13 August 2013 to place the fees and charges on exhibition proposed an additional fee in Note 1 for Category C proposals of \$1650 per hectare capped at \$100,000 (charges at a pro rata basis across each stage). This would result in a maximum total capped fee for Category C proposals of \$206,000. However another version of Note 1 was included in the exhibition material which proposed an additional capped fee for Category C proposals at a total planning proposal cost of \$250,000.

The recommended fees and charges proposes to rectify this error by recommending the original additional fee structure for Category C proposals of \$1650 per hectare capped at \$100,000 (charges at a pro rata basis across each stage) as previously adopted by Council for exhibition. It is however recommended that Note 1 be amended to clarify that the total maximum capped cost of a Category C planning proposal is \$206,000 as at **(ATTACHMENT 1)**.

Council does have the option to re-exhibit the draft Fees and Charges to clarify its position, however given the fees and charges recommended for adoption is the same as previously adopted by Council for exhibition, this is not a recommendation of this report.

Transitional Arrangements

All existing and future planning proposal requests will be charged in line with Council's adopted Fees and Charges as per the date of lodgement.

FINANCIAL/RESOURCE IMPLICATIONS

The new fee structure will ensure that future costs incurred by planning proposals will be more closely aligned with the true service costs incurred by Council. Further, the fee structure proposed has been developed to ensure there is no financial impost to Council in its capacity as the responsible authority to assess planning proposals. .

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	500	Exhibition of fees and charges
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Under Section 610F of the Local Government Act 1993 any changes to fees and charges are required to be placed on public exhibition for a period of 28 days.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not re-exhibit the draft fees and charges amendment and Council will be open to challenge for exhibiting misleading information.	Medium	Adopt the original additional fee structure for Category C of \$206,000 as previously adopted by Council for exhibition.	Yes
There is a risk that fees and charges are not in line with service costs and the community will perceive Council is overcharging for planning proposals.	Medium	Implement proposed fees.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The revised fee structure ensures that Council continues to receive adequate revenue for applications while ensuring a level of consistency and fairness for applicants.

CONSULTATION

- 1) The preparation of the revised fees was done in consultation with strategic planning staff and Councillors;
- 2) Public exhibition of the draft Fees and Charges 2013 – 2014 Amendment included placing the document on Council's website and placing advertisements in the Council's Notices pages of the Port Stephens Examiner for 28 days from Thursday 22 August 2013 to Thursday 19 September 2013.

OPTIONS

- 1) Adopt the recommended draft fees and charges as at **(ATTACHMENT 1)**. This option will result in a maximum capped fee of \$206, 000 (prorated across each stage);
- 2) Amend the recommended draft fees and charges to result in a maximum capped fee of \$250, 000 (prorated across each stage);
- 3) Reject the recommended fees and charges schedule. Council defer adoption of the fees and charges policy until further investigation is carried out. This option may create significant uncertainty in the community regarding future rezoning requests.

ATTACHMENTS

- 1) Proposed Fees and Charges for Planning Proposals for adoption;
- 2) Exhibition material (provided under separate cover)
- 3) Summary of submissions received;

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Proposed Fees and Charges for Planning Proposals for adoption

	Fee	GST	Total Fees	Pricing Policy	Clarification
LOCAL ENVIRONMENTAL PLAN AMENDMENTS					
Category A					
Stage 1 - Lodgement (up to Gateway)	\$2,000	\$0.00	\$2,000	Full cost pricing	Minor amendments consistent with the parent LEP and do not require additional studies (i.e minor map anomalies).
Stage 2 - Post Gateway (exhibition)	\$4,500	\$0.00	\$4,500	Full cost pricing	
Stage 3 - Gazettal	\$2,000	\$0.00	\$2,000	Full cost pricing	
TOTAL			\$8,500		
Category B					
Stage 1 - Lodgement (up to Gateway)	\$10,500	\$0.00	\$10,500	Full cost pricing	Proposals consistent with: a. local area strategies, b. surrounding land use zones/land uses c. Present no issues with regard to infrastructure servicing d. Not a principal LEP.
Stage 2 - Post Gateway (exhibition)	\$21,500	\$0.00	\$21,500	Full cost pricing	
Stage 3 - Gazettal	\$7,500	\$0.00	\$7,500	Full cost pricing	
TOTAL			\$39,500		
Category C					
Stage 1 - Lodgement (up to Gateway)	\$40,000	\$0.00	\$40,000	Full cost pricing	Proposals which are significant and complex that include urban release areas, Greenfield sites or those that may also require the preparation of an accompanying DCP, S94 Plan or VPA.
Stage 2 - Post Gateway (exhibition)	\$43,000	\$0.00	\$43,000	Full cost pricing	
Stage 3 - Gazettal	\$23,000	\$0.00	\$23,000	Full cost pricing	
TOTAL			\$106,000		

Note 1: Category C Proposals outside of an endorsed Department of Planning and Infrastructure Strategy attract an additional fee above the total \$106,000 calculated on a per hectare basis (of all land subject to the LEP amendment regardless of the proposed zone) of \$1650 per ha, capped at \$100,000 (charges at a pro rata basis across each stage resulting in a maximum capped cost of a Category C Planning Proposal of \$206,000).

Note 2: Actual cost of engaging consultants to review submissions or undertake studies will be charged in addition.

Note 3: Public hearing at cost.

Note 4: Full payment of each stage to be provided prior to commencement of the subject stage.

ATTACHMENT 2

Provided under separate cover

ATTACHMENT 3

Summary Of Submissions

No.	Proposer	Submission	Council Response
1	Voice of Wallalong and Woodville Inc	<p>1. Council will bring itself into serious disrepute with the community if the draft fees and charges are adopted because it is being put forward solely on the basis of one earlier submission by a single developer which has already incurred a large liability to ratepayers of \$532,000.</p> <p>2. Council staff did not consult widely enough with industry, commercial and academic sources and that a third party expert opinion should have been sought.</p> <p>3. The amendment should be re-advertised with more detail on how figures have been formulated.</p> <p>4. Council has not reviewed its fees and charges in its entirety for many years and should defer making</p>	<p>1. Council previously considered a submission to its draft Fees and Charges Policy 2013 – 2014 and resolved following adoption of the Fees and Charges Policy 2013 – 2014 in May 2013 that Council's Development Services Group re-asses the approach to charging for re-zoning land for further consideration by Council. Council further resolved on 13 August 2013 to place the draft fees on public exhibition. The proposed payment fee structure considers the complexity of a proposal rather than its size alone.</p> <p>2. The proposed revised fee structure was the result of a review of Councils existing planning proposals including their level of complexity, size, staff time and resources spent. A comparison of fees with surrounding Councils including Maitland, Newcastle, Cessnock, Lake Macquarie was also carried out to provide a benchmark. As illustrated through this comparison, fees range widely between Councils with no consistent approach applied across NSW to use as a reference. The fees and charges were placed on public exhibition to obtain all stakeholder comments.</p> <p>3. The Council report outlined that the payment fee structure is based on key stages under the Department of Planning and Infrastructure's (DoPI) Gateway process which all planning proposals are required to follow. The proposed fee structure was the result of a review of Councils existing planning proposals including their level of complexity, size, staff time and resources spent. A comparison of fees with surrounding Councils including Maitland, Newcastle, Cessnock, Lake Macquarie was also carried out.</p> <p>4. Council reviews its fees and charges every year including placing the amendment on public exhibition for 28 days to obtain community</p>

MINUTES FOR ORDINARY COUNCIL – 8 OCTOBER 2013

No.	Proposer	Submission	Council Response
		this particular amendment in favour of a full review.	feedback. There is no requirement for Council to review the Fees and Charges Policy in its entirety to make an amendment.
2	Resident	<p>1. Attachment 3 of the previous Council report included an example comparison of surrounding Councils fee structure with Councils existing and proposed fee structure. 2012 – 2013 fees were included for Newcastle, Maitland and Lake Macquarie Council rather than 2013 – 14. The Fees and Charges should be readvertised with current up to date information so that members of the community can voice their opinions on accurate data.</p> <p>2. Each council has their own way of listing their fees and charges in regards to larger developments and the generic way this comparison has been laid out is misleading.</p>	<p>Attachment 3 of the August 2013 Council report provided an example comparison of surrounding Councils fee structure with Councils existing and proposed fee structure. The table applied other Councils Fees and Charges Policy's in force at the time of the comparison being made. Due to the lead in time to prepare Council reports, 2012 – 2013 fees were used for Newcastle, Maitland and Cessnock Councils. The respective Councils 2013 – 14 Fees and Charges Policy have since been adopted. It is noted that the table was used as an example only and determination of fees was based on a range of factors including a review of Councils existing planning proposals including their level of complexity, size, staff time and resources spent.</p> <p>It is noted that each Council across NSW levies fees for planning proposal requests varies greatly and as a result it is difficult to make a direct comparison between Councils. Attachment 3 provides an example of surrounding Councils and notes that fees depended on a range of factors including staff time and undertaking further studies. The proposed revised fee structure was the result of a review of Councils existing planning proposals including their level of complexity, size, staff time and resources spent.</p>
3	Resident	Formal request for a 14 day extension of time for submissions due to awaiting feedback on a previous complaint lodged on 29 August concerning fees and charges related to a planning proposal by a developer Wallalong Land Owners Group (WLG). The fees and Charges amendment is a direct result of a submission made earlier by WLG. Taken together, these two facts demonstrate the clear and specific relationship between the amendment, the WLG proposal and the subject of my letter of complaint. Information sought in part as	<p>A formal response to the letter was sent on 17 September 2013. An extension to 24 September 2013 was provided, however given the timeframes for reporting to Council no further extension was able to be granted.</p> <p>The draft amendment relates to how Council will levy fees for all future requests to amend Council's Local Environmental Plan by a Planning Proposal. All existing planning proposal requests will be charged in line with Councils adopted Fees and Charges Policy as per the date of lodgement. Given the WLG's request for Council to prepare a planning proposal was submitted under the current Fees and Charges Policy,</p>

MINUTES FOR ORDINARY COUNCIL – 8 OCTOBER 2013

No.	Proposer	Submission	Council Response
		<p>a means to form the basis of a submission. Having not yet received a response from Council there is insufficient time to consider the response and make a submission.</p> <p>Others residents are also awaiting the outcome of the complaint and it would be a denial of natural justice and due process to deny the opportunity to make a submission.</p>	<p>concerns relating to this specific request is considered a separate issue and will not be dealt with as part of the draft amendment currently on public exhibition.</p> <p>On this basis, all information required to make a submission on the draft fees and charges amendment is available as part of the exhibition material and granting an extension of time which will delay reporting of the matter to Council is not considered necessary.</p>
4	Resident	<p>1. The Policy exhibited is not the same as that adopted by Council. The capped cost in Note 1 for Category C proposals included in the exhibition material was \$250,000 while the proposed capped costs recommended for exhibition by Council is capped at \$100,000. This is misleading and requires re-exhibition.</p> <p>2. The decision of Council was based on a comparison table which has incorrect information and not comparable. See comments above.</p> <p>3. The capped fee of \$100,000 referable to Category C in Councils Fees and Charges would apply to land of 60.61 ha as well land 10 times that area. It is absurd and unfair to claim that the issues for a 60ha rezoning are the same as a 630ha. The Council is underselling their professional services it</p>	<p>1. It is acknowledged that an administrative error occurred when the proposed Port Stephens Fees and Charges went on exhibition. Councils resolution of 13 August 2013 to place the fees and charges on exhibition proposed an additional fee in Note 1 for Category C proposals of \$1650 per hectare capped at \$100,000 (charges at a pro rata basis across each stage). This would result in a maximum total capped fee for Category C proposals of \$206,000. However another version of Note 1 was included in the exhibition material which proposed an additional capped fee for Category C proposals at a total cost of \$250,000.</p> <p>The fees and charges in this report proposes to rectify this error by recommending the original additional fee structure for Category C of \$206,000 as previously adopted by Council for exhibition.</p> <p>2. See comments above</p> <p>3. Issues are not always a direct correlation with the size of a proposal with some smaller proposals having the potential to have the same or more issues than larger proposals. The proposed payment fee structure continues to take into account the additional work required when planning proposals are not consistent with Council policy by requiring applications that are outside of an endorsed Department of Planning</p>

MINUTES FOR ORDINARY COUNCIL – 8 OCTOBER 2013

No.	Proposer	Submission	Council Response
		<p>provides for the sake of promoting itself as 'developer friendly'. A capped fee is unfair and a sliding scale would be more appropriate, the fees being based on area to be rezoned and the zonings sought.</p> <p>4. The policy should state there is absolute discretion vested in the Development Services Group Manager to vary the fee in circumstances that depart from what would be the 'run of the mill' type proposals. This discretion should take into account the hourly rates for the time Councils professional staff spend on the particular planning proposal.</p> <p>5. The Policy must state that payment of stage or phase fee is to be made upfront before anything whatsoever is done with a planning proposal.</p> <p>6. Type of 'pro rate' instead of pro-rata.</p>	<p>and Infrastructure Strategy to pay an additional fee calculated on a per hectare basis. Furthermore, if required the proponent is required to pay the full cost of engaging consultants to review submissions or undertake additional studies to take into account proposals which are more complex.</p> <p>4. To ensure consistency and transparency all planning proposals should be required to pay fees in line with the adopted fees and charges policy. Council reviews its fees and charges policy on a yearly basis and should issues with fees arise future amendments can be considered.</p> <p>5. An additional note has been included to ensure payment of each staged fee is made up front.</p> <p>6. Noted. Correction has been made.</p>

ITEM NO. 3

FILE NO: PSC2007-3153

REVOKE COUNCIL POLICY – APPLICATION DETERMINATION POLICY

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

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current Application Determination Policy, adopted on 18 December 2007, Minute Number 380.

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Chris Doohan</p>
	<p>That the recommendation be adopted.</p>

MOTION

286	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>It was resolved that Council adopt the Committee of the Whole recommendation.</p>

BACKGROUND

The purpose of this report is to request Council repeal the Application Determination Policy, adopted on 18 December 2007, Minute Number 380.

Council has a program of systematically reviewing and updating its existing policies.

Within the Development Services Group the aim is to review all existing policies with the view to revoke, amend or substantially update where required. This is a staged approach and the subject of this report includes one (1) policy recommended to be revoked.

The current policy – Application Determination was originally adopted on 18 December 2007. This original policy is provided in **(ATTACHMENT 1)**.

The purpose of this policy was to guide staff on the application determination process and to support continuous improvement of the delivery of the development assessment service to all customers involved in the development application and development certification processes. The policy also reinforced that in order for efficient development assessment that achieves quality outcomes, it is highly dependant on two factors: the quality of legislative and policy framework of State and Local Government, and the quality of applications submitted.

In reviewing the need for this policy, it is considered that the policy is no longer required, as it is more appropriate to manage application lodgement quality via an internal guide or management directive, rather than through policy. Whilst lodgement quality is important, quite often there is not a 'one size fits all' approach that works effectively and strict adherence to the numbers/figures within the policy can not always be achieved.

It is recommended to revoke this policy, and to prepare and implement a Management Directive or deployment flow chart document which is thought to be a more appropriate mechanism than a policy to help guide internal staff to achieve efficient development assessment and quality outcomes.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial / resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Policy review & revoke within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing existing policies and determining the appropriateness of policy, to assist in facilitating more accurate and robust decision making.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of making poor decisions as a result of outdated policy.	Medium	Review and Repeal the current policy and replace in the future with an internal Management Directive.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are minimal direct sustainability implications. By revoking the policy, it will enable the preparation and implementation of an internal Management Directive considered more appropriate than a policy to guide staff in determination applications efficiently and effectively.

CONSULTATION

- 1) Consultation has been undertaken with relevant staff within DAC Section;
- 2) Further consultation will be undertaken in the preparation and implementation of an internal Management Directive.

OPTIONS

- 1) Resolve to retain the existing policy;
- 2) Resolve to revoke the policy.

ATTACHMENTS

- 1) Application Determination Policy adopted on 18 December 2007.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Adopted: 18 December 2007

Minute No: 380

Amended:

Minute No:

FILE NO: PSC2007-3153

TITLE: APPLICATION DETERMINATION POLICY

BACKGROUND

- 1.1 Efficient development assessment that achieves quality outcomes is highly dependent upon two factors:
- a) The quality of the legislative and policy framework of State and Local Government, and
 - b) The quality of applications submitted
- 1.2 Port Stephens has a relatively high level of growth and development demand that generate a range of social, economic and environmental issues for development assessment.
- 1.3 This Council has high level emphasis on customer service and business excellence that underpin the service delivery of a responsibility such as development assessment. Council policies and operations – and the Council Plan 2007-2011 – are founded upon the five pillars of sustainability – social, cultural, economic, environmental and business excellence. Implementation of the objectives and strategies to fulfil these five pillars of sustainability will have strong influence that will enhance the delivery of service for development assessment.

OBJECTIVE

- 2.1 The objectives of this policy are:
- a) to support continuous improvement of the delivery of the development assessment service to all customers involved in the development application and development certification processes;
 - b) to achieve and enhance the effectiveness and efficiency in the assessment and decision making processes;

- c) to increase the focus of stakeholders and professional staff resources on achieving quality of outcomes as well as reduced assessment times;
- d) to “shift” the development and building responsibilities in Council to a more “business-like” approach and reflect the high level joint responsibilities of Council and applicants to achieve the efficiencies of process and quality of outcomes;
- e) to ensure appropriate prioritisation of staff resources and time to applications that have significant implications and also applications that are well prepared, adequate and valid in terms of legal and policy requirements, and
- f) to increase the level of partnership between Council and proponents in managing an effective and efficient development assessment and decision-making process.

PRINCIPLES

3. SERVICE COMMITMENT

- 3.1 Council’s management and professional staff involved in development assessment are committed to work towards achievement of the objectives above and to prioritise workload to respond to:
 - a) the sequence of lodgement of development applications and certificates;
 - b) the public interest importance of applications;
 - c) the priorities that Councillors place on decision-making on certain applications;
 - d) equitable response to applicants who have invested time and resources in pre-lodgement and the preparation of good quality, well-prepared applications.

4. OBLIGATIONS OF APPLICANTS

- 4.1 The NSW legislation applicable to planning, development and environmental issues is contained in many different pieces of legislation and is highly complex.
- 4.2 Efficient and effective assessment and decision-making for development assessment depends very significantly upon the quality of applications and documentation comprising the overall development application lodged with Council. The onus is upon applicants to provide quality applications to serve this process and to have applications supported with all relevant and legally valid information and plans. Applicants need to consider very strongly the engagement of consultants with expertise to ensure such quality of applications.
- 4.3 Again, Council will give priority responsiveness to applicants who have

invested the time and professional resources in pre-lodgement discussions and preparing high quality of applications that enable efficient assessment and decision making.

5. ASSESSMENT AND DECISION MAKING PROCESSES

- 5.1 Where an application is not statutorily valid and/or lodged in compliance with council's lodgement guide, then the application will not be accepted at the counter. To be statutorily valid, an application must therefore be:
- a) submitted with the prescribed form accompanied by the appropriate fee (refer to Council's Fees and Charges);
 - b) include the consent of all landowners
 - c) include all plans and necessary supporting information such as a Statement of Environmental Effects or an Environmental Impact Statement together with such specialised reports as are required legally or by Council's policies.
- 5.2 As provided for in Part 6 of the Environmental Planning & Assessment Regulation, Council can reject an application within 7 days after receipt if the application is illegible or unclear as to the development consent sought, or does not contain the relevant information as prescribed within Schedule 1 of the Regulation required to assess the proposal. Rejection of deficient applications this will be implemented by Council – should such an application be received by post or otherwise not have been declined for acceptance at the customer service counter.
- 5.3 In accordance with Clause 61(2) of the Environmental Planning & Assessment Regulation Council will reject an application within 14 days if:
- a) it is an application for development that requires concurrence but the application does not include the concurrence fees appropriate for each concurrence relevant to the development, or
 - b) the application is for integrated development, but the application fails to identify all the approvals referred to in Section 91 of the Environmental Planning & Assessment Act and fails to include the approval fees appropriate for each approval relevant to the integrated development, or
 - c) is an application that requires a Species Impact Statement (SIS) in accordance with Section 78a(8)(b) of the Act but does not include such an SIS or

d) it fails to meet the lodgement requirements as identified in Schedule 1 below.

When an application is rejected under the above terms, the application is for the purposes of the legislation considered never to have been made and the Council will refund the whole of any application fees paid.

- 5.4 If the application is concluded to be statutorily valid but is manifestly inadequate in terms of supporting information or conformity with Port Stephens LEP 2000, Port Stephens Development Control Plan 2007 or other relevant policies – the application will be refused at the discretion of Council's Manager of Development & Building or Group Manager Sustainable Planning.
- 5.5 If the development application is statutorily valid generally but requires more supporting information and plans consistent with legal and policy requirements, and/or raises issues requiring further information or clarification, then the applicant will be advised by letter and requested to supply that information and/or clarification within a letter with identified timeframes as outlined within Schedule 1 below. If the relevant information and/or clarification is not provided within that period, then the application will be determined under delegation on the information provided or recommended to Council based upon the information currently provided. If the application warrants refusal Council staff will provide a memo to Councillors advising of the circumstances of the case, and providing a seven (7) day opportunity to have the application called to Council for consideration prior to its determination.
- 5.6 It is at the discretion of the Manager Development & Building or Group Manager Sustainable Planning to call a meeting with proponents and any other stakeholders in relation to a particular development application to seek to negotiate the provision of additional information or indeed improvement in the content of the DA to achieve quality outcomes.
- 5.7 It is also at the discretion of the Manager Development & Building or Group Manager Sustainable Planning that, if there is a significant policy issue raised by the application, and it is considered productive to the assessment process to do so, then a report will be submitted to Council to seek a resolution to clarify the policy position notwithstanding that the total application cannot be determined at that time or may still require further information for such determination.

6. CONSULTATION

- 6.1 It is desirable and productive – particularly for major sensitive or complex applications – that the proponents consult key community groups and stakeholders prior to finalising the application for

lodgement with Council and certainly to take the opportunity of a pre-lodgement consultation with Council's Development Assessment Panel.

- 6.2 Council offers a service of pre-lodgement consultation for proponents to attend Council's Development Assessment Panel to provide guidance and assistance to ensure applications are valid, adequate and generally acceptable for lodgement and DAP offers the service on the following bases:
- a) that concept plans and any additional summarised information are submitted one week prior to the appointment;
 - b) that notes of advice given at the meeting will be displayed on a screen in the meeting room and provided if possible and at the discretion of the Chair of the Development Assessment Panel to the external parties making the enquiries before they leave the meeting;
 - c) the DAP gives as much information as possible regarding the acceptability of the proposal and the content of the application upon lodgement, but necessarily places a disclaimer on such advice given the processes of assessment consultation and decision-making subsequent to lodgement.

6.3 Fees applicable to pre-lodgement consultations are as follows:

- Estimated value of proposal \$1 million or less - \$396 per 45 minute appointment
- Estimated value of proposal more than \$1 million - \$770 per 45 minute appointment.
- Subdivision less than 10 lots - \$396 per 45 minute appointment
- Subdivision 10 lots or more - \$770 per 45 minute appointment.

IMPLEMENTATION RESPONSIBILITY

Group Manager, Sustainable Planning – David
Broyd Manager of Development and Building –
Scott Anson

REVIEW DATE

December 2008
SCHEDULE 1

MINUTES FOR ORDINARY COUNCIL – 8 OCTOBER 2013

TIME FRAMES – ‘Rejection of DA’ and ‘Stop the Clock’ For Additional Information

ITEM		NUMBER OF DAYS IF NOT SUBMITTED	NUMBER OF DAYS IF INSUFFICIENT INFO.
Timeframes		<i>14 Days - 21 Days - 28 Days - 60 Days - 6 Months</i>	
CUSTOMER SERVICE STAFF	LODGEMENT GUIDE MATRIX COMPLIANCE	Do Not Accept	Do Not Accept
	DA/CC FEES	Do Not Accept	7 Local / 14 Integrated
	OWNERS CONSENT	Do Not Accept	14
	OWNERS CONSENT FROM PUBLIC AUTHORITY EG DEPT LANDS	Do Not Accept	14
	ADVERTISING / NOTIFICATION PLANS	Do Not Accept	14
	CONCURRENCE & FEES	Do Not Accept	14
	INTEGRATED DEVELOPMENT & CHEQUE	Do Not Accept	14
	STATEMENT OF ENVIRONMENTAL EFFECTS	Do Not Accept	14 minor / 28 major
	SITE CONTEXT ANALYSIS PLAN	Do Not Accept	14
	SITE PLANS, ELEVATIONS	Do Not Accept	14
	HUNTER WATER STAMP	Do Not Accept	14
	CONSTRUCTION TRAFFIC MGT PLAN	Do Not Accept	21
	SECTION 68 WASTE WATER APPLICATION	Do Not Accept	21
	SURVEY PLAN / REDUCED LEVELS / CUT & FILL	Do Not Accept	21
	LANDSCAPING PLAN	Do Not Accept	21
	BASIX CERTIFICATE	Do Not Accept	21
DEVELOPMENT ASSESSMENT STAFF	BUSHFIRE REPORT	Do Not Accept	21
	STORMWATER PLANS	Do Not Accept	21 minor / 28 major
	SUBDIVISION PLAN	Do Not Accept	21
	SEPP 65 – DESIGN VERIFICATION STATEMENT	Do Not Accept	21
	SEPP 1 OBJECTION	Do Not Accept	21
	AIRCRAFT NOISE REPORT	Do Not Accept	21
	HERITAGE REPORT (Identified Items)	Do Not Accept	21
	EROSION AND SEDIMENT CONTROL PLAN	Do Not Accept	21
	TRAFFIC REPORT (State Road, SEPP 11)	Do Not Accept	28
	ARBORIST REPORT	21	21
	CONTAMINATED LANDS ASSESSMENT	21	21
	DRIVEWAY ENGINEERING DETAILS	21	21
	POLICY MATTER – E.g. Additional Justification	21	21
	ARCHITECTURAL AMENDMENTS - Eg Change In Garage Design	21	21
	ACID SULFATE SOILS MGT PLAN	28	28

MINUTES FOR ORDINARY COUNCIL – 8 OCTOBER 2013

	FLORA AND FAUNA ASSESSMENT - SIMPLE	28	28
	EASEMENTS TO NEGOTIATE	Owners Intent Letter (Note 1)	60 days to create (Note 2)
	FLORA AND FAUNA ASSESSMENT - COMPLEX	60	6 months

ITEM NO. 4

FILE NO: S9100-023

REVOKE POLICY – ENVIRONMENTAL NOISE POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current Environmental Noise Policy adopted on 16 December 2008, Minute Number 392.

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Chris Doohan</p>
	<p>That the recommendation be adopted.</p>

MOTION

287	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>It was resolved that Council adopt the Committee of the Whole recommendation.</p>

BACKGROUND

The purpose of this report is to recommend to Council to revoke the current Environmental Noise Policy.

Council has a program of systematically reviewing and updating its existing policies.

Within the Development Services Group the aim is to review all existing policies with the view to revoke, amend or substantially update where required. This is a staged approach and the subject of this report includes one (1) policy recommended to be revoked.

The current policy – Environmental Noise Policy was originally adopted on 16 December 2008. This original policy is provided in Attachment 1.

The purpose of the Policy was to assist Council to deal fairly, consistently and effectively with noise complaints and noise offences.

A policy in this regard is no longer warranted, nor appropriate in the context of our policy framework. What is needed is a Process (Deployment Flowchart) to ensure there is a clear internal process or procedure for responding to environmental noise complaints or referring them to the appropriate regulatory authority.

It is the view of Environmental Health and Compliance staff that the current policy is not referenced or utilised due to the existence of a wide range of regulatory options and guiding documents available. These include but are not limited to the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2008*, the Industrial Noise Policy (EPA), the Noise Guide for Local Government (EPA) and development consent conditions imposed by Council.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial / resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Policy update & implementation within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing existing policies and determining the appropriateness of policy or in this instance if a Process (Deployment Flowchart) is considered more appropriate to assist in facilitating more accurate and robust decision making.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of making poor decisions as a result of outdated policy	Medium	Repeal current policy and replace with Process (Deployment Flowchart) for internal use.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council accepts that the provision of advice and mechanisms for resolving environmental noise complaints and reducing their social impacts is expected by the community. Internal procedure documents will be used as a guide for the most appropriate way to deal with environmental noise issues as well as determining which agency is the most appropriate to address unacceptable noise disturbances.

There are no perceived economic implications associated with this policy. Council enforcement resource implications are not expected to increase as a result of the revoking of this policy.

CONSULTATION

Consultation has been undertaken with the Environmental Health Team which is directly impacted by the proposed changes.

OPTIONS

- 1) Resolve to retain the existing policy;
- 2) Resolve to amend the existing policy;
- 3) Resolve to revoke the existing policy.

ATTACHMENTS

- 1) Environmental Noise Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Environmental Noise Policy



Adopted :16/12/2008
Minute No. 392
Amended: #
Minute No. #

FILE NO: PSC 2008-4244

TITLE: Environmental Noise Policy

BACKGROUND

PURPOSE

The purpose of this Policy is to assist Council to deal fairly, consistently and effectively to noise complaints and noise offences. The Policy relates to noise from private and public property and includes the residential, industrial and commercial sectors. It also includes noise from a number of sources such as air conditioners, vehicles, refrigeration units, power tools and equipment, musical instruments and burglar alarms.

This Policy provides a guide to the most appropriate way to deal with noise issues and helps to determine which agency(s) should be involved in helping to address unacceptable noise.

This Policy does not specifically relate to noise matters dealt with as part of a proposed Development. It does however advocate for appropriate thought and planning to go into new developments so that future noise issues arising from those developments may be minimised.

DEALING WITH NOISE ISSUES

There are many noise complaints which are either outside Council's jurisdiction or are best dealt with by the parties involved in a non adversarial manner rather than resorting to regulatory action.

There are a number of agencies that deal with noise issues including Council, the Police, the Liquor Licensing Board (for licensed premises), the Community Justice Centre (for helping to mediate noise matters) and the Department of Environment & Climate Change (for scheduled premises). The Courts may also issue orders on behalf of affected residents in some circumstances.

ACTION BY AFFECTED PARTIES

When regulatory tools do not assist Council in resolving some noise matters to the complainant's satisfaction (especially when it involves complex noise impacts on a small number of residents), a person may seek a Noise Abatement Order from the local court for offensive noise under Section 268 of the Protection of the Environment Act 1997. The court may issue an order to prevent or abate the offensive noise. The burden of proof involved in this action by a resident is much less than that on a Council or other Regulatory Agency. The Court only needs to be convinced (on the balance of probabilities) that the offensive noise exists. This service is free.

OBJECTIVES

- To initiate a process of education and awareness in the community in relation to noise management and minimisation.
- To identify noise issues before they escalate so they can be dealt with appropriately and effectively
- To establish clear guidelines for the exercise of discretion when dealing with a noise matter.
- To define Council's role in dealing with noise issues.
- To help clarify which agencies are responsible for dealing with specific noise complaints.
- To identify the various options for dealing with noise matters including negotiation, education, alternative dispute resolution and regulatory action.

PRINCIPLES

The Policy applies to:

- The initiation of a process of education and awareness within the community about the impact of noise of others and the reasons for noise controls and minimisation strategies.
- The investigation of noise issues and complaints within the community and the way Council and other agencies deal with these matters.
- Noise issues which Council has some responsibility and regulatory control over.

Council will use to full effect the State Environmental Planning Policy – Places of Public Entertainment – to control noise impacts upon adjoining areas by limiting trading hours and hours of public entertainment events.

POLICY STATEMENT

EDUCATION AWARENESS AND COOPERATION

Priority will be given to providing information to the community about noise management issues and the roles that the various agencies have in dealing with these matters.

Council will encourage the community to try to deal with and resolve noise issues as they arise before they escalate into significant issues.

Council will encourage a spirit of cooperation between all parties and where it is considered that Council cannot effectively resolve noise issues using available legislative tools, will refer such noise matters to the Community Justice Centre or similar organisations for mediation.

RESPONSE

Council is required to respond to noise complaints in a timely manner and in accordance with its Compliance Policy.

Council's response could include referral of the complaint to another agency if the matter is not within Council's area of responsibility.

Where the matter is primarily a neighbourhood matter between two neighbours, Council will recommend in the first instance that the neighbours make an attempt to resolve the issues by negotiation and mediation if necessary. Where the issue is a clear breach of any noise related legislation, Council will act as appropriate.

Council will endeavour to encourage all parties to try and solve noise issues amicably.

Based on the circumstances of the noise issue, Council will respond in a way that reflects public interest, resource implications and the magnitude of the matter.

Not all noise matters will require a regulatory approach by Council.

APPROACH

Council will ensure confidentiality and respect privacy when dealing with noise issues.

Council will ensure procedural fairness in noise matters.

Council will act in a manner that is impartial and objective when dealing with noise complaints and noise related matters.

FEEDBACK AND RECORD KEEPING

Council will provide prompt feedback to complainants regarding investigations into noise complaints and the reasons for decisions relating to these.

Council will keep accurate records of noise complaints.

RELATED POLICIES

Compliance Policy

Prosecution Policy

DECC Noise Guidelines and Policies as amended from time to time.

Dog Noise Strategy

RESPONSIBILITY

All Council staff (and Councillors) that deal with written noise complaints or verbal requests or noise related regulatory issues are responsible for following this Policy.

INVESTIGATING AND RESPONDING TO NOISE COMPLAINTS

The table in Appendix One and Council's Compliance Policy is to be followed when deciding how and who will investigate and respond to a noise complaint.

See also information provided by the Department of Environment & Climate Change (DECC) on their website: www.environment.nsw.gov.au

REVIEW DATE

Twenty four (24) Months from the date it is adopted

RELEVANT LEGISLATIVE PROVISIONS

- The Local Government Act, 1993 (NSW)
- Protection of the Environment Operations Act, 1998 (NSW)
- Protection of the Environment Operations (Noise Control) Regulation 2000
- Environmental Planning and Assessment Act, 1979 (NSW)
- Companion Animals Act 1998

IMPLEMENTATION RESPONSIBILITY

Environmental Services Section is responsible for the implementation and review of this Policy.

DEFINITIONS

AGREEMENT

An agreement is any agreement made between the parties embodying a submission of present or future disputes to mediation and conciliation.

ALTERNATIVE DISPUTE RESOLUTION – ADR

The term "alternative dispute resolution" or "ADR" is often used to describe a wide variety of dispute resolution mechanisms that are short of, or alternative to, full-scale court processes. ADR systems may be generally categorised as negotiation, conciliation/mediation, or arbitration systems.

ANEF

Australian Noise Exposure Forecast (which relates to the assessment of Aircraft and Airport Noise)

ARBITRATION

Arbitration is a formal dispute resolution process governed by the Commercial Arbitration Act 1984 NSW (or the equivalent in other states) in which two or more parties refer their dispute to an independent third person (the arbitrator) for determination. Providing that the arbitration is conducted according to the principles of natural justice its procedures may be varied by the parties to suit the size and complexity of their dispute.

BACKGROUND NOISE

The underlying level of noise present in the ambient noise, excluding the noise source under investigation, when extraneous noise is removed.

CONCILIATION

A process in which parties to a dispute with the assistance of a neutral third party ("the Conciliator") identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role in regard to the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions or give advice on terms of settlement.

DB(A)

Unit used to measure 'A weighted' sound pressure levels. A -weighting is an adjustment made to sound level measurement to approximate the response of the human ear.

DECC

NSW Department of Environment and Climate Change

DEVELOPMENT APPLICATION (DA)

A development application is a formal request for permission to carry out development, and includes plans and drawings, a statement of environmental effects and a completed application form.

FACILITATION

The term facilitation is broadly used to describe any activity which makes tasks for others easy. For example:

Facilitation is used in business and organisational settings to ensure the designing and running of successful meetings. A person who takes on such a role is called a facilitator.

MEDIATION

A process in which parties to a dispute with the assistance of a neutral third party ("the Mediator") identify disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or other determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

NEGOTIATION

At its most basic, negotiation is an informal bargaining process. It takes place directly between the people in dispute, but can be assisted by others e.g. lawyers and advocates. The people involved in the dispute communicate directly to try to reach an agreement. Communication may be written or spoken and may take some time. Effective negotiators know that it is hard to reach an agreement unless everyone feels they get some benefit

SCHEDULED PREMISES

Premises licensed by DECC under the Protection of the Environment Operations Act, 1998

Appendix One

INVESTIGATING AND RESPONDING TO NOISE COMPLAINTS				
NOISE SOURCE	RESPONSIBLE AGENCY	OPTIONS	REGULATORY RESPONSE IF REQUIRED	OPERATIONAL PROCEDURES OF COUNCIL
Power tools, equipment and musical instruments or electrical equipment on a domestic premises	Council or Police	<p>All parties solving the noise problem amicably</p> <p>Mediation through the Community Justice Centre</p> <p>A Noise Abatement Order (under Section 268 of the POEO Act) sought by the person affected by the noise</p> <p>Regulatory action by Council</p>	Council may issue notices to prevent or minimise noise	<p>Investigate to determine compliance with Section 50 POEO (Noise Control) Regulations in regard to hours of use of power tools and equipment.</p> <p>Notify user of correct times of use.</p> <p>Issue noise abatement directions under Section 276 of POEO if "offensive noise" is determined for an immediate resolution or if warning letter not complied with.</p> <p>If noise exceeds a statutory level or articles are used outside of prescribed time, serve Noise Control Notice to prescribe permitted noise level, its location and times of use of article.</p> <p>If statutory requirements are</p>

				being met but affected parties are still aggrieved, information will be provided regarding individuals ability to commence proceedings under Section 268 POEO Act.
Air Conditioners	Council	<p>Both parties solving the noise problem amicably</p> <p>Mediation through the Community Justice Centre</p> <p>A Noise Abatement Order (under Section 268 of the POEO Act) sought by the person affected by the noise</p> <p>Regulatory action by Council</p>	Council may issue Notices or Orders	<p>Investigate to determine compliance with Section 50 POEO (Noise Control) Regulations re times of use.</p> <p>Where times of use are complied with but "offensive noise" alleged, conduct basic noise assessment to determine noise impact within affected premises.</p> <p>Noise criteria for intrusive noise are 5dB(A) above background noise level however, may be corrected by 5dB(A) i.e.; not exceeds background, if determined to be tonal.</p> <p>Where air conditioner appears to be generating excessive noise, operator may be directed to seek advice of an acoustic consultant to report an impact</p>

				<p>and noise mitigation.</p> <p>Council may service Noise Control Notice under Section 264 POEO Act to prescribe noise limits, hours of operation.</p> <p>Where statutory controls do not assist complainants will be provided with information regarding Noise Abatement Orders under Section 268 POEO Act.</p>
<p>Vehicles (except when leaving or entering residential premises)</p>	<p>Council (off road noise from vehicles including trail bikes etc)</p> <p>Police (on road or off road noise)</p> <p>DECC</p> <p>RTA (for heavy vehicles)</p>	<p>Negotiating a reasonable outcome</p> <p>Mediation through the Community Justice Centre</p> <p>Regulatory action</p> <p>Most vehicle noise issues are dealt with by the Police, RTA or DECC as the majority are associated with noisy vehicles on the road</p>	<p>Council may issue Notices or Orders</p> <p>Defect notices can be issued by the Police, RTA or DECC depending on the noise issue and the circumstances</p>	<p>Council will investigate matter to determine "offensive noise".</p> <p>Council will liaise with operator and complainant to determine expectations and negotiate reasonable outcomes.</p> <p>After investigation, the investigating officer may use discretion in serving a Noise Abatement Direction (Section 276) to address offensive noise by limiting usage of vehicle, prescribing times or locations of usage.</p> <p>Where complainants are</p>

				<p>further aggrieved by Council's decision they will be provided with information regarding Noise Abatement Orders under Section 268 POEO Act.</p> <p>Authorised Council officers may issue infringement notices under Section 16 POEO (Noise Control) Regulation to Owners of vehicles where that officer personally experiences offensive noise from a car stereo when the car is being driven or is parked in a public place.</p>
<p>Aircraft (RAAF)</p> <p>Aircraft (Civil)</p>	<p>Department of Defence</p> <p>Civil Aviation Authority</p>	<p>Council to refer all Aircraft noise related complaints to these departments</p>		
<p>Motor Sports</p>	<p>Council</p>	<p>Negotiating a reasonable outcome</p> <p>Mediation through the Community Justice Centre</p> <p>Regulatory action</p>	<p>Council may issue Notices or Orders</p>	<p>Council will conduct a basic investigation to determine the substance of complaint.</p> <p>Investigating officers will consider the merits of the complaint, along with the requirements of any development consent condition or Council policy</p>

				<p>relating to the event.</p> <p>Council may require operators to provide a report from an Acoustic Consultant which provides details of noise levels and compliance with Statutory requirements. Council may require such a report through the service of a Prevention Notice under Section 96 of the POEO Act.</p> <p>Council may serve a Prevention Notice (Section 96) to set operational conditions for motor sport facilities.</p>
Noise from Alarms	<p>Police</p> <p>Council may assist the Police to enter a premises</p> <p>Maritime NSW (faulty alarms on boats and vessels etc)</p> <p>DECC (faulty car alarms)</p>	<p>Negotiating a reasonable outcome</p> <p>Regulatory action</p>	<p>Police and Council may enter the premises (with a warrant) to stop a faulty alarm</p> <p>DECC may issue a defect notice on faulty vehicle alarms</p> <p>Infringement notices may be issued by the Police, Council, Waterways Authority or DECC under specific circumstances</p>	<p>Council will investigate to ensure compliance with the requirements of POEO Act Regulations.</p>

Scheduled Premises including Large Industrial Complexes	DECC	Council to refer all noise complaints to DECC where it involves a Scheduled Premises.		
Small Factories and workshops	Council	<p>All parties solving the noise problem amicably</p> <p>A Noise Abatement Order (under Section 268 of the POEO Act) sought by the person affected by the noise</p> <p>Regulatory action by Council</p>	Council may issue Notices or Orders	<p>Council will conduct a basic noise assessment taking into account statutory requirements and conditions of development consent if applicable.</p> <p>Council may require proprietors to prove compliance by engaging an acoustic consultant.</p> <p>Council may issue a Noise Control Notice Section 264 POEO Act to control noise levels from equipment or activities or their times of use.</p> <p>Where regulatory tools do not assist and complainants are further aggrieved, Council will provide information regarding Noise Abatement Orders (Section 268 POEO Act).</p>
Vessels, boats, jet skis	Maritime NSW	Council to refer these		

and ships		issues to Maritime NSW		
Building Construction	Council (or Private Certifier)	All parties solving the noise problem amicably A Noise Abatement Order (under Section 268 of the POEO Act) sought by the person affected by the noise Regulatory action by Council	Council may issue Notices or Orders	Council will investigate matters to assess compliance with conditions of Development Consent as well as times of use of equipment under Section 50 POEO (Noise Control) Regulations. Where building site is controlled by a Private Certifier, the Private Certifier will be contacted to resolve the issue. Where issues relating to hours of operation continue Council may serve a Noise Control Notice Section 264 (POEO Act). Where noise issue relates to excessive noise from equipment during permissible hours, Council may require the occupant to provide an acoustic consultants report to confirm compliance or recommend mitigation measures.
Concert Facilities	Council	Negotiating a reasonable outcome	Council may issue Notices or Orders	Council will conduct a basic noise assessment taking into

		<p>A Noise Abatement Order (under Section 268 of the POEO Act) sought by the person affected by the noise</p> <p>Regulatory action</p>		<p>account statutory requirements and conditions of development consent if applicable.</p> <p>Council may require proprietors to prove compliance by engaging an acoustic consultant.</p> <p>Council may issue a Noise Control Notice Section 264 POEO Act to control noise levels from equipment or activities or their times of use.</p> <p>Where regulatory tools do not assist and complainants are further aggrieved, Council will provide information regarding Noise Abatement Orders (Section 268 POEO Act).</p>
<p>Pubs, Clubs and Hotels</p>	<p>Department of Liquor, Gaming and Racing (noise from patrons and general noise from the premises)</p> <p>Council (noise from music or equipment)</p>	<p>The Department of Liquor, Gaming and Racing may negotiate with these premises to minimise noise from their operations.</p> <p>Mediation through the</p>	<p>Conditions may be imposed by the Department of Liquor Gaming and Racing to control noise.</p> <p>Council may issue notices to prevent or</p>	<p>Council will conduct a basic noise assessment taking into account statutory requirements and conditions of development consent if applicable.</p> <p>Council may require proprietors to prove compliance by engaging an acoustic</p>

	Police	<p>Community Justice Centre</p> <p>A Noise Abatement Order (under Section 268 of the POEO Act) sought by the person affected by the noise</p>	<p>minimise noise from music or equipment</p>	<p>consultant.</p> <p>Council may issue a Noise Control Notice Section 264 POEO Act to control noise levels from equipment or activities or their times of use.</p> <p>Where regulatory tools do not assist and complainants are further aggrieved, Council will provide information regarding Noise Abatement Orders (Section 268 POEO Act).</p> <p>Council will liaise with the Department of Liquor, Gaming and Racing to address issues relating to licensed premises. Council will not address alcohol related noise issues or those related to conduct of patrons.</p>
Dogs and other animals	Council	<p>All parties solving the noise problem amicably</p> <p>Mediation through the Community Justice Centre</p> <p>A Noise Abatement Order (under Section 268 of</p>	<p>Council may issue Orders under some circumstances</p>	<p>Council will encourage parties to communicate and resolve issues.</p> <p>Council will commence investigations relating to dog noise only after the documentation required under</p>

		<p>the POEO Act) sought by the person affected by the noise</p>	<p>the Dog Noise Strategy is submitted by the Complainant.</p> <p>If the investigating officer is satisfied that a dog is causing offensive noise, then a Nuisance Order may be served on its owner under the Companion Animals Act.</p> <p>Council will encourage dog owners to resolve nuisance barking through measures such as training and the use of technology such as anti-barking collars.</p> <p>Where a Nuisance Order is not complied with, an infringement notice may be issued.</p> <p>Where offensive noise from other animals (e.g.; rooster, birds) is determined by a Council Officer, a Noise Abatement Direction may be issued under Section 276 POEO Act.</p> <p>Council will encourage the resolution of the matter through strategies such as removal of the animal, reduction in numbers of animals kept,</p>
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				<p>construction of physical barriers (e.g.: solid fencing, aviaries and coops) and training.</p> <p>Where statutory tools do not assist resolution and complainants are still aggrieved, Council will provide information regarding Noise Abatement Orders under Section 268 POEO Act.</p>
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ITEM NO. 5

FILE NO: S9100-023

REVOKE POLICY – LOCAL ORDER POLICY FOR DECOMMISSIONING SEPTIC TANKS

REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current policy – Local Order Policy for the Decommissioning Septic Tanks adopted on 14 June 1994, Minute number 293, Amended on 24 October 2000, Minute number 573 and Amended on 19 October 2004, Minute Number 375.

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

288	Councillor Steve Tucker Councillor Chris Doohan
	It was resolved that Council adopt the Committee of the Whole recommendation.

BACKGROUND

The purpose of this report is to forward to Council a report to revoke the current policy entitled Local Order Policy for Decommissioning Septic Tanks.

Council has a program of systematically reviewing and updating its existing policies.

Within the Development Services Group the aim is to review all existing policies with the view to revoke, amend or substantially update where required. This is a staged approach and the subject of this report includes one (1) policy recommended to be revoked.

The current policy – LOCAL ORDERS POLICY FOR THE DECOMMISSIONING OF SEPTIC TANKS was originally adopted on 14 June 1994. This original policy is provided in **(ATTACHMENT 1)**.

The purpose of the original Policy was to facilitate the safe, hygienic and environmentally sound decommissioning of septic tanks after premises are connected to the sewerage system.

A policy in this regard is no longer warranted, nor appropriate in the context of our policy framework. What is needed is a comprehensive fact sheet to ensure that the public have access to current information on the decommissioning and reuse of septic tanks, collection wells and aerated wastewater treatment systems (AWTS). This fact sheet has been prepared and will be available at Council's Administration Building and Online.

In respect of content of the fact sheet, it provides specific technical information developed from the recommendations of the NSW Department of Health on the decommissioning and reuse of a variety of tanks. It replaces a broader, less informative policy that primarily focused on the parameters to be considered when determining whether or not to issue an Order to property owners that had decommissioned a septic tank following connection to the sewer.

Sufficient legislative mechanisms exist to issue Orders under the *Local Government Act 1993* where public health risks arise, and Notices under the *Protection of the Environment Act 1997* where environmental pollution has or is likely to occur.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial / resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Policy update & implementation within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing existing policies and determining whether a policy, or in this instance a fact sheet is considered more appropriate to assist Council staff in facilitating more accurate and robust decision making.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of making poor decisions as a result of outdated policy.	Medium	Revoke current policy and replace with technical and comprehensive fact sheet.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council accepts that the incorrect decommissioning and reuse of septic tanks, collection wells and (AWTS) although being a necessity following the connection of existing properties to the sewer, may have negative social implications on neighbouring properties.

The proposed fact sheet aims to provide property owners and Council staff sufficient information to enable the decommissioning and reuse of septic tanks, collection wells and (AWTS) with minimal social impact.

There are no perceived social implications related to this policy.

There are no perceived economic implications associated with this policy.

Council enforcement resource implication are not expected to increase as a result of this policy.

The policy is aimed at minimising potential environmental impacts of incorrect decommissioning and reuse of septic tanks, collection wells and (AWTS).

CONSULTATION

Consultation has been undertaken with the Environmental Health Team which directly implements this policy within the Section.

OPTIONS

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

ATTACHMENTS

- 1) Local Orders Policy For The Decommissioning of Septic Tanks.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted :14/06/94
Minute No. 293
Amended: 24/10/2000
Minute No. 573
Amended: 19/10/2004
Minute No. 375

POLICY TITLE: LOCAL ORDERS POLICY FOR THE DECOMMISSIONING OF SEPTIC TANKS

Policy Objective:

To facilitate the safe, hygienic and environmentally sound decommissioning of septic tanks after premises are connected to the sewerage system.

The objective will be achieved if:-

- a) Disused septic tanks do not become the subject of any complaint, nuisance or environmental degradation.

Principles:

1. When the sewer is available, all premises must be connected to the system with septic systems decommissioned.
2. Septic tanks are to be decommissioned so as not to cause any nuisance, pollution or environmental concern.

Policy Statement - Local Orders Policy for the Decommissioning of Septic Tanks after Connection to Sewer

1. Council may order any person to carry out works as specified in the order to ensure that decommissioned septic tanks are converted to and remain in a safe and healthy condition:-

Criteria to be Considered when Determining Whether or not to Give the Order:-

Council must take into consideration the following criteria when determining whether or not to give an order relating to the decommissioning of septic tanks after connection to the sewer.

- a) When premises are connected to the sewer of the Hunter Water Corporation all septic tanks are to be decommissioned.
- b) A licenced contractor is to remove all effluent and sludge and dispose of it at Council's Waste Water Disposal Depot.
- c) Home owners are to provide the pumpout/cleanout receipt to their plumber for submission to the Hunter Water Corporation as proof of service.
- d) After pump-out/clean-out, tanks are to be treated with slaked lime to sterilise and neutralise the tanks.
- e) After treatment with slaked lime, the concrete lids and portion of the tank walls are to be broken to ground level.
- f) A hole adequate for drainage purpose is to be provided to the bottom of the tanks.
- g) The tanks are to be filled with solid, non-putrescible fill; with the ground surface made good.

ITEM NO. 6

FILE NO: PSC2005-4493

REVOKE POLICY – NOXIOUS WEED

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current 'Noxious Weed Policy', adopted 25/02/2008, Minute No. 040.

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
 COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Chris Doohan</p>
	<p>That the recommendation be adopted.</p>

MOTION

289	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>It was resolved that Council adopt the Committee of the Whole recommendation.</p>

BACKGROUND

The purpose of this report is to forward a report to Council to revoke the current policy relating to Noxious Weeds adopted 25/02/2008, Minute No. 040

Council has a program of systematically reviewing and updating its existing policies.

Within the Development Services Group the aim is to review all existing policies with the view to revoke, amend or substantially update where required. The subject of this report includes one (1) policy recommended to be revoked.

The current policy was adopted by Council on 25 February 2008. The original policy is provided in **(ATTACHMENT 1)**.

The Noxious Weed Policy was developed to allow a proactive, consistent response to issues related to noxious plant management as required by the Noxious Weeds Act.

The Policy also listed the declared Noxious Weed Species for the Port Stephens Local Government Area.

In summary the Noxious Weeds Act requires occupiers of land to control noxious weeds and makes Port Stephens Council the responsible authority for ensuring land holders within the Local Government Area meet their obligations.

Since the policy was adopted the control of noxious weeds has shifted to a more regional focus. The changes, facilitated by the State Government, were implemented to ensure that local weed control authorities meet the NSW Invasive Species Plan targets for weed management. This regional approach replaces the previous framework of local control authorities.

In order to meet the NSW Invasive Species Plan, and to be eligible for government grants that heavily subsidise the program, Hunter and Central Coast Councils collaborated to create the Hunter Central Coast Regional Weed Strategy 2010 – 2015 and the Weeds Action Plan 2010-2015. All local areas in the Hunter and Central Coast have contributed to the development of the Hunter Central Coast Regional Weeds Strategy and setting of priorities. The Regional Strategy is used to guide the allocation of government funding. For Port Stephens to access this funding it has to participate in this regional framework.

Given that funding, control and reporting of Noxious Weeds now occurs on a regional level there is no longer the need for a local Noxious Weed Policy. In addition, the declaration of noxious weeds also occurs on a regional level with the State Government consulting with Local Control Authorities.

Information on the Hunter Central Coast Regional Weeds Strategy 2010 – 2015; the Weeds Action Plan 2010-2015; and the current list of declared Noxious Weeds for the Port Stephens LGA are available on Council's website.

Council's Community Strategic Plan 2013-2023 and delivery program also include references to Council's obligations under the Noxious Weed Act, further reducing the need for a stand alone policy. The Plan's delivery program includes:

OUR ENVIRONMENT: Environmental Sustainability

9.1.1.2 Conduct noxious and environmental weed control on Council owned and controlled reserves.

9.1.1.3 Regulate noxious weed control on private land in accordance with the State funding agreement.

Therefore the need to retain the Noxious Weed Policy is no longer relevant. Council's legislative responsibilities are clearly embedded in Council's Community Strategic Plan and subsequent alignment of operational activities.

FINANCIAL/RESOURCE IMPLICATIONS

There are no foreseeable financial or resource implications with revoking the Noxious Weed policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal, policy or risk implications which will result from revoking the Noxious Weeds Policy. Council's commitments to addressing Noxious Weeds are now embedded within the directions of the Hunter Central Coast Regional Weeds Strategy 2010-2015.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the community may expect that Council should have a stand alone policy concerning Noxious Weeds.	Low	Implement a proactive communication strategy targeting key external stakeholders to inform them of Council's integrated planning and reporting framework, and its ongoing commitment to these special needs groups in the community, and Council's regional approach to noxious weeds management.	Yes
There is a risk that Council may not comply with legislative responsibilities around Noxious Weeds legislation.	Low	Council's Integrated Planning & Reporting framework is inclusive of Council's statutory responsibilities pertaining to these policy areas.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The management of noxious weeds is an essential and integral part of the sustainable management of the environment and is important to maintaining community health and the economic viability of the area. Effective weed management requires an integrated, multi disciplinary and long term planning approach that is accepted by government, the Council and the community. Raising awareness and providing education is vital for the success of weed management and for gaining community cooperation and ownership. Council's 2013-2023 Community Strategic Plan will continue to direct Council's noxious weed strategic directions and activities.

CONSULTATION

Discussions have been held with the Regional Weeds Committee and the Department of Primary Industries to assure them that the control of Noxious Weeds remains a priority for Port Stephens Council.

OPTIONS

- 1) Resolve to revoke the existing policy recognising the regional focus on noxious weeds management and Council's subsequent role;
- 2) Resolve to retain the existing policy which will leave Council with an outdated and redundant policy.

ATTACHMENTS

- 1) Noxious Weed Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Noxious Weed Policy



Adopted: 25/02/2008

Minute No: 040

Amended:

Minute No:

FILE NO: PSC2005-4493

TITLE: NOXIOUS WEED POLICY

RESPONSIBLE OFFICER: GRAHAM PRICHARD

BACKGROUND

Occupiers of land are required to take specified actions to control noxious weeds present on that land or water. Council is to ensure those responsibilities are fulfilled and if necessary take legal action to ensure those obligations are met. Council will also control noxious weeds on land under its control to the extent required by the Noxious Weeds Act 1993 and liaise with government agencies to ensure adequate management of weeds occurs on state lands.

The impacts of weeds can spread far and wide through the movement of seeds and plants by water, wind, animal or human assisted means. The NSW Noxious Weeds Act 1993 (NW Act) is an attempt to curtail the spread of and minimise the impacts of some of the worst weeds.

Weed management is an essential and integral part of the sustainable management of the environment and is important to maintain community health and the economic viability of the area. Effective weed management requires an integrated, multi disciplinary and long term planning approach that is accepted by government, the council and the community. Raising awareness and providing education is vital for the success of weed management and for gaining community cooperation and ownership.

The NW Act requires occupiers of land to control noxious weeds present on that land and Port Stephens Council is the authority (named in the NW Act as the Local Control Authority) responsible for ensuring occupiers of land within Port Stephens Local Government Area meet their obligations under the NW Act. The definition of land extends to water bodies within that land or forming (part of) the boundary including rivers, streams, drains and wetlands.

Council also has obligations under the NW Act to control noxious weeds present on land under the control of council. Historically council has also conducted some weed control activities on behalf of the Department of Lands particularly in relation to aquatic weed treatments in the Hunter, Paterson and Williams rivers and on coastal crown lands affected by the invasion of Bitou Bush. With a large proportion of the total Alligator Weed recorded in Australia occurring in Port Stephens and extensive wetlands and potable water resources present, managing aquatic weeds presents particular challenges.

OBJECTIVE

- To allow a proactive, consistent response to issues related to noxious plant management as required by the NW Act.
- To facilitate the control of noxious weeds on public and private lands.
- To raise the communities awareness of noxious weeds and the need to control these weeds.
- To describe situations when legal action under the NW Act is considered appropriate.

PRINCIPLES

STRATEGIC

Research

Port Stephens Council has historically supported research into improving the control of noxious weeds, especially Alligator Weed and new, emerging weeds. Support for these collaborative programs with external agencies and researchers will continue.

Weed Planning

Council will continue to participate in the development, implementation and revision of regional weed management plans through the Hunter and Central Coast Regional Weed Management Committee. The committee will continue to receive support from Port Stephens Council in exercising its functions.

Council will continue to implement specific strategies for noxious weeds within the Port Stephens LGA. These strategies, i.e Local Control Plans, will be reviewed and updated as needed.

Council will allocate sufficient funds to allow it's obligations to control noxious weeds to be fulfilled. Funds will also be sought from grants, external agencies and sponsors to assist with these costs.

Development Control Plan/ Development Applications

The Port Stephens Council DCP 2007 contains provisions to address the spread of weeds during developments.

Planning staff in consultation with or by referral to weed officers will consider the potential impacts of development applications in relation to noxious and environmental weeds. Appropriate conditions will be placed on applications to ensure weeds are controlled and not spread during any works resulting from approved developments.

EDUCATION

Council will use a variety of means to educate and inform Council staff and the community as to the problems created by noxious weeds, individual and group responsibilities for noxious weed control (and the greater requirements of the act) and the methods available to control noxious weeds.

Council will provide an advisory and education service primarily related to noxious weeds but also including the normal range of plant related inquiries. Council will participate in national events such as Weed Buster Week and regional and local events including Tocal Field Days, Catchment Day and the Spring Fair to promote awareness of weeds.

COMPLIANCE

If noxious weeds are not controlled adequately, many thousands of hectares of prime agricultural land will be ruined by noxious weed invasion. Alligator Weed is threatening to extinguish cropping, turf and other agricultural industries in this region if it is not effectively managed.

As part of its role in the community Council needs to ensure that breaches of the NW Act which it has authority to pursue are dealt with in a consistent and equitable manner.

Some cost to occupiers of land in controlling weeds is normal. The NW Act allows council (after due process) to control weeds on private lands and recover costs from the owner.

Council has a compliance policy that will guide responses to alleged breaches of the NW Act.

Council will conduct inspections of private properties, public lands, businesses and other premises to locate, monitor and record infestations of noxious weeds. Occupiers of private lands containing infestations of noxious weeds will initially be requested in writing to take appropriate action to control, contain or remove those weeds. Advice will be provided to the person(s) outlining the location and identity of the weeds and any measures required to comply with the requirements of the NW Act. Council has developed Local Control Plans for Class 4 Noxious Weeds as required by the NW Act.

If the council is not satisfied with the action taken by the occupier they will advise in writing that a weed control or other appropriate notice may be issued. If the council is still not satisfied with the action taken further legal process can then be initiated which may include mediation or be a self enforcing infringement notice (on the spot fine) or issuing a weed control notice or other notice as authorised by the NW Act.

Following the issuing of a notice and subsequent failure to comply by the person served the notice council may commence prosecution as authorised by the NW Act. Priority for legal compliance activities will go towards class 1 noxious weeds, human assisted spread of weeds and control of new outbreaks.

OPERATIONS

Council will aim to:

- Control noxious weeds on public land under the control of Council. Assist and facilitate community groups in controlling weeds on council lands.
- Prevent the use of known noxious and environmental weeds in landscaping and revegetation programs.
- Place an emphasis on class 1 noxious weeds, noxious weeds most likely to affect human or animal health, emerging weeds of particular concern or those likely to cause the greatest economic loss.
- Protect desirable plants, human and animal health and the environment against damage during the chemical control of noxious weeds by adopting best practice and exercising due care. Integrated weed control measures will be used whenever possible to minimise the use of chemicals.
- Minimise the potential for noxious weeds to establish themselves on Council controlled land by regular monitoring and liaison with relevant departments of council.
- Integrate noxious weed control into council programs and activities where relevant. For example, roadside and drainage civil works are important aspects of noxious weed control.
- Provide adequate revenue to match grants offered by the State for the Noxious Weed Program and sufficient funds to ensure priority weeds are controlled effectively.

POLICY STATEMENT

Occupiers of land are required to take specified actions to control noxious weeds present on that land or water. Council is to ensure those responsibilities are fulfilled and if necessary take legal action to ensure those obligations are met. Council will also control noxious weeds on land under its control to the extent required by the NW Act with priority being given to new outbreaks of class 1 noxious weeds or to weeds known to have impacts on species or ecosystems listed as rare, threatened or endangered.

RELATED POLICIES

Compliance Policy 2007
Council Prosecutions 2000
Port Stephens Council DCP 2007
NSW DPI Policy on allocation and use of grant funds NW Act Policy Paper 2

REVIEW DATE

Three years from adoption or whenever the NW Act is amended.

RELEVANT LEGISLATIVE PROVISIONS

The legislative framework is ever-changing. New regulations and declarations frequently occur requiring a regular revision of practices.

1. NSW Noxious Weeds Act 1993

Requires occupiers of land to take certain actions to control, contain or eradicate noxious weeds. Council is obliged to ensure all occupiers of land fulfil their obligations under this act.

Requires council to control noxious weeds present on land under its control.

Once a plant has been declared a noxious weed by the minister, it is placed in a control category specified in the act. The Port Stephens Council list of declared noxious weeds and action required for each control category is contained in appendix A.

2. NSW Pesticide Act 1999

Regulates the use of pesticides (incl. herbicides) and requires certain training, record keeping and actions. A code of practice is provided to guide the use of chemicals. A Pesticide Notification Plan has been produced by council as required by the Pesticide Regulation 1995.

3. NSW Protection of the Environment Operations Act 1997

Regulates the use of herbicide in or over water. Port Stephens Council has a licence to apply some herbicides to water under certain conditions.

4. NSW Occupational Health and Safety Act 2000

Regulates for workplace safety and requires documentation and provision of safe work practices.

5. NSW Threatened Species Conservation Act 1995

In addition to conserving native species by declarations, this act provides for the listing of the invasion of natural flora communities by certain weeds to be declared Key Threatening Processes. Several processes relevant to Port Stephens have been declared:

- Invasion of Native Plant Communities by *Chrysanthemoides monilifera* (Bitou Bush)
- Invasion of native plant communities by exotic perennial grasses (includes Pampas Grass, Giant Parramatta Grass and others)
- Invasion, establishment and spread of Lantana (*Lantana camara*)
- Invasion and establishment of exotic vines and scramblers (includes *Asystasia gangetica* subspecies *micrantha* or Chinese Violet)

The listing of endangered/threatened ecosystems/species and key threatening processes may also impact on weed control measures.

6. National Agricultural and Veterinary Chemicals Amendment Bill 2002

Provides for the registration and regulation of pesticides in Australia. The Australian Pesticides and Veterinary Medicines Authority (APVMA) can issue permits to authorise the use of herbicides in a manner not specified on the label. Port Stephens Council has several of these permits.

7. NSW Environment Planning and Assessment Act 1979

This act provides for the regulation of development applications and allows council to apply conditions which may include measures to control weeds and to prevent weed spread. The Port Stephens Council DCP 2007 contains provisions to address the spread of weeds during developments.

IMPLEMENTATION RESPONSIBILITY

Senior Weeds and Pest Management Officer
Natural Resources Coordinator
Environmental Services Manager

APPENDICES

A. Noxious Weed list Port Stephens Council Local Government Area.
Note this list may differ from the declared weeds for neighbouring councils.

Appendix A - Noxious Weed List Port Stephens Council Local Government Area

Common name	Scientific name	Control measures	Class	Alternate scientific name	Area
Karoo Thorn	<i>Acacia karroo</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Prickly Acacia	<i>Acacia nilotica</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Pond Apple	<i>Annona glabra</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Chinese Violet	<i>Asystasia gangetica</i> subspecies <i>micrantha</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Kochia	<i>Bassia scoparia</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	<i>Kochia scoparia</i>	Whole of NSW
Spotted Knapweed	<i>Centaurea maculosa</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Black Knapweed	<i>Centaurea nigra</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Siam Weed	<i>Chromolaena odorata</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Rubbervine	<i>Cryptostegia grandiflora</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Anchored Water Hyacinth	<i>Eichhornia azurea</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Horsetail	<i>Equisetum</i> species	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Senegal Tea Plant	<i>Gymnocoronis spilanthoides</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Hawkweed	<i>Hieracium</i> species	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
East Indian Hygrophila	<i>Hygrophila polysperma</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW
Hymenachne	<i>Hymenachne amplexicaulis</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1		Whole of NSW

Lagarosiphon	<i>Lagarosiphon major</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Yellow Burrhead	<i>Limnorchis flava</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Miconia	<i>Miconia</i> species	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Mimosa	<i>Mimosa pigra</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Eurasian Water Milfoil	<i>Myriophyllum spicatum</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Mexican Feather Grass	<i>Nassella tenuissima</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW <i>Stipa tenuissima</i>
Broomrapes	<i>Orobanche</i> species except the native <i>O. cernua</i> variety <i>australiana</i> and <i>O. minor</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Parthenium Weed	<i>Parthenium hysterophorus</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Water Lettuce	<i>Pistia stratiotes</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Water Soldier	<i>Stratiotes aloides</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Witchweed	<i>Striga</i> species except native species and <i>Striga parviflora</i>	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Water Caltrop	<i>Trapa</i> species	The plant must be eradicated from the land and the land must be kept free of the plant	1	Whole of NSW
Hygrophila	<i>Hygrophila costata</i>	The plant must be eradicated from the land and the land must be kept free of the plant	2	Port Stephens Council
Alligator Weed	<i>Alternanthera philoxeroides</i>	The plant must be fully and continuously suppressed and destroyed	3	Port Stephens Council
Groundsel Bush	<i>Baccharis halimifolia</i>	The plant must be fully and continuously suppressed and destroyed	3	Port Stephens Council

Mother-of-millions	<i>Bryophyllum</i> species and hybrids	The plant must be fully and continuously suppressed and destroyed and the plant may not be sold, propagated or knowingly distributed	3		Port Stephens Council
Green Cestrum	<i>Cestrum parqui</i>	The plant must be fully and continuously suppressed and destroyed	3		Port Stephens Council
Salvinia	<i>Salvinia molesta</i>	The plant must be fully and continuously suppressed and destroyed	3		Port Stephens Council
Giant Parramatta Grass	<i>Sporobolus fertilis</i>	The plant must be fully and continuously suppressed and destroyed	3	<i>Sporobolus indicus</i> variety <i>major</i>	Port Stephens Council
Crofton Weed	<i>Ageratina adenophora</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4		Port Stephens Council
Mistflower	<i>Ageratina riparia</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4		Port Stephens Council
Spiny Burrgrass	<i>Cenchrus incertus</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed	4		Port Stephens Council
Spiny Burrgrass	<i>Cenchrus longispinus</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed	4		Port Stephens Council
Boneseed	<i>Chrysanthemoides monillifera subsp. pacificae</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4		Port Stephens Council

Bitou Bush	<i>Chysanthemoides monilifera</i> <i>subspecies rotunda</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Port Stephens Council
Pampas Grass	<i>Cortaderia</i> species	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Port Stephens Council
Prickly Pear	<i>Cylindropuntia</i> species	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed	4	Whole of NSW
Paterson's Curse, Vipers Bugloss, Italian Bugloss	<i>Echium</i> species	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Port Stephens Council
Water Hyacinth	<i>Eichhornia crassipes</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Port Stephens Council
Spiny emex	<i>Ernex australis</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Port Stephens Council
Harrisia Cactus	<i>Harrisia</i> species	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed	4	Whole of NSW
St. John's Wort	<i>Hypericum perforatum</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Port Stephens Council

Long-leaf Willow Primrose	<i>Ludwigia longifolia</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4		Port Stephens Council
African Boxthorn	<i>Lycium ferocissimum</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4		Port Stephens Council
Cape Tulip	<i>Moraea</i> species	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	<i>Homeria</i> species	Port Stephens Council
Chilean Needle Grass	<i>Nassella neesiana</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed	4		Port Stephens Council
Serrated tussock	<i>Nassella trichotoma</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed	4		Port Stephens Council
Prickly pear	<i>Opuntia</i> species except <i>O. ficus-indica</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed	4		Whole of NSW
Blackberry	<i>Rubus fruticosus</i> aggregate species	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed	4		Whole of NSW
Johnson Grass	<i>Sorghum halepense</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4		Port Stephens Council

Columbus Grass	<i>Sorghum x alnum</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Port Stephens Council
Rhus Tree	<i>Toxicodendron succedanea</i>	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Whole of NSW
Bathurst/Noogoora/Callifornian/Cockle Burrs	<i>Xanthium</i> species	The growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority	4	Port Stephens Council
Espartillo	<i>Achnatherum brachychaetum</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	Whole of NSW
Dodder	All <i>Cuscuta</i> species except the native species <i>C. australis</i> , <i>C. tasmanica</i> and <i>C. victoriana</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	Whole of NSW
Oxalis	All <i>Oxalis</i> species and varieties except the native species <i>O. chinoides</i> , <i>O. exilis</i> , <i>O. perennans</i> , <i>O. radicata</i> , <i>O. rubens</i> , and <i>O. thompsoniae</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	Whole of NSW
Onion Grass	All <i>Flomulea</i> species and varieties except <i>F. rosea</i> var. <i>australis</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	Whole of NSW
Annual Ragweed	<i>Ambrasia artemisiifolia</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	Whole of NSW
Burr Ragweed	<i>Ambrasia confertiflora</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	Whole of NSW
Mexican Poppy	<i>Argemone mexicana</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	Whole of NSW

Bridal Creeper	<i>Asparagus asparagoides</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	<i>Myrsiphyllum asparagoides</i> , <i>Asparagus medeoloides</i>	Whole of NSW
Sand Oat	<i>Avena strigosa</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Smooth-stemmed Turnip	<i>Brassica barrelieri</i> subspecies <i>oxyrrhina</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	<i>Brassica oxyrrhina</i>	Whole of NSW
Cabomba	<i>Cabomba caroliniana</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Glaucous Star Thistle	<i>Carthamus glaucus</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Gallon's Curse	<i>Cenchrus biflorus</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Fine-bristled burr grass	<i>Cenchrus brownii</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Mossman River Grass	<i>Cenchrus echinatus</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Artichoke Thistle	<i>Cynara cardunculus</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Yellow Nutgrass	<i>Cyperus esculentus</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Leaty Elodea	<i>Egeria densa</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Clockweed	<i>Gaura lindheimeri</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW

Clockweed	<i>Gaura parviflora</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Texas Blueweed	<i>Helianthus ciliaris</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Lantana	<i>Lantana species</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Long-leaf Willow Primrose	<i>Ludwigia longifolia</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Red Rice	<i>Oryza rufipogon</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
African Feather Grass	<i>Pennisetum macrourum</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Fountain Grass	<i>Pennisetum setaceum</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Soldier Thistle	<i>Pichnomon acarna</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Arrowhead	<i>Sagittaria montevidensis</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Sagittaria	<i>Sagittaria platyphylla</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5	<i>Sagittaria graminea</i>	Whole of NSW
Willows	<i>Salix</i> species except <i>S. babylonica</i> , <i>S. x reichardtii</i> , <i>S. x calodendron</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW
Golden Thistle	<i>Scalymus hispanicus</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be complied with	5		Whole of NSW

African Turnip Weed	<i>Sisymbrium runcinatum</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be compiled with	5		Whole of NSW
African Turnip Weed	<i>Sisymbrium thellungii</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be compiled with	5		Whole of NSW
Corn Sowthistle	<i>Sonchus arvensis</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be compiled with	5		Whole of NSW
Cayenne Snakeweed	<i>Stachytarpheta cayennensis</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be compiled with	5	<i>Stachytarpheta urticifolia</i>	Whole of NSW
Athel Tree/Athel Pine	<i>Tamarix aphylla</i>	The requirements in the Noxious Weeds Act 1993 for a notifiable weed must be compiled with	5		Whole of NSW
Mesquite	<i>Prosopis</i> species	A person must not sell or purchase the plant, or any animal or thing which has on it or contains such weed material			
Parkinsonia	<i>Parkinsonia aculeata</i>	A person must not sell or purchase the plant, or any animal or thing which has on it or contains such weed material			
Blue Hound's Tongue	<i>Cynoglossum creticum</i>	A person must not sell or purchase the plant, or any animal or thing which has on it or contains such weed material			
Cape Broom	<i>Genista monspessulana</i>	A person must not sell or purchase the plant, or any animal or thing which has on it or contains such weed material			
Gorse	<i>Ulex europaeus</i>	A person must not sell or purchase the plant, or any animal or thing which has on it or contains such weed material			

ITEM NO. 7

FILE NO: PSC2013-01853

NEWCASTLE AIRPORT – RESTRUCTURE AND REFINANCING

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the General Manager of Port Stephens Council to enter into the documents set out in **(ATTACHMENT 3)** on behalf of Port Stephens Council and do anything which in the opinion of the General Manager and with the concurrence of the Mayor, is necessary, expedient or desirable to give effect to the Restructure and Refinancing or any of the documents referred to in **(ATTACHMENT 3)**;
- 2) Grants authority to affix Council's seal where necessary to any of the documents referred to in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
 COMMITTEE OF THE WHOLE RECOMMENDATION**

General Manager left the meeting at 6.44pm prior to Item 7 during Committee of the Whole.

Cr Paul Le Mottee returned to the meeting at 6.44pm during Committee of the Whole.

	<p>Councillor Ken Jordan Councillor</p>
	<p>That Council:</p> <ol style="list-style-type: none"> 1) Authorise the General Manager of Port Stephens Council to enter into the documents sent out in (ATTACHMENT 3) on behalf of Port Stephens Council and do anything which in the opinion of the General Manager and with the concurrence of the Mayor, is necessary, expedient or desirable to give effect to the Restructure and Refinancing or any of the documents referred to in (ATTACHMENT 3). 2) Council acknowledge that the Governance structure is to facilitate direct involvement on Newcastle Airport Pty Limited by the share holders partners in order to facilitate the objectives of the Corporate restructure, including the capacity to introduce equity partners and receive dividends. 3) Grants authority to affix Council's Seal where necessary to any of the documents referred to in (ATTACHMENT 3).

MOTION

290	<p>Councillor Steve Tucker Councillor Ken Jordan</p>
	<p>It was resolved that the Committee of the Whole recommendation be adopted.</p>

BACKGROUND

The purpose of this report is to finalise the corporate restructure of Newcastle Airport.

At its meeting held on 24 July 2012, Port Stephens Council (PSC) resolved (in conjunction with Shareholder council Newcastle City Council (NCC)) to implement the restructure of Newcastle Airport (Restructure) as detailed in **(ATTACHMENT 1)** and among other things, authorised the General Managers of the Shareholder councils to enter into the documents specified in **(ATTACHMENT 2)**.

Since the 24 July 2012 Council determination, the Department of Defence (duly authorised by the Commonwealth of Australia (Commonwealth)) has requested the Shareholder councils to enter into three (3) additional documents to effect the Restructure. The reason for the additional documentation is that the Department of Defence seek to ensure that its interests are protected at all times after the Restructure.

One of the key reasons for the Restructure is to allow Newcastle Airport Pty Limited (NAPL) to source debt without needing to rely on borrowings solely from Shareholder Councils. NAPL has entered into negotiations with Australia and New Zealand Banking Group Limited (ANZ) for a loan facility for the purpose of refinancing financial indebtedness (if any) and capital expenditure. The loan facility will be primarily used to fund the expansion of Newcastle Airport terminal in accordance with the Master plan.

RESTRUCTURE DOCUMENTS

The additional documents required to implement the Restructure are referred to in **(ATTACHMENT 3)**.

Each document has been reviewed by the Shareholder councils' respective legal adviser and is required to effect the Restructure:

1. Variation of Lease (variation of registered lease U968638) between the Commonwealth and NCC and PSC

The Variation of Lease granted by the Department of Defence (duly authorised by the Commonwealth) to NCC and PSC provides amendments to the previous Variation of Lease dated 24 June 2005. The amendments have been made as a consequence of the Restructure and to provide clarity to a number of clauses as well as incorporate previous standing arrangements that existed outside of the lease.

2. Variation of Lease (variation of registered lease AB655956) between the Commonwealth and NCC and PSC

The Variation of Lease granted by the Department of Defence (duly authorised by the Commonwealth) to NCC and PSC provides amendments to the previous Lease dated 24 June 2005. The amendments have been made as a consequence of the Restructure and to provide clarity to a number of clauses.

3. Multi-party Deed between the Department of Defence, NCC, PSC, Newcastle Airport Partnership and Newcastle Airport Pty Limited

This deed sets out the rules by which each of the parties to the deed must abide by in order for the Department of Defence to provide consent to the NAPL Subleases (between NCC and PSC and the Newcastle Airport Partnership).

REFINANCING DOCUMENTS

The documents required to implement the loan facility are referred to in **(ATTACHMENT 3)**.

Each document has been reviewed by the Shareholder councils' respective legal adviser and is required to effect the loan facility:

1. General Security Deed between Newcastle Airport Partnership, Newcastle Airport Pty Limited (NAPL) and ANZ

This deed governs the relationship of the Newcastle Airport Partnership, NAPL and ANZ in respect of the assets of which ANZ is taking security over as well as stipulating how Newcastle Airport Partnership and NAPL can deal with those assets during the term of the loan facility.

2. Australian Dollar Cash Advance Facility Agreement between Newcastle Airport Partnership, NAPL and ANZ

This agreement governs the relationship of ANZ and NAPL on a day to day basis with respect to the loan facility. The agreement sets out what the loan facility can be used for, the process by which NAPL must follow to draw on the loan facility, the method of repayment and the cost of the loan.

3. Financier Side Deed between Newcastle Airport Partnership, NAPL and ANZ

This deed governs how ANZ and the Department of Defence enforce their direct rights against each other. The deed also enables ANZ to cure a breach under the Head Leases or Concurrent Leases to prevent the Commonwealth from terminating the leases.

4. Mortgage of Lease between NCC, PSC and ANZ

The mortgage document operates such that NCC and PSC grant a mortgage of the Head Leases as a security over the loan from ANZ. The mortgage effectively secures rights in favour of NCC and PSC under the Head Leases and also preserves any payment made by the Department of Defence to NCC and PSC upon a termination of the Head Leases. NCC and PSC will not be permitted to use their rights under the Head Leases in contravention of the terms of the mortgage.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with the Restructure have to date been borne by Newcastle Airport and it is proposed that future costs will also be borne by Newcastle Airport.

Extensive cash flow modelling has been undertaken and the financial implications of the Restructure are quite positive with significant projected dividends to Council over the next 10 years and the removal of any future requirements for Council to borrow money for Newcastle Airport.

The new refinancing facility will enable NAPL to immediately repay current borrowings from PSC and NCC of approximately \$12M.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources required to execute documents to give effect to the Restructure and refinancing of the loan facility are covered in the existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 358 of the Local Government Act 1993 (NSW) states that 'A Council must not form or participate in the formation of a corporation or other entity, or acquire a controlling interest in a corporation or other entity, except ... with the consent of the Minister and subject to such conditions, if any, as the Minister may specify'.

The Shareholder councils applied to the Minister for Local Government for approval of the Restructure. On 21 June 2012, the Hon. Don Page, Minister for Local Government, approved the application under section 358 to implement the Restructure.

Newcastle Airport Pty Limited has entered into an operating agreement with the Department of Defence, which delineates the operational aspects of the airport between commercial activities and those of the Royal Australian Air Force.

The Shareholder councils hold a 40 year Head Lease with the Department of Defence over the airport, which concludes on 31 March 2045.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that failure to execute the documents to give effect to the Restructure and refinancing of Newcastle Airport may affect Council's objective to achieve financial sustainability leading to financial and reputational loss.	Medium	Adopt the recommendations contained in this report and approve the execution of all documents needed to formalise the restructure and refinancing of Newcastle Airport.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The growth of Newcastle Airport has resulted in a significant boost to the local economy. The Airport's recent economic analysis confirmed its role as one of the region's key economic and employment hubs, contributing over \$600M annually to the Hunter economy and supporting some 4,000+ jobs. The proposed restructure would position the Airport to be able to capitalise on future opportunities for growth that would further build on its contribution to the Port Stephens and Hunter economy.

CONSULTATION

- 1) Newcastle Airport Board and management;
- 2) Newcastle City Council management;
- 3) Ernst & Young;
- 4) Herbert Smith Freehills Lawyers;
- 5) PricewaterhouseCoopers;
- 6) Harris Wheeler Lawyers;
- 7) Department of Defence;
- 8) Division of Local Government.

OPTIONS

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

ATTACHMENTS

- 1) A: Proposed Structure – Co-Investment Ready Partnership;
- 2) Transaction Documents – Restructure (24 July 2012)
- 3) Transaction Documents – Restructure/Refinancing

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 2

TRANSACTION DOCUMENTS – RESTRUCTURE (24 JULY 2012)

- 1) Incorporation documents for Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 2) Constitutions of Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 3) Trust Deeds for Partnership Trust 1, Partnership Trust 2, Partnership Trust 3 and Partnership Trust 4.
- 4) Unit Subscription Deeds for Partnership Trust 1, Partnership Trust 2, Partnership Trust 3 and Partnership Trust 4.
- 5) Partnership Deed between Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 6) Deed of Assignment between Newcastle Airport Pty Limited (NAPL) and Newcastle City Council (NCC) and Port Stephens Council (PSC).
- 7) Deed of Assignment between PSC, NCC and Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 8) Deed of Agency and Trust between Partnership Company 1, Partnership Company 2, Partnership Company 3, Partnership Company 4 and NAPL.
- 9) Concurrent Lease between PSC, NCC and Partnership Company 1, Partnership Company 2, Partnership Company 3 and Partnership Company 4.
- 10) Change of Status for NAPL from company limited by guarantee to company limited by shares.

ATTACHMENT 3

TRANSACTION DOCUMENTS – RESTRUCTURE

- 1) Variation of Lease (variation of registered lease U968638) between the Commonwealth and NCC and PSC
- 2) Variation of Lease (variation of registered lease AB655956) between the Commonwealth and NCC and PSC
- 3) Multi-party Deed between the Department of Defence, NCC, PSC, Newcastle Airport Partnership and Newcastle Airport Pty Limited

TRANSACTION DOCUMENTS – REFINANCING

- 1) General Security Deed between Newcastle Airport Partnership, Newcastle Airport Pty Limited (NAPL) and ANZ.
- 2) Australian Dollar Cash Advance Facility Agreement between Newcastle Airport Partnership, NAPL and ANZ.
- 3) Financier Side Deed between Newcastle Airport Partnership, NAPL and ANZ.
- 4) Mortgage of Lease between NCC, PSC and ANZ.

ITEM NO. 8

FILE NO: PSC2009-02408V4

155 SALAMANDER WAY – SUBDIVISION CIVIL WORKS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the General Manager (or delegate) to secure loan funding to the amount of \$4M for the construction of the Subdivisional Works at 155 Salamander Way, Salamander Bay as approved in Development Consent 16-2012-720-1.
- 2) Grant authority to affix Council's seal where necessary to the loan documentation.

ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION

The General Manager returned to the meeting at 6.45pm during Committee of the Whole.

	<p>Councillor Sally Dover Councillor Ken Jordan</p>
	<p>That the recommendation be adopted.</p>

MOTION

291	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>It was resolved that Council adopt the Committee of the Whole recommendation.</p>

BACKGROUND

The purpose of this report is to seek Council's support to secure funding for the construction of the Subdivisional Works for the D.A. approved Subdivision of Council owned land at 155 Salamander Way, Salamander Bay.

The funding will be required on a "Draw Down Facility" to meet progress payments during the 6 to 9 month construction phase.

The total funding required for works is \$4.3M as per the Bill of Quantities prepared independently by the RPS Group.

A significant part of the works involves the removal of approximately 140,000 cubic metres of soil from Lot 2, to the North of the existing Salamander Shopping Centre. Council requires approximately 40,000 cubic metres for future re-use and this amount will be stockpiled at Diemars Quarry, in accordance with the Development Consent.

The remaining soil (approximately 100,000 cubic metres) is intended to be offered to external development approved construction sites via an Expression of Interest process.

It is intended to offer the soil free of charge on the basis that the successful applicant excavates, loads and transports the soil off site at their own cost. There have been a number of Companies that have expressed interest in obtaining the soil. The result of offering the soil in this way has the potential to reduce the amount of funding required for the project by circa \$1,000,000. The funding then required would be \$3.3M.

FINANCIAL/RESOURCE IMPLICATIONS

Funding of the project will require a loan to be established on a Draw Down Facility to enable progress payments to be made during the construction phase, estimated to be nine months.

Council has in place an executed Contract for Sale of Land, with Fabcot Pty Ltd (Woolworths) for Lot 2 in the subdivision. The terms of the contract provide for settlement to take place on the completion of the subdivision works and the registration of the plan of subdivision with the Land Titles Office (LPI).

Settlement with Fabcot will provide all the funds required to retire the loan facility.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other/Loan	Yes	\$4M	Loan Funding

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal implications as the works will be carried out in accordance with the consent conditions.

The Division of Local Government has provided approval for Council to undertake the loan borrowings during the 2013-2014 financial year.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the total amount of 100,000 cubic metres of soil will not be required by external parties.	Low	Should this be the case the remainder of soil is approved for stockpiling at Diemers Quarry.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The subdivision has been approved in Development Consent 16-2012-720-1.

CONSULTATION

- 1) Group Manager Corporate Services;
- 2) Financial Services Section Manager.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9

FILE NO: PSC2011-04373

SUSTAINABILITY REVIEW – ROUND TWO - VOLUNTEER STRATEGY

REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES SECTION MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Service Strategy – Volunteers Strategy and endorse the findings of this review;
- 2) Continue to work with all volunteers to create an environment where volunteering is easy, safe, adds value and complies with legislation;
- 3) Continue the service provision and work towards the full implementation of the Volunteer Strategy within existing resources;
- 4) Undertake continuous improvement of all process and procedures in consultation with volunteers;
- 5) Create a process that enables committees to directly engage contractors to undertake agreed low risk works on council facilities;
- 6) Consult with committees to develop asset management plans that balance user demand with asset requirements and agreed funding contributions from facility income;
- 7) Amend the allocation of annual subsidies to committees to be \$1000 per year for committees that generate less than \$5000 annual income, zero subsidy for committees that generate more than \$5000 per year and reallocate the savings to committees that generate less than \$5000 annual income;
- 8) Reduce the number of committees through voluntary amalgamation to enable satisfactory governance and support for volunteers.
- 9) Consult with committees to ensure bank account names are correct, Council is noted in the account name and two Council staff signatories are added to each account.

ORDINARY COUNCIL MEETING – 8 OCTOBER 2013

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor John Morello</p>
	<p>That Council:</p> <ol style="list-style-type: none"> 1. Note the information contained in the Service Strategy – Volunteers Strategy and endorse the findings of this review; 2. Continue to work with all volunteers to create an environment where volunteering is easy, safe, adds value and complies with legislation;

	<ol style="list-style-type: none"> 3. Continue the service provision and work towards the full implementation of the Volunteer Strategy within existing resources; 4. Undertake continuous improvement of all process and procedures in consultation with volunteers; 5. Create a process that enables committees to directly engage contractors to undertake agreed low risk works on council facilities; 6. Consult with committees to develop asset management plans that balance user demand with asset requirements and agreed funding contributions from facility income; 7. Increase all Parks and Reserves 355c Committee annual subsidy to \$1500 per year commencing 2014/15; 8. Reduce the number of committees through voluntary amalgamation to enable satisfactory governance and support for volunteers; 9. Consult with committees to ensure bank account names are correct, Council is noted in the account name and two Council staff signatories are added to each account; and 10. Continue to focus on opportunities to build volunteer numbers in accordance with the adopted Volunteer Strategy.
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MOTION

292	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>It was resolved that Council adopt the Committee of the Whole recommendation.</p>

BACKGROUND

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

The service relates to the Community Strategic Plan:

- 6.1 "The community is a partner in developing the future of the local government area".
- 6.1.1 "Council will engage its citizens in developing plans for the future of Port Stephens local government area".

The Port Stephens Council Volunteer Strategy was adopted by Council in 2009. The strategy was developed to recognise the contribution of volunteers to the local

community and to provide a framework, strategic directions and guidelines for management and support of volunteers. The Volunteer Strategy provides the guidelines to ensure volunteer management meets corporate and legal requirements.

The Volunteer Strategy Sustainability Review was adopted by Council 11 December 2012, Minute 346 with the following resolutions.

1. "Note the information contained in the Service Strategy – Volunteer Strategy and endorses the findings of this review".
2. "Continue to work with all volunteers to create an environment where volunteering is easy, safe, adds value and complies with legislation".
3. "Review all committees and report back to Council with details on those committees that can be amalgamated or wound up".
4. "Review 355c Committees to assess sustainability of these important voluntary groups and their ability to manage current requirements with the skills and manpower to meet their commitments and ongoing viability".
5. "Review the funding model for 355c Committee recognising that the annual stipend model is neither equitable nor fair dependant on a committee's access to income streams".

As part of the second Volunteer Strategy Sustainability Review further consultation was undertaken with volunteers, 355(c) committee members and staff. The majority of this was during Forums and identifying opportunities for improvement that arose from the data collected in the first sustainability review. The gap analysis of volunteer requirements and expectations has been reviewed and opportunities for improvement have been included in the continuous improvement program.

FINANCIAL/RESOURCE IMPLICATIONS

The current provision of support to volunteers and committees under the Volunteer Strategy is provided within current resources. Whilst the only direct budget item for volunteers is the annual subsidy of \$80,000 there is a further \$518,150 per year in direct and indirect funding of volunteer support and management (**TABLE 1 & ATTACHMENT 1**).

Adopting the recommendations is likely to have the following implications for finances and resources:

- More value added services delivered by volunteers will positively impact on Council's budget.
- Increased potential to fund asset renewal works whilst keeping downward pressure on general revenue as a main source of funds.
- A more strategic approach to asset renewal using committee and Council funds.
- A fairer distribution of annual subsidies that enables committees to deliver their services.
- Improvement of financial management of Council funds held by committees.
- Greater demand on staff resources as improvements to the Volunteer Strategy are made and delivered.

- Free up committees to directly engage suppliers in line with agreed processes that manage risk.

Table 1 shows the sources of funds for the support and management of volunteers

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	298,150	Direct funding includes: <ul style="list-style-type: none"> • Salaries (0.6 EFT) Community Services Section \$60,400 • Salaries (2 EFT) Public Domain Section for direct supervision \$157,750 • Annual subsidy payments \$80,000
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	300,000	Estimated indirect funding of wages to support and manage volunteers from existing budgets.
Other	Yes	600,000	Estimated indirect value of works undertaken by volunteers in any given year.

Table 1: Sources of funds and expenses for volunteer support and management (Port Stephens Council)

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal impediments by adopting the recommendations.

Adopting the recommendations would result in a change to the Volunteer Strategy by way of:

- The reallocation of annual subsidy to committees.
- The requirement of bank accounts held by committees being noted as part of Port Stephens Council.
- Improved integration of committee and Council funding of asset management.

There is a potential reputation risk if volunteers are upset by the changes. Some volunteers will be happy by the increase in subsidy but others may see this as a Council cost cutting action.

The changes to committee bank accounts would reduce Council's risk in having a large amount of funds held in individual bank account.

Risk	Risk	Proposed Treatments	Within
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MINUTES FOR ORDINARY COUNCIL – 8 OCTOBER 2013

	<u>Ranking</u>		Existing Resources?
There is a risk that funds held by 355(c) committee bank accounts may be subject to fraudulent acts resulting in legal, financial and reputation damage.	Medium	This risk will be reduced by ensuring Council is noted on individual bank accounts. This will also assist committees to demonstrate transparent and compliant management of Council funds. This risk is already managed through a monthly and annual financial and audit reporting process.	Yes
There is a risk that funds held in 355c committee bank accounts are not used to contribute to cost of asset renewal resulting in greater drain on ratepayer revenue.	Medium	Adopt the recommendations and commence consultation with committees to form agreements on appropriate use of committee funds for asset renewal	Yes
There is a risk that changing the current 'one in all in' allocation of 355(c) annual subsidies may result in reputation damage from divisions between committees.	Medium	Adopt the recommendations and create processes and procedures that provide the best outcome for the majority of volunteers and Council.	Yes
There is a risk that freeing up committees to engage contractors directly may result in safety, compliance and governance breaches resulting in financial, legal, and reputation damage.	Medium	Adopt the recommendations and create an agreed process and procedures that ensure compliance with local government requirements for procurement, safety and asset management.	Yes
There is a risk that winding up or amalgamating committees may result in fewer volunteers resulting in less value adding to community facilities and services.	Low	Adopt the recommendations as amalgamations are voluntary. Fewer committees do not necessarily translate to fewer volunteers, as any new committee would have the constitution amended to capture the volunteers of the previous committees.	Yes

		<p>Voluntary amalgamations empower committees to create their own future. Forced amalgamations may have a negative impact on volunteer engagement.</p>	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The benefits of volunteers to Port Stephens Council and the local community cannot be overstated. Volunteers not only add value to the services that Council provides, volunteering helps to build social cohesion, sense of ownership, civic pride and well being. Adopting the recommendations will add to this social benefit by increasing options for volunteers, reducing risk to volunteers and improving community and recreational asset condition and service delivery.

Adopting the recommendations will ensure that Council can continue to provide the facilities and services that the community desires in the best possible way. This in turn creates and fills a gap in the market for low cost facilities for small scale events, activities and small businesses to operate and contribute to the local economy.

Environmental management and civic improvement is a big focus for many 355c committees. Adopting the recommendations will ensure that the ecology of the area continues to be protected, improved and developed under the auspice of 355c Committees.

CONSULTATION

Council received this report and deferred it on 24 September 2013 for further discussion.

Councillors received a memo from staff on 20 September 2013 detailing options for alternative methods of reviewing the allocation of the annual subsidy/stipend.

A Two-way Conversation was held with Councillors on the 17 October 2013.

Consultation has occurred with Hall Committees and Parks and Reserve Committees at the following forums:

Halls Forum – 6 June 2013

Parks Forum – 19 June 2013

Consultation with Sports Council has not yet been undertaken. The \$1,000 subsidy is one of the two subsidies Sports Council's receive. They also receive an \$8,000 subsidy. Sports Councils also receive income from sporting group users and attract annual income of greater than \$5000 per year (refer to ATTACHMENT 1).

Consultation has not been undertaken with specific purpose committees as yet. Proposed changes to subsidies only affects four (4) committees of the total of specific purpose committees who have access to income streams.

The following staff have been involved in the preparation of the details and recommendations of this report and sustainability review:

- Volunteer Strategy Coordinator
- Contracts and Services Coordinator.

OPTIONS

- 1) Adopt the recommendations contained in the Sustainability Review – Volunteer Strategy Service;
- 2) Amend the recommendations contained in the Sustainability Review – Volunteer Strategy Service;
- 3) Reject the recommendations contained in the Sustainability Review – Volunteer Strategy Service.

ATTACHMENTS

- 1) Sustainability Review – Round Two – Volunteer Strategy – Financial Information – (Tables 2 and 3).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Sustainability Review - Volunteer Service Strategy, Level of Service and Annexure.

ATTACHMENT 1

SUSTAINABILITY REVIEW – ROUND TWO - VOLUNTEER STRATEGY – FINANCIAL INFORMATION (TABLES 2 AND 3)

Table 2 shows the total funds held by 355c committees and the comparison of these figures for the 31 December 2011 and 31 December 2012 by committees.

Summary	Working A/C	Investment A/C	Total
Closing Balance 31/12/2011	\$487,263	\$275,539	\$762,802
Closing Balance 31/12/2012	\$634,263	\$283,123	\$917,386
Variance	\$147,000	\$ 7,584	\$154,584

Table 2: Total funds held by committees as at 31 December 2012.

Tables 3 itemises the funds held by committees as at 31 December 2012.

Summary	Working A/C	Investment A/C	Total	Percentage of total
Sports Councils (5)	\$196,759	\$137,385	\$334,144	36%
Halls (15)	\$163,257	\$95,433	\$258,690	28%
Specific Purpose (10)	\$195,783	\$37,305	\$233,088	25%
Parks/Reserves (16)	\$78,464	\$13,000	\$91,464	10%
Total	\$634,263	\$283,123	\$917,386	100%

Table 3: Itemised funds held by committees as at 31 December 2012

NOTE: Specific Purpose Committees include Ngioka Centre, Port Stephens Adult Choir, Port Stephens Community Bands, Nelson Bay Australia Day Committee, Salt Ash Sports Ground, Sister Cities, Tomaree Education Complex and Multipurpose Centre, Tilligerry Aquatic Advisory Committee, West Ward Cemeteries (including Karuah Church Columbarium Committee), Tomaree Cemeteries Committee.

ITEM NO. 10

FILE NO: PSC2013-00049

2013 RV FUTURES FORUM

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the attendance of Cr John Nell at the 2013 RV Futures Forum.
 - 2) Allow a "one-off" increase of the Conference allowance under the Policy for Cr John Nell to attend the Conference.
-

ORDINARY COUNCIL MEETING – 8 OCTOBER 2013

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Mayor Bruce MacKenzie Councillor Ken Jordan</p>
	<p>That the recommendation be adopted.</p>

MOTION

293	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>It was resolved that Council adopt the Committee of the Whole recommendation.</p>

BACKGROUND

The purpose of this report is to inform Council of the 2013 RV Futures Forum as part of the Sustainable Economic Growth for Regional Australia Conference, 16-18 October 2013 to be held at Coffs Harbour.

The Conference Programme is shown at **(ATTACHMENT 1)**.

The Conference is open to all Councillors.

As Councillors would be aware the Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation would be covered from the budget, subject to an individual Councillor not exceed the conference budget limits in the Policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Registration costs are free to attend the Forum. Travel & Accommodation are yet to be determined.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Payment of Expenses and Provision of Facilities to Councillors Policy requires Council to approve all Councillor conference attendances outside the Hunter Region. Councillors' conference costs are limited to \$3,500.00 per year under the Policy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may not be kept informed on matters raised at the conference should a delegate not attend. By having a delegate attend, Council will be informed on such matters.	Low	Adopt the recommendation.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending this Conference to ensure the Local Government Area has a voice in the national development of policy and initiatives.

CONSULTATION

Nil.

OPTIONS

Nil.

ATTACHMENTS

- 1) Conference Programme.

COUNCILLORS ROOM

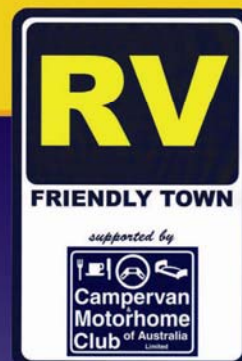
Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

RV Futures Forum 2013



Register now to take part in the 2013 RV Futures Forum. How can your region get a larger slice of the RV traveller business? How have regions optimised the benefits of this market? How is the market evolving and how is technology driving the growth of this market? How does your region capitalise on the trend of slow tourism?

The RV Futures Forum is part of *SEGRA* 2013. It is being held in Coffs Harbour on the morning of Friday 18 October from 9:00am – 12:30pm. The Forum is free-of-charge, including morning tea.

This is an opportunity for delegates attending *SEGRA* and regional stakeholders to attend the Forum and receive the latest industry and market intelligence on this rapidly growing segment.

The Forum is hosted by the **Campervan and Motorhome Club of Australia Ltd (CMCA)** and features presentations including the CMCA – its strategies, vision and aspirations; the latest statistics and data on the RV travel sector; economic and social benefits of the RV travel sector and future market development – constraints, opportunities, future prospects and technology breakthroughs.

Tony Charters, Principal of Tony Charters and Associates, will facilitate and present at the Forum and Colin Balfour of Balfour Consulting will outline the latest statistics on this vital market. Make the most of your time at the Forum, stay on for the Networking lunch with the Forum Speakers, CMCA Executives and Board Members. Please indicate if you would like to attend the Networking lunch when you register. Only \$48 per person.

The Forum will be of particular interest to:

- Local Government Authorities – elected members, planning managers, economic development and tourism managers
- State Government agencies
- Regional Development Organisations
- Regional Tourism Organisations and Local Tourism Organisations
- State Tourism Organisations
- Local business development groups e.g. Chambers of Commerce
- Service and supply businesses to the RV traveller
- Academics and students

With over 65,000 members, CMCA is the largest Recreational Vehicle (RV) Club in the Southern Hemisphere and has 97 chapters Australia wide. It is a not-for-profit organisation and members are drawn from all facets of Australian society and cross a wide variety of demographics.



You MUST register in advance to be able to attend the Forum!



Largest RV Club in the Southern Hemisphere



To register for the Forum please contact:
 Lucas Walker
 Management Solutions Queensland
 lucas@segra.com.au
 (07) 3210 0021

For more information about *SEGRA*, click here:
http://www.segra.com.au/segra_workshops.html



SEGRA

SUSTAINABLE ECONOMIC GROWTH
FOR REGIONAL AUSTRALIA

2013 REGISTRATION

Regions: unleashing
their mojo in an
interconnected world

16–18 October 2013
Coffs Harbour, NSW

SEGRA 2013 will focus on the dual issues of accessing global opportunities in regional Australia and local engagement of communities as a strategy to drive regional economic development. Key elements include building regions that are passionate, driven and fighting for their regional vision. In Coffs Harbour they call it unleashing their mojo.

www.segra.com.au

The real game in moving regional development into the future is creating globalised, virtually-connected, regions. As technology provides access to new markets and suppliers widens the scope and scale of businesses, it raises uncertainty regarding future markets, increased competitors, changing business ownership, new staffing models and complex supply chains. SEGRA 2013 will pursue the future opportunities for regional Australia including how to understand the opportunities, how to maximise the benefits and how to manage the risks.

Running parallel to globalisation is an emerging sense of localisation. As the world becomes more accessible, it is important that people feel a sense of connection to place and a confidence and optimism for the future. SEGRA 2013 will focus on strategies to create regions that are vital, optimistic, creative and future driven.

SEGRA is a great opportunity to hear from nationally and internationally acclaimed speakers on issues impacting regional development in Australia and to hear success stories by practitioners from regional Australia. Delegates will also influence the policy agenda and hatch inspirational ideas for their own region.

Don't miss the opportunity to be part of this premier event, recognised as Australia's most credible, independent voice on issues affecting regional Australia.

2013 MAJOR SPONSORS



ITEM NO. 11

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) Mayor MacKenzie – Medowie Public School – Donation towards Book Prize for Year 6 Presentation Day - \$250
 - b) Mayor MacKenzie – Port Stephens RAAF Williamtown Support Group - Port Stephens RAAF Williamtown Citizen of the Year Award 2013 - \$500

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Councillor John Morello</p>
	<p>That the recommendation be adopted.</p>

MOTION

294	<p>Councillor Steve Tucker Councillor Chris Doohan</p>
	<p>It was resolved that Council adopt the Committee of the Whole recommendation.</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 COUNCIL – 8 OCTOBER 2013

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

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

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

MAYORAL FUNDS – Mayor MacKenzie

Medowie Public School	Donation towards Book Prize for Year 6 Presentation Day	\$250
Port Stephens RAAF Williamtown Support Group	Port Stephens RAAF Williamtown Citizen of the Year Award 2013	\$500

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	750	Mayoral Funds
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

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	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation that funds will always be available.	Low	Adopt the recommendation	Yes

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. 12

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 8 October, 2013.

No:	Report Title
1	Designated Persons – Pecuniary Interest
2	Fees and Charges 2013-2014

**ORDINARY COUNCIL MEETING – 8 OCTOBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Geoff Dingle Councillor Chris Doohan
	That the recommendation be adopted.

283	Councillor John Nell Councillor Chris Doohan
	It was resolved that Council move out Committee of the Whole.

MOTION

295	Councillor Steve Tucker Councillor Chris Doohan
	It was resolved that Council adopt the Committee of the Whole recommendation.

INFORMATION PAPERS



INFORMATION ITEM NO. 1

DESIGNATED PERSONS - PECUNIARY INTEREST

REPORT OF: PETER GESLING – GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2013-01465

BACKGROUND

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

Councillors

Cr Bruce MacKenzie
Cr Geoffrey Dingle
Cr Christopher Doohan
Cr Sally Dover
Cr Kenneth Jordan
Cr Peter Kafer
Cr Paul Le Mottee
Cr John Morello
Cr John Nell
Cr Steve Tucker
Cr Francis Ward

General Manager's Office

General Manager
Executive Officer
Legal Services Manager

Corporate Services

Group Manager Corporate Services
Accountant
Business Support Coordinator
Business Systems Support Section Manager
Commercial Business Manager
Finance & Assets Coordinator
Financial Services Section Manager
Management Accountant
Organisation Development Section Manager
Procurement & Contracts Coordinator
Property Development Coordinator
Property Investment Coordinator
Property Officer

Property Services Section Manager

Development Services

Group Manager Development Services
Assistant Development Planner
Building Assessment Manager
Business Development & Investment Manager
Communicate Port Stephens Coordinator
Community Planning & Environmental Services Section Manager
Compliance Officer
Coordinator Environmental Health & Compliance
Coordinator Natural Resources (2)
Development Assessment & Compliance Section Manager
Development Assessment Officer - Customer Service
Development Assessment Team Leader
Development Coordinator
Development Planner (2)
Economic Development & Communications Section Manager
Environmental Health Officer (3)
Environmental Health Team Leader
Environmental Officer
Health & Building Surveyor (5)
Major Projects, Policy & Compliance Coordinator (formerly Executive Planner)
Principal Strategic Planner
Ranger (4)
Ranger Team Leader
Section 94 Officer
Senior Building Surveyor
Senior Development Planner (3)
Senior Health & Building Surveyor (2)
Senior Health & Building Surveyor (Casual)
Senior Health & Building Surveyor Fire Safety
Senior Strategic Planner
Social Planning Coordinator
Strategic Planner (4)
Strategic Planning Coordinator
Tourism & Events Coordinator
Tourism Marketing Manager
Vegetation Management Officer
Waste Compliance Officer

Facilities & Services

Group Manager Facilities & Services
Childrens' Services Coordinator
Civil Assets Engineer
Civil Assets Section Manager
Community & Recreation Assets Coordinator
Community & Recreation Services Manager
Community Options Coordinator
Contracts & Services Coordinator
Coordinator – Construction
Coordinator – Construction (Acting)
Coordinator - Parks - East
Coordinator - Parks - West
Coordinator - Roads
Coordinator - Roadside & Drainage - East
Coordinator - Roadside & Drainage - West
Design & Project Development Engineer
Development Engineer (2)
Development Engineering Coordinator
Drainage Engineer
Fleet & Depot Services Coordinator
Fleet Management Supervisor
Library Services Manager
Operations Section Manager
Parks & Waterways Assets Coordinator
Project Management Coordinator
Recreation Planning & Development Coordinator
Senior Development Engineer
Strategic & Projects Management Engineer
Student Development Engineer
Waste Management Coordinator
Works Manager
Works Manager

ATTACHMENTS

Nil.

TABLED DOCUMENTS

- 1) Pecuniary Interest Returns 1 July 2012 – 30 June 2013.

INFORMATION ITEM NO. 2

FEEES AND CHARGES 2013-2014

REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES

GROUP: CORPORATE SERVICES

FILE: PSC2012-04560

BACKGROUND

The purpose of this report is to advise Council that pursuant to Australian Taxation Office changes to the GST as it affects local government fees and charges in NSW it has been necessary to adjust the GST status of fees as shown in the table below.

Now Exempt from GST	GST now applies
Bonds for events	Rural Address Post
Some bonds for special sports events	
Commercial Stratum Structure Licences	
Security Deposits in Holiday Parks	
Some building fees	
Road Closure & Purchase fees	

Councillors were briefed on the possibility of changes to GST status at the 2 way conversation on 14 May 2013 as the Australian Taxation Office has progressively released its rulings over several months. As these rulings are statutory there is no requirement for exhibition of the changed GST status of the affected fees. Arrangements have been made to inform staff and committees affected by these changes.

ATTACHMENTS

Nil.

Cr Paul Le Mottee, Cr Peter Kafer and the General Manager did not return to the Council meeting.

There being no further business the meeting closed at 7.00pm.

I certify that pages 1 to 107 of the Open Ordinary Minutes of Council 8 October 2013 were confirmed by Council at its meeting held on 22 October 2013.

.....
Bruce MacKenzie MAYOR