

DRAFT

MINUTES – 8 DECEMBER 2015



PORT STEPHENS

C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 8 December 2015, commencing at 5.41pm.

PRESENT:

Mayor B MacKenzie, Councillors G. Dingle, S. Dover, K. Jordan, P. Kafer, P. Le Mottee, J. Morello, J Nell, S. Tucker, Acting General Manager, Corporate Services Group Manager, Facilities and Services Group Manager, Development Services Group Manager and Governance Manager.

Cr Paul Le Mottee was not present at the commencement of the meeting.

378	Councillor Steve Tucker Councillor John Nell It was resolved that the apology from Cr Chris Doohan be received and noted.
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MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

379	Councillor Steve Tucker Councillor Ken Jordan It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 24 November 2015 be confirmed.
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	Cr Paul Le Mottee declared a pecuniary interest in items 1, 2 and 3. The nature of the interest is the Le Mottee Group has undertaken survey work on all three (3) sites.
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MOTIONS TO CLOSE

ITEM NO. 1

**FILE NO: PSC2015-01000V2/142
TRIM REF NO: PSC2015-03385**

MOTION TO CLOSE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **PURCHASE OF 15 HORACE STREET, SHOAL BAY.**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

380	<p>Councillor John Nell Councillor John Morello</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 0 on the Ordinary agenda namely PURCHASE OF 15 HORACE STREET, SHOAL BAY.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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ITEM NO. 2

**FILE NO: PSC2015-01000V2/174
TRIM REF NO: PSC2015-03410**

MOTION TO CLOSE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the Local Government Act 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary agenda namely **PROPOSED ACQUISITION OF EASEMENT - 653 MEDOWIE ROAD, MEDOWIE.**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

	This item was withdrawn from the agenda.
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NOTICES OF MOTION

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

381	Mayor Bruce MacKenzie Councillor Ken Jordan It was resolved Notice of Motion Item 1 and Item 2 of the Council reports be brought forward and dealt with prior to Item 1 of the Council reports.
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Cr Paul Le Mottee entered the meeting at 5.46pm, during the Notice of Motion debate.

NOTICE OF MOTION

ITEM NO. 1

FILE NO: PSC2015-01000V2/131

TRIM REF NO: PSC2005-2537

PORT STEPHENS SCENIC FORESHORE CYCLEWAY

COUNCILLOR: SALLY DOVER

THAT COUNCIL:

- 1) Subject to project scoping, estimating and approval of funds authorise and partner with Port Stephens Scenic Foreshore Cycleway Inc. to construct the first section of the Corlette Headland Cycleway from Roy Wood reserve to the Rock shelf (**ATTACHMENT 1**) using volunteers and donated materials.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

382	Councillor Sally Dover Mayor Bruce MacKenzie It was resolved that Council: <ol style="list-style-type: none">1) subject to project scoping, estimating and approval of funds authorise and partner with Port Stephens Scenic Foreshore Cycleway Inc. to construct the first section of the Corlette Headland Cycleway from Roy Wood reserve to the Rock shelf (ATTACHMENT 1) using volunteers and donated materials.2) Provide the funding for concrete to construct the three (3) bays, five (5) metres in length.
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**BACKGROUND REPORT OF: JASON LINNANE – GROUP MANAGER
FACILITIES AND SERVICES**

BACKGROUND

Council staff have had preliminary conversations with Councillor Dover and members of the proposed incorporated body.

To enable the project to proceed, the first requirement will be a need for the preparation and agreement on a project management plan (PMP) for the proposal. This PMP will identify and put in place arrangements for agreement on scope, approvals, timing, funding, risk management, communication, and respective responsibilities.

Subject to agreement on the PMP matters, the project can be considered for funding and included in the works program of staff from the Facilities and Services Group.

ATTACHMENTS

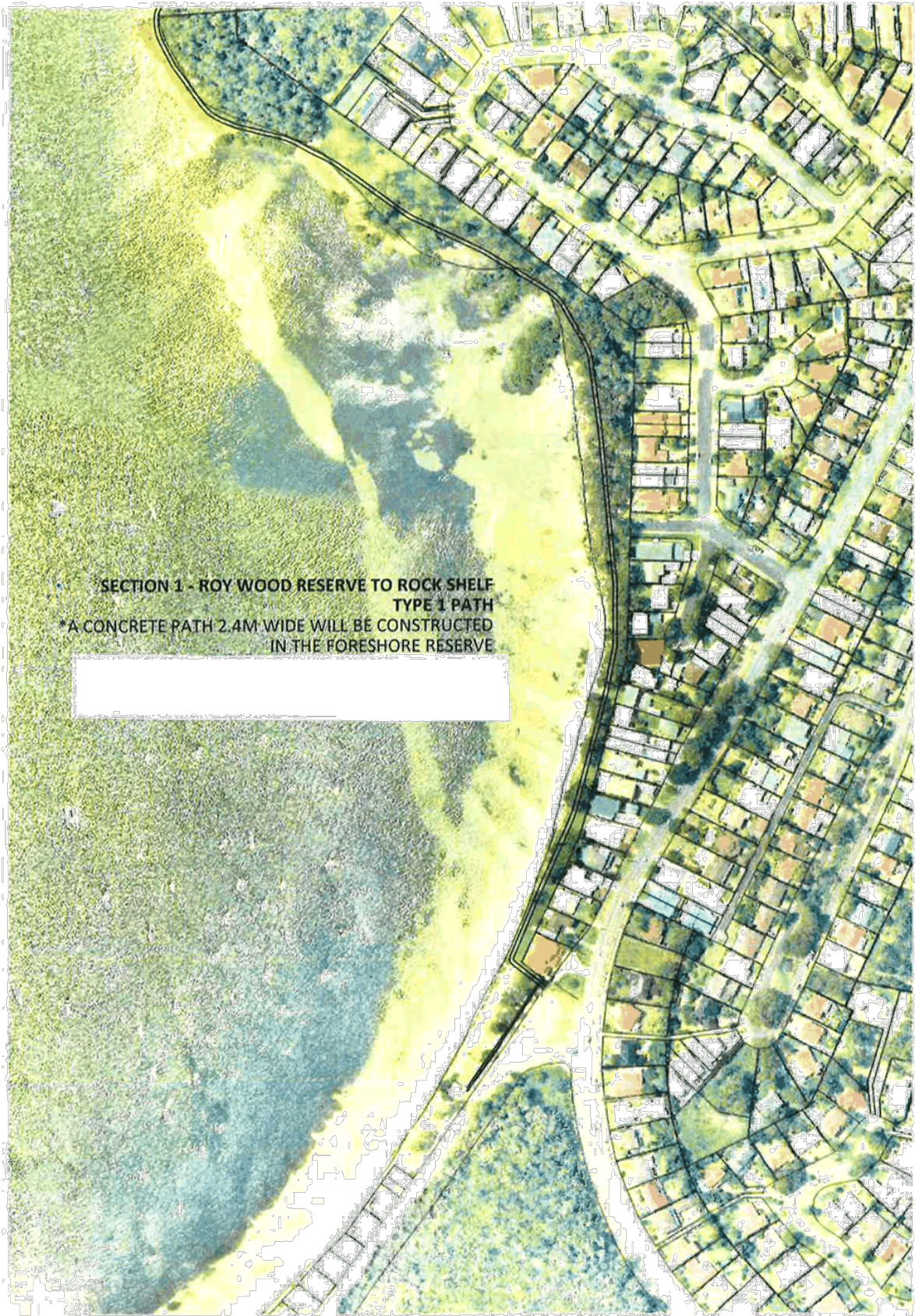
- 1) Copy of Corlette Headland Cycleway Concept Plan
- 2) Port Stephens Scenic Foreshore Cycleway Inc. Report.

ITEM 1 - ATTACHMENT 1

COPY OF CORLETTE HEADLAND CYCLEWAY CONCEPT PLAN



ITEM 1 - ATTACHMENT 1 COPY OF CORLETTE HEADLAND CYCLEWAY CONCEPT PLAN



ITEM 1 - ATTACHMENT 2 PORT STEPHENS SCENIC FORESHORE
CYCLEWAY INC. REPORT.

PORT STEPHENS

SCENIC

FORESHORE

CYCLEWAY INC.

October 2015

**ITEM 1 - ATTACHMENT 2 PORT STEPHENS SCENIC FORESHORE
CYCLEWAY INC. REPORT.**

The vision for this cycleway was initiated by Noel Finch and Kevin Mosely members of TOBEROS CYCLE CLUB and passed on to Cr. Sally Dover East Ward Councillor of Port Stephens Council in 2008 and slowly this has been coming to fruition.

Port Stephens Council passed its Pathway Plan in September 2015 opening the way for this Scenic Foreshore Cycleway to be come a reality. The Pathway Plan is being exhibited in the community so that comments can be received by Port Stephens Council.

Port Stephens Scenic Foreshore Cycleway Inc. has been incorporated as a not for profit community association to construct the missing links of the foreshore cycleway from Soldiers Point to Fingal Bay.

Originally the plan was to create a work for the dole program to construct the first section of the cycleway from Roy Wood Reserve around Corlette Headland to Conroy Park.

This has not been possible so a new plan to construct this section with community volunteers working in co-operation with Port Stephens Council has been prepared.

A Community Consultative Team has been created with
Cr. Sally Dover, Councillor
Mr. Gary Dover, retired builder,
Mr. Kevin Mosely, Retired Engineer,
Mr. Alan Hay, earthmoving contractor,
Mr. Steve Ruddy, professional concreter,
Mr. Dave Sams, recycle centre Manager,
Mr. Graham Maytom, CoastReo Steel, Salamander
Mr. Paul Dover, building contractor,
Mrs. Sophie Redinski, retired consultative Engineer
Mr. Gary Edwards, Holcim Concrete, Salamander Bay.

At a site inspection on 16th November the route for section 1 from the toilet block at Roy Wood reserve east for approx. 900 meters was inspected by Kevin Mosely, Gary Dover, Peter Matt (PSC) and Sally Dover.

**ITEM 1 - ATTACHMENT 2 PORT STEPHENS SCENIC FORESHORE
CYCLEWAY INC. REPORT.**

- 2 -

After discussion it was decided that the route should follow the existing pathway used by locals through the grassy sandy foreshore, where a good crushed gravel base exists.

Peter Matt PSC will arrange for one damaged tree to be removed behind 12 Danalene Parade and one old Telstra steel plate behind 8 Danalene Parade to be inspected and removed. The council drainage reserve at 26 Danalene Parade will be part of the required environment application but will be left untouched.

It was confirmed that Holcim Concrete Salamander Bay will provide the left over concrete 20MPA and the cycleway will be formed up using donated formwork 2.5 m wide 100mm thick.

Alan Hay from Hays Contractors will use his machinery to level the site and provide the timbers and equipment necessary to prepare for the steel mesh reo. 2.4 wide which will be donated. Alan will also provide the safe work practices instruction and necessary documentation in co-operation with Port Stephens Council.

All risk management requirements and processes will be planned and implemented in conjunction with PSC staff.

Three bays 5 meters long will be formed up, ready for the steel and concrete at a time. Each bay will take approx. 1.2 meters concrete.

An initial working bee will be organized on a Saturday to be advised and volunteers invited to attend and sign up to the "Safe Work Practices and Procedures Policy"

Starting at the toilet block at Roy Wood reserve the volunteers will construct the formwork for the 2.5m wide cycleway heading east across in front of the park boundary poles, on the water side towards the neighbours boundary wall. Three five meter sections will be formed before informing Gary at Holcims Concrete that the site is ready to receive unused left over concrete.

Timber for the formwork has been donated together with the steel for these first three section.

**ITEM 1 - ATTACHMENT 2 PORT STEPHENS SCENIC FORESHORE
CYCLEWAY INC. REPORT.**

- 3 -

A team of concreting volunteers will be recruited and supervised by Gary Dover and Kevin Mosely who will be available at short notice to lay the concrete provided by Holcims Concrete Salamander Bay.

Funding:

The plan is for the committee to involve the community by inviting all to participate. The funding for the original 3 bays has been organized and a subcommittee is investigating grant opportunities and community participation by locals buying sections and having their names imbedded in the cycleway.

The committee will seek the advice of PSC staff to assist in identifying grant opportunities.

We are planning for Council to participate with "in kind" funding ie the necessary survey pegs, advice about environment applications etc. It is proposed that the committee and relevant PSC staff meet as soon as possible to create a project management plan including a funding strategy.

The Committee believe this is a wonderful opportunity for our community to enjoy a scenic foreshore cycleway which has been especially designed for families with strollers and disabled residents and visitors to enjoy.

By inviting all residents to be included in this project we can see this Port Stephens Scenic Foreshore Cycleway becoming a tourist attraction just like the wonderful cycleways in Newcastle and Lake Macquarie.

Cr. Sally Dover ,
Public Officer,
Port Stephens Scenic Foreshore Cycleway Inc.
0412130269

COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

Councillor Paul Le Mottee left the meeting at 6.06pm, in Committee of the Whole prior to Item 2.

ITEM NO. 2

**FILE NO: PSC2015-01000V2/002
TRIM REF NO: 16-2014-168-1**

SECTION 96(1A) MODIFICATION TO APPROVED RURAL LANDSHARING COMMUNITY (AMEND STAGING AND CONDITIONS) AT 15 GREEN WATTLE CREEK ROAD, BUTTERWICK (LOT 1 DP999947)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Section 96(1A) Modification Application DA No. 16-2014-168-2 for a Rural Landsharing Community (amended staging and conditions) at 15 Green Wattle Creek Road, Butterwick (Lot 1 DP999947) subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

383	Councillor Ken Jordan Councillor Steve Tucker It was resolved that Council approve Section 96(1A) Modification Application DA No. 16-2014-168-2 for a Rural Landsharing Community (amended staging and conditions) at 15 Green Wattle Creek Road, Butterwick (Lot 1 DP999947) subject to the conditions contained in (ATTACHMENT 3) being amended to include staging of the internal roads.
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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 Geoff Dingle, Sally Dover, Ken Jordan, Peter Kafer, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for determination a Section 96 Modification for amendments to the approved Rural Landsharing Community and Stage One of the proposal at No. 15 Green Wattle Creek Road, Butterwick (the 'subject site').

The original Development Application (DA 16-2014-168-1) was approved by Council at its meeting of 24 October 2014. The Section 96 Modification is put before Council given the original application was determined by Council and the applicant seeks approval for a reduction in Section 94 contributions.

Some aspects of the Section 96 application have been recommended for approval by Council staff, while other aspects are not supported. These are summarised as:

- The changes to the number of dwellings and staging has been recommended for approval.
- The changes to the infrastructure related conditions i.e. reducing road requirements are not recommended for approval.
- The reduction in the Section 94 contributions is supported in part i.e. partial reduction.

The subject site is located within the rural area of Butterwick and is surrounded by large lot rural residential development accessed by both Butterwick Road and Green Wattle Creek Road. The lot has a total area of 112.4 hectares and has a frontage to Green Wattle Creek Road which is an unformed Council road. Large portions of the land are clear of vegetation and it has been historically used for agricultural pursuits, with cattle grazing still occurring on the site.

Development Application 16-2014-168-1

The original DA granted consent for the use of the site as a Rural Landsharing Community and stage one of the proposal. Stage one involved the construction of internal roads and infrastructure, use of an existing dwelling for administration and the establishment of agricultural activities.

The approved development was to be undertaken in three stages. The applicant was required to lodge separate DA's for stages two and three. Stage two was intended to include the construction of 29 dwellings and a purpose built community building. The demolition of the existing dwelling, replacement with new administration building and remaining community infrastructure was to be included within stage three. A total of 29 dwellings were proposed to exist on the site upon completion of all three stages.

The approved development provided for multiple occupancy on the site and the collective management and sharing of one parcel of land, facilities and resources. The development encourages a community-based environmentally sensitive approach to rural settlement, enabling the pooling of resources and development opportunities for communal rural living.

Proposed modifications

The application seeks to amend staging to allow for the construction of six (6) dwellings as part of stage one, construction of nine (9) dwellings as part of stage two, thirteen dwellings at stage three and the construction of the community hall (includes dwelling) and shared dwelling as part of stage four (an additional stage).

It is noted that the applicant seeks the approval of an additional dwelling as part of the Section 96 Modification resulting in a total of 30 dwellings. The additional dwelling forms part of the proposed stage three. The proposed amendments to the staging of the construction of the dwellings and community facilities at the site are recommended for approval.

In addition, the Section 96 Modification includes amendments to conditions of consent relating to the timing of infrastructure provision and road works, as follows:

- Staging of internal road works to correlate with the staged construction of dwellings.
- Delete Condition No. 10a). Condition No.10 requires a detailed geotechnical investigation to be prepared to address a number of matters including 10a) being pavement design of the internal roads.
- Delete Condition No. 11d). Condition No.11 generally requires that prior to issue of a Construction Certificate the vehicle access way shall be constructed in accordance with detailed criteria. Condition No.11d) specifically requires that road pavement be provided in accordance with the detailed geotechnical reported required under condition No. 10a).
- Deferral of Condition No.12, which requires upgrade works and sealing of Green Wattle Creek Road. The applicant proposes that works to Green Wattle Creek Road will occur at stage three of the development.

The deferral of infrastructure works and upgrade and sealing to the public road are not recommended for approval as detailed in **(ATTACHMENT 2)** for the following reasons:

- Provision of access for emergency vehicles (in accordance with Rural Fire Service (RFS) General Terms of Approval (GTAs).
- Management of dust.
- Vehicular safety.
- Traffic management.
- Road maintenance requirements.

Further, the applicant is seeking a reduction in Section 94 contributions payable in relation to the construction of the 30 dwelling houses on the basis that they will have a reduced impact on local infrastructure and services given the site is intended to pool resources and provide for affordable housing. For example, the development includes provision of community facilities, on-site water and electricity provision, a community common, community hall, commercial kitchen and private roads. The

applicant sought a 75% reduction of Section 94 contributions which is a discount of \$298,518.75.

The application was reported to Council's Section 94 Analysis Team for assessment. As a result it was recommended that any reduction of Section 94 contribution should be in line with the reduction provided to caravan parks under Council's adopted Section 94 plan, as follows:

- Civic administration – 50% reduction.
- Public Open Space, Parks and Reserves – 50% reduction.
- Sports and Leisure Facilities – 50% reduction.
- Cultural and Community Facilities – 50% reduction.
- Road works – 33% reduction.
- Fire and Emergency Services – 50% reduction.

The above recommended reduction in Section 94 contributions results in a discount of \$206,799. The total now payable by the applicant is \$191,226.

Council's endorsement is required for any reduction in Section 94 contributions as Council staff do not have delegation to vary Section 94 contributions. It is noted that the applicant's request for a 75% reduction in Section 94 contributions is not supported, however, a reduction as detailed above is considered appropriate and hence, recommended for approval by staff.

State Environmental Planning Policy No.15 – Rural Landsharing Communities (SEPP No. 15)

SEPP No.15 has a number of aims and objectives and makes provisions to create opportunities for an increase in the rural population in areas that are suffering or are likely to suffer from a decline in services due to rural population loss. However, the application of the policy is not limited to areas or populations 'in decline', nor are these areas readily defined. Schedule 1 of the SEPP identifies land to which the policy applies and lists Port Stephens as an area in which the SEPP operates.

The approved development was permissible under State Environmental Planning Policy No.15 – Rural Landsharing Communities (SEPP No.15). The subject site is zoned RU2 Rural Landscape under Port Stephens Local Environmental Plan 2013 and 'Rural Landsharing Communities' are not listed as permissible in the RU2 zone. The provisions of SEPP15 override *Port Stephens Local Environmental Plan 2013* (LEP2013) and the original DA was able to be determined by Council as a permissible form of development.

Key issues

The key issues associated with the proposal are:

- The proposed amendments to Conditions No. 10a), 11d) and 12 pertaining to roadwork and infrastructure are not supported.

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

- The request for a 75% reduction in Section 94 Contributions is not supported. A reduction of Section 94 Contributions consistent with the reduction applicable for Caravan Parks can be supported (i.e. 33% reduction in roadwork levies and 50% reduction for all other levies).
- The modification to the staging of construction of dwellings, including the provision of additional dwellings, can be supported.

The amended plans submitted with the Section 96 Modification application (i.e. amended staging and additional dwelling) are recommended for approval as the development is consistent with the provisions of SEPP No.15.

Subject to the recommended conditions of consent the proposal will not have any likely significant adverse impacts to adjoining properties.

A detailed assessment of the proposal is provided within **(ATTACHMENT 2)** which has been undertaken in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* (EP and A Act).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no foreseen significant financial or resource implications resulting from the recommendations in this report. However, should the reduction in Section 94 be supported, this will decrease the developer contributions by up to 50%.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within operational budget
Reserve Funds	No		
Section 94	Yes		Reduction of S94 funds if supported
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known significant legal, policy and risk implications resulting from the recommendations in this report.

The development application is consistent with Council's Policies eg the LEP and DCP. The development application is consistent with State Environmental Planning Policy No.15 which permits the development of rural landsharing communities. This SEPP has since been repealed by the s96 amendments to the original approval.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the applicant will appeal to the Land and Environment Court.	Medium	Support the recommendation and approve the application subject to conditions of consent.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The development has a positive social impact through the provision of affordable, quality housing stock that caters for a mixed cross-section of the population. The proposal provides opportunities for flexible employment options and work-life balance. The proposal will be sustainable with respect to the facilitation of car-sharing, car-pooling, bulk purchasing, community bus and work-from-home opportunities. Agricultural and rehabilitation activities on the site will encourage physical exercise, social interaction and outdoor recreational pursuits.

The development is intended to be operated in a manner consistent with a not for profit housing co-operative. Sale of the dwellings with the development are facilitated by the purchase of equal shares within the 'Shepherds Ground Cooperative' at an understood estimated price of \$100,000. A share entitles the member to a 99 year license to occupy a house. Additional to the long term licence the purchaser must build a home in line with the approved dwelling typology, building materials and layout of the master plan. The license cannot be sold at a profit to an incoming purchaser. The applicant envisages that the model will cater for young families.

The amended staging to the construction of dwellings and reduction in Section 94 Contributions provide the applicant with the financial capacity to facilitate the development. A reduction in costs is considered by the applicant to be fundamental to ensure that the license fees remain within a cost scope that would be acceptable to banks or lenders, noting that the subject site cannot be subdivided by Torrens or Strata Title and must remain as one title in accordance with the provisions of SEPP No.15 and the original determination.

The proposed development, as assessed, will not have a significant impact on any threatened species, and the applicant's proposal to undertake revegetation will result in improved ecological outcomes within the site.

An assessment has been undertaken with respect to bushfire hazard, dust impact, and traffic impact. It has been determined that the proposed modifications to infrastructure and public roads are not satisfactory on merits. In particular, the internal and public roadwork is required to facilitate access for emergency access vehicles in accordance with Planning for Bushfire Protection 2006 and the General Terms of Approval issued by the Rural Fire Service. The Rural Fire Service supports the Section 96 Modification subject to there being no changes to the General Terms of Approval (including the road works conditions).

Additionally, the increased traffic generated from the construction of the development and future occupation of the approved dwellings would result in an unreasonable dust impact to adjoining dwellings. Dust impacts and the adequacy of Green Wattle Creek Road were raised as key issues during the assessment of the original DA. In this regard, the applicants proposed amendments to infrastructure and roadwork are not recommended for approval.

CONSULTATION

The application was exhibited in accordance with Council policy and during that time six submissions were received. The key items raised with objections are outlined below. A detailed assessment of the submissions is included within **(ATTACHMENT 2)**:

- Dust.
- Traffic impact and safety.
- Access for emergency vehicles.
- Use of site for events.
- Reduction in Section 94 Contributions.
- Additional dwelling.

The recommended conditions of consent (which do not support the applicant's modification to internal and public roadworks) adequately address the issues raised within the submissions.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Locality Plan (Provided under separate cover)
- 2) Assessment Report. (Provided under separate cover)
- 3) Modified Conditions of Consent. (Provided under separate cover)

COUNCILLORS ROOM

- 1) Section 96 Application and supporting documents and plans.

TABLED DOCUMENTS

Nil.

ITEM NO. 1

**FILE NO: PSC2015-01000V2/054
TRIM REF NO: 13/844**

**DEVELOPMENT APPLICATION FOR A TWO LOT SUBDIVISION AT NO.130A
RICHARDSON ROAD, RAYMOND TERRACE (LOT 1 DP 735177)**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application No. 16-2013-579-1 for a two lot subdivision at 130A Richardson Road, Raymond Terrace subject to the conditions contained in (**ATTACHMENT 3**).
- 2) Endorse the draft Planning Agreement (PA) as offered by the land owner for contributions towards Halloran Way (**ATTACHMENT 4**).
- 3) Place the Planning Agreement on exhibition for a period of not less than 28 days.
- 4) Should no submissions be made, enter into the Planning Agreement.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

384	Councillor Steve Tucker Councillor Ken Jordan It was resolved that Council move into Committee of the Whole.
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COMMITTEE OF THE WHOLE RECOMMENDATION

	Mayor Bruce MacKenzie Councillor Steve Tucker That the recommendation be adopted.
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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 Geoff Dingle, Sally Dover, Ken Jordan, Peter Kafer, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

Councillor Paul Le Mottee left the meeting in Open Council at 7.02pm, prior to consideration of Items 1 and 3.

ORDINARY COUNCIL MEETING - 8 DECEMBER 2015 MOTION

385	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Approve Development Application No. 16-2013-579-1 for a two lot subdivision at 130A Richardson Road, Raymond Terrace subject to the conditions contained in (ATTACHMENT 3).2) Endorse the draft Planning Agreement (PA) as offered by the land owner for contributions towards Halloran Way (ATTACHMENT 4).3) Place the Planning Agreement on exhibition for a period of not less than 28 days.4) Should no submissions be made, enter into the Planning Agreement.
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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 Geoff Dingle, Sally Dover, Ken Jordan, Peter Kafer, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for determination Development Application (DA) 16-2013-579-1 for a two lot Torrens title subdivision at 103A Richardson Road, Raymond Terrace (the site). The application is being reported to Council as the applicant has offered contributions towards the cost of any future construction of Halloran Way.

The site is located at 103A Richardson Road, Raymond Terrace and is legally known as Lot 1 DP 735177. The lot has an area of approximately 6,844m² and is generally flat with a slight slope toward the north. Access to the site is from Richardson Road via an existing handle over Council owned land (104A Richardson Road; Lot 4 DP 735177) (**ATTACHMENT 1**). A licence over this land is required to facilitate the developments stormwater and drainage infrastructure. Further, the site fronts Halloran Way which is an unformed road. A single dwelling and associated ancillary structures (pool, garage, etc.) are currently located on the site to the northern area. The site is largely cleared excluding plantings located on the property boundaries and

within proximity to the existing dwellings. The land surrounding the site includes residential allotments of varied size.

Proposed development

The application is for a two lot Torrens Title subdivision of the subject site. The development also results in the dedication of part of the site as public road. The applicant does not intend to construct the public road at this point in time, however has offered to enter into a Planning Agreement and contribute towards the future construction of Halloran Way.

- 1) Proposed lot 1 has an area of 3,300m² and is generally regular in shape with an approximate 44.7m frontage to the unformed Halloran Way. Proposed Road No.2 traverses the western property boundary and proposed road No.3 traverses the rear property boundary. Access is obtained to the site via right-of-way from Richardson Road.
- 2) Proposed lot 2 is approximately 2,166m² and is generally regular in shape with a 58.4m frontage to proposed road No.3. Access to the site remains via the existing driveway and right-of-way from Richardson Road.

Site history

A previous DA over the subject site (16-2005-1393-1) which proposed a six lot Torrens title subdivision was refused by Council staff in April 2007. The application was a subsequent stage of the original subdivision of the land which occurred in 1987 in accordance with a DCP adopted by Council which provided for the subdivision of the subject land (and adjoining sites) in two stages. The first stage provided for the excision of the front lot and the creation of a rear lot, subject to the creation/dedication of an intermediate 20m wide strip of land for the future extension and construction of Halloran Way. Temporary access to the rear lots was allowed over right-of-ways (as per the existing situation). The second stage envisaged the further subdivision of the lots at which time property owners could co-operatively construct the main access road – Halloran Way and connect it to Lake View Crescent, extinguishing the right-of-ways that currently provide access. The refusal was issued for a number of reasons including non-compliance with the DCPLD7 – Richardson Road Raymond Terrace (the DCP at that time) with regard to the construction of Halloran Way, as well as matters regarding the suitable provision of infrastructure to service the site.

The refusal was appealed by the Applicant in the Land & Environment Court (LEC). Initially the appeal was dismissed and consent was refused (*Paul Le Mottee Project Management Pty Ltd v Port Stephens Council* [2009] NSW LEC 1176, June 2009). The Court noted it was not appropriate for the proposed six lot subdivision to access via a right-of-way and that adequate stormwater management had not been achieved. The LEC noted that the integrity of the DCP applying to the land had been diminished as a result of previous approvals for development issued by Council contrary to the provisions of the DCP, which resulted in the continued deferring of road construction. The LEC in making their findings stayed the decision to provide the applicant with the opportunity to respond. Thus in (*Paul LeMottee Project*

Management Pty Ltd v Port Stephens Council (No.2)[2009] NSW LEC 1302), October 2009, the LEC revisited its decision and granted consent to the application as the applicant had provided amendments to: undertake the construction of the first stage of Halloran Way and provision of adequate stormwater drainage measures. The LEC noted at this time that it would be unreasonable for Council to require the applicant to fully construct Halloran Way. Notwithstanding, 16-2005-1393-1 has not been acted on.

Development application

The proposed development is inconsistent with the DCP in so far as it seeks consent for subdivision relating to Stage 2 development prior to completion of Stage 1. The current development application for a two lot Torrens title subdivision at 103A Richardson Road, Raymond Terrace, can provide OSD and drain to Richardson Road via an existing Council laneway. Access is also provided via the existing laneway. This option is not available to the other land owners within the development area. However, if approved without requiring construction of, or appropriate contributions towards Halloran Way the development may result in a greater financial burden to Council should it be elected to provide drainage and road infrastructure to the area in the future. It is noted that the LEC identified within the appeal of 16-2005-1393-1 that as a result of the historic ad-hoc approach to the subdivision of the land in 'stage two' of the area without requiring contribution to road construction, it is likely that Council will be required to address any shortfall in funding in order to construct the road. It is also noted that the construction of Halloran Way is not identified on Council's forward works program.

Prior to lodgement of the current application the applicant undertook pre-lodgement meetings with both Council and the RMS. At these meetings both organisations agreed to allow an additional lot to utilise the existing laneway/ROW, and facilitate contribution toward necessary infrastructure.

Planning Agreement (PA)

On 12 November 2015 the land owner offered to enter into a Planning Agreement in relation to the development application (**ATTACHMENT 5**). The purpose of the Planning Agreement is to provide funds (\$18,000) for the sole purpose of contributing towards the cost of constructing Halloran Way. The additional infrastructure in this area will benefit the land owner and any future developments as and when the road is constructed.

Planning agreements are made in accordance with s.93F of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and cl.25E(1) of the *Environmental Planning and Assessment Regulations 2000* (EP&A Regs). Under a Planning Agreement the developer is required to make development contributions for a public purpose. The development contributions can include monetary contributions, land dedication, public works, or the provision of material public benefits.

The proposal to enter into a Planning Agreement was presented to the Section 94 Analysis Team in April 2015 and was recommended to accept the proposal.

Key issues

The key issues associated with the development proposal are:

- The site is located within the 'Raymond Terrace – Richardson Road' development area. Stormwater and road infrastructure within this area has not been consistently developed. Unlike many of the adjoining properties the subject site has legal access over Council land from Richardson Road. Notwithstanding, the owner/developer has offered to enter into a PA with Council to provide funds for the future construction of Halloran Way.
- A Draft Planning Agreement has been prepared acknowledging the subdivision should contribute to the future construction of the road. Should Council wish to accept the contribution, Council must resolve to enter into the Planning Agreement in accordance with s 93F *EP&A Act 1979* (NSW).
- Should Council resolve to enter into a Planning Agreement, the development consent will be conditioned requiring the proponent to enter into the agreement as offered.

The application is recommended for approval and the detailed assessment of the proposal against the provisions of Section 79C of the *EP&A Act 1979* (NSW) is provided within (**ATTACHMENT 2**).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2043-2019
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

Development Application

Should Council refuse the application the applicant may appeal to the Land and environment Court. Defending Council's determination would have financial implications.

Planning Agreement

The application if approved without requiring construction of, or appropriate contributions towards Halloran Way may result in a future financial burden to Council. However, the Planning Agreement proposes a financial contribution in addition to the payment of section 94 contribution fees. The financial benefit of the proposed

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

planning agreement is that it will allow for the funds to be collected (i.e. construction of Halloran Way). As part of the terms of the PA, Council's legal fees for the preparation of the draft planning agreement will be paid by the developer.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	Yes		The proposal attracts s.94 levies of \$13,725
External Grants	No		
Planning Agreement	Yes	18,000	A monetary contribution towards the construction of Halloran Way.
Other	Yes		Council's legal fees associated with the preparation of the Planning Agreement will be paid by the developer in accordance with Clause 22 of the Planning Agreement.

LEGAL, POLICY AND RISK IMPLICATIONS

Development Application, LEP and DCP

Should Council refuse the application the applicant may appeal to the Land and Environment Court.

The proposed development is inconsistent with the DCP in so far as it seeks consent for subdivision relating to Stage 2 development prior to completion of Stage 1 for Richardson Road.

Planning Agreement

A planning agreement is a voluntary agreement between a planning authority and a developer who has sought to change to an environmental planning instrument, made or proposes to make a development application, or has made an agreement with or is associated with a person to whom the above applies.

Council will typically enter into a planning agreement where it can be demonstrated that there is a net community benefit. A net community benefit is the value of the contributions under the agreement, in comparison to the value of the contributions and development works that would otherwise be required. A positive value would indicate on balance a potential net community benefit. In relation to the subject development the application attracts s.94 levies under the Port Stephens Section 94 Development Contributions Plan of \$13,725. As such, the proposed financial contribution of \$18,000 under the planning agreement results in a net benefit to Council as this is in addition to the Section 94 payment.

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the development application will be challenged at the Land and Environment Court.	Low	Approve the application as recommended.	Yes
There is a risk that the Planning Agreement will be challenged in the Land and Environment Court.	Low	Ensure all processes are executed in accordance with relevant legislation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The development has a positive social impact in that additional housing lots are being created and the development will assist in facilitating the future construction of Halloran Way and/or provision of infrastructure to the locality through the provision of funds via a VPA.

CONSULTATION**Development Application**

The application was exhibited for a period of 14 days from 23 September 2013 to 9 October 2013 in accordance with Council policy and one submission was received. Concerns were raised over the existing gravel laneway in that it is not suitable for additional traffic and that the proposal will generate excessive noise, dust and traffic congestion.

The existing laneway is used by development on 103 and 103A Richardson Road, which contain a church and dwelling, respectively. An additional lot is not likely to significantly increase the traffic using the existing laneway, nor increase the impacts on adjoining properties. The proposal has been reviewed by Council's Traffic Engineers, who agree that the laneway is suitable for the additional traffic. In addition, the application was also discussed with the Roads and Maritime Services who did not raise any concerns with the additional use of the laneway. It should be acknowledged that any further intensification of development on the new lot would be subject to a separate DA where the access would be assessed on its merits.

Planning Agreement

It is a recommendation of this report that the draft planning agreement be placed on exhibition for a minimum of 28 days. During the exhibition period the document will be available to view on Council's website and administration building. A further report will be prepared for Council's consideration should submissions be received during the public exhibition.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Locality Map. (Provided under separate cover)
- 2) Development Assessment Report. (Provided under separate cover)
- 3) Conditions of consent. (Provided under separate cover)
- 4) Draft Planning Agreement. (Provided under separate cover)
- 5) Letter of Offer for Voluntary Planning Agreement. (Provided under separate cover)

COUNCILLORS ROOM

- 1) Statement of Environmental Effects.
- 2) Development Plans.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

**FILE NO: PSC2015-01000/982
TRIM REF NO: PSC2015-01071**

PLANNING PROPOSAL - 713 NEWLINE ROAD, EAGLETON

REPORT OF: MICHAEL MCINTOSH - GROUP MANAGER DEVELOPMENT SERVICES
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the planning proposal (**ATTACHMENT 1**) to amend Schedule 1 Additional Permitted Uses of *Port Stephens Local Environmental Plan 2013* to include development for the purposes of a detached dual occupancy at 713 Newline Road, Eagleton (Lot 11 DP881743).
- 2) Use its delegations under Section 59 of the *Environmental Planning and Assessment Act 1979* (NSW) to submit the draft final planning proposal to the Minister requesting that the plan be made.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor John Morello That the recommendation be adopted.
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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 Geoff Dingle, Sally Dover, Ken Jordan, Peter Kafer, John Morello and Steve Tucker.

Those against the Motion: Cr John Nell.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

386	Councillor Ken Jordan Mayor Bruce MacKenzie It was resolved that Council: 1) Adopt the planning proposal (ATTACHMENT 1) to amend Schedule 1 Additional Permitted Uses of <i>Port Stephens Local Environmental</i>
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MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

	<p><i>Plan 2013</i> to include development for the purposes of a detached dual occupancy at 713 Newline Road, Eagleton (Lot 11 DP881743).</p> <p>2) Use its delegations under Section 59 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) to submit the draft final planning proposal to the Minister requesting that the plan be made.</p>
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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 Geoff Dingle, Sally Dover, Ken Jordan, Peter Kafer, John Morello and Steve Tucker.

Those against the Motion: Cr John Nell.

BACKGROUND

The purpose of this report is to advise Council of the public exhibition of the subject planning proposal (**ATTACHMENT 1**) and seek Council's adoption of the proposal for it to be made. The planning proposal seeks to amend Schedule 1 Additional Permitted Uses of *Port Stephens Local Environmental Plan 2013* to include development for the purposes of a dual occupancy at 713 Newline Road, Eagleton (Lot 11 DP881743).

Subject land:	Lot 11 DP881743, 713 Newline Road, Eagleton
Proponent:	LeMottee Group
Proposed Changes:	Amend Schedule 1 of the <i>Port Stephens Local Environmental Plan 2013</i> to allow detached dual occupancy development on the subject land
Zone:	RU1 Rural Production
Area of land:	Six hectares

The land holder is seeking to change the approved use of a tourist facility and manager's residence to a detached dual occupancy on the subject land. However, under the *Port Stephens Local Environmental Plan 2013 (PSLEP 2013)*, a detached dual occupancy is not permitted on the subject land as a minimum lot size of 20 hectares is required on land in the RU1 Primary Production Zone. The subject site is six hectares. A Locality Plan (**ATTACHMENT 2**) shows the subject site.

The tourist facility including a water-ski school and associated tourist lodge were approved on the site in 1998. However, the business became unviable in 2003 due to changes made by the Department of Land & Conservation, Waters Authority and Council regarding the use of waterways.

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

Following a number of development applications seeking a change of use of the buildings from tourist facility to dual occupancy being refused, Council resolved at its meeting of 10 March 2015 to write to the landowner to encourage the lodgement of a planning proposal to examine the permitted land uses and waive the requisite fees.

Subsequent to this, at its meeting of 11 August 2015 Council resolved to prepare a planning proposal to amend Schedule 1 Additional Permitted Uses of the *PSLEP 2013*, to include development for the purposes of a detached dual occupancy on the subject land.

The planning proposal was submitted to the Department of Planning & Environment and a gateway determination was received on 15 September 2015. A copy of the gateway determination is provided in **(ATTACHMENT 3)**.

In accordance with the gateway determination, the planning proposal was exhibited for a period of 14 days, from 15 October to 29 October 2015. No submissions were received during this period.

The Minister's plan making powers were delegated to Council with respect to making this plan. As such, following Council's adoption of the planning proposal, Parliamentary Counsel will be requested to prepare a draft instrument to amend the Port Stephens Local Environmental Plan 2013.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

Council Officers determined that the planning proposal is a Category A - Local Environmental Plan under Council's current Fees & Charges 2015-2016, attracting a total fee of \$8,696 and a quote was provided to the applicant. However, at its meeting held on 10 March 2015, Council resolved to waive the planning proposal fees.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The planning proposal will be progressed under existing resources in accordance with Council's resolution.
Reserve Funds	No		

Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Port Stephens Local Environmental Plan 2013

Under the provisions of the *Port Stephens Local Environmental Plan (PSLEP 2013)*, a detached dual occupancy is only permissible on land in the RU1 Zone where it has a minimum size of 20ha. The subject site is approximately six hectares and therefore a detached dual occupancy is prohibited.

In order for the detached dual occupancy to be permitted, the following amendment to Schedule 1 Additional Permitted Uses of the *PSLEP 2013* is required:

X Use of certain land at Newline Road, Eagleton

- (1) *This clause applies to land at Newline Road, Eagleton, being Lot 11 DP881743.*
- (2) *Development for the purpose of a detached dual occupancy is permitted with consent.*

1.9A Suspension of covenants, agreements and instruments

Clause 1.9A(1) suspends any agreement, covenant or other similar instrument that restricts the carrying out of a development that can be undertaken in accordance with the LEP. However, under clause 1.9A(2), this clause does not apply in this instance as the covenant was imposed by Council as a condition of consent for the tourist facility. As such, this condition would need to be reviewed as part of any future application under s96 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979) NSW* (see below for more details).

Port Stephens Planning Strategy 2011

The *Port Stephens Planning Strategy 2011 (PSPS)* aims to ensure that current and future agriculture is not compromised by the fragmentation of rural land. It further aims to ensure that prime agricultural land and important rural landscapes are protected from undesirable development.

The planning proposal is consistent with the aims of the PSPS as it will not compromise agricultural land or provide provisions that will allow for its further fragmentation. Given that no further development potential will be created as it is proposed to change the use of the existing buildings, the proposal will have no impact on the rural vista in the area. However, there is potential for land use conflict between rural residential development and adjoining agricultural practices.

Lower Hunter Regional Strategy

The planning proposal is inconsistent with the objectives of the *Lower Hunter Regional Strategy (LHRS)*, which seeks to limit new dwelling entitlements in Rural Zones. However, it is consistent with the applicable Sustainability Criteria. An assessment of the planning proposal against the Sustainability Criteria is contained in the planning proposal at **(ATTACHMENT 1)**.

Environmental Planning and Assessment Act 1979 (EPA Act 1979) NSW

Part 3 of the *EPA Act 1979 (NSW)* requires Council to endorse the plan in order for it to be submitted to the Minister of the Department of Planning and Environment. The Minister's plan making powers were delegated to Council with respect to making this plan. As such, following Council's adoption of the planning proposal, Parliamentary Counsel will be requested to prepare a draft instrument to amend the relevant Local Environmental Plan.

Conveyancing Act 1919 – 88B Instrument

In November 1998, approval was granted on the subject land for a tourist facility, manager's residence and subsequent subdivision, pursuant to Clause 12(b) of the *Port Stephens LEP 1987*, which, at the time, allowed for the subdivision of rural land for an approved use other than dwellings. As such, the subdivision did not result in an additional dwelling entitlement. The development consent required the land to be burdened by an 88B instrument restriction under the *Conveyancing Act 1919*, prohibiting a dwelling or duplex (Condition 6 of L1055/98).

Should the planning proposal be supported, a new Development Application seeking a change of use to a dual occupancy will need to be lodged. Further, as there is an operational consent over the land which prohibits dual-occupancy/dwellings on the subject lot (condition 6 of L1055/98), a Section 96 application must also be lodged (concurrently) seeking the removal of this condition, which will be a separate matter for consideration by Council. The 88B instrument restriction will also need to be removed from the title of the property.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that this recommendation presents as a poor precedent for land use planning within the local government area.	Low	The circumstances on the subject land are unique and provide sufficient justification for the proposal. It is unlikely that similar circumstances exist and as such precedent is unlikely.	Yes
There is a risk that although the land use is	Low	The covenant will need to be lifted via a s96 amendment	Yes

permitted under the LEP, it cannot be approved due to the 88B restriction over the land.		to the conditions of consent for the tourist facility by removing the condition requiring the covenant. The restriction will also need to be removed from the title of the property.	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposal will have minimal social or economic benefit to the community. However, it will provide a mechanism for the viable use of existing buildings on the site and will have positive economic benefits for the land owner.

Acid Sulfate Soils

The subject site is identified as containing Acid Sulfate Soils. However, the planning proposal seeks to allow a change of use of existing buildings. As such, no works are proposed and ASS will not be impacted.

Flooding

The subject land is partially flood prone. However, the existing buildings are located above the 1:100 year floodplain and no further development will be permitted on flood prone land.

Rural Vista

The buildings already exist and therefore the proposal is unlikely to have any significant adverse impacts to the surrounding rural vista.

CONSULTATION

In accordance with the gateway determination, the planning proposal was exhibited for a period of 14 days, from 15 October to 29 October 2015. No submissions were received.

Government agency consultation was not required by the gateway.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Planning Proposal - 713 Newline Road, Eagleton. (Provided under separate cover)
- 2) Locality Plan. (Provided under separate cover)
- 3) Gateway Determination. (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

Councillor Peter Kafer left the meeting at 6.18pm, during Item 4 in Committee of the Whole.

Councillor Paul Le Mottee returned to the meeting at 6.19pm, during Item 4 in Committee of the Whole.

Councillor Peter Kafer returned to the meeting at 6.20pm, during Item 4 in Committee of the Whole.

ITEM NO. 4

FILE NO: PSC2015-01000V2/116
TRIM REF NO: PSC2011-02341

FERODALE SPORTS COMPLEX - STAGE 1 IMPLEMENTATION

REPORT OF: JASON LINNANE - GROUP MANAGER FACILITIES & SERVICES
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the concept plans as per **(ATTACHMENT 1)**.
- 2) Endorse the lodgement of a Development Application for the works as per **(ATTACHMENT 1)** and specifically not include a licensed club or gaming facilities.
- 3) Receives a report to consider and determine the Development Application.
- 4) Undertake and fund the works upon determining a suitable source of funds as per Council's budgetary process.

ORDINARY COUNCIL MEETING - 8 DECEMBER 2015 **COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>RECOMMENDATION:</p> <p>That Council:</p> <ol style="list-style-type: none">1) Endorse the concept plans as per (ATTACHMENT 1).2) Endorse the lodgement of a Development Application for the works as per (ATTACHMENT 1) and specifically not include a licensed club or gaming facilities.3) Receives a report to consider and determine the Development Application.4) Undertake and fund the works upon determining a suitable source of funds as per Council's budgetary process.5) Allocate \$1.5M from the Medowie Section 94 plan and borrow monies for the remaining \$2.367M and fund repayments through future general rate revenue and future Section 94. (This option would be subject to Council's future consideration of potential amendments to the Section 94 Developer Contributions Plan.)
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**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

387	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the concept plans as per (ATTACHMENT 1).2) Endorse the lodgement of a Development Application for the works as per (ATTACHMENT 1) and specifically not include a licensed club or gaming facilities.3) Receives a report to consider and determine the Development Application.4) Undertake and fund the works upon determining a suitable source of funds as per Council's budgetary process.5) Allocate \$1.5M from the Medowie Section 94 plan and borrow monies for the remaining \$2.367M and fund repayments through future general rate revenue and future Section 94. (This option would be subject to Council's future consideration of potential amendments to the Section 94 Developer Contributions Plan.)
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BACKGROUND

The purpose of this report is to provide information to Council as requested by the Notice of Motion (Minute No. 330) of Council meeting 27 October 2015 **(ATTACHMENT 2)**.

Ferodale Sporting Complex is located in Medowie with access provided via Ferodale Road. The sporting facility comprises 9.85 hectares and contains a sporting oval, four netball courts, an amenities building and informal car parking. Council also has a small maintenance shed on the site which is utilised for the operations of parks maintenance.

It is Council owned land that is classified as Operational Land. The Ferodale Sporting Complex site is zoned RE1 and the parcel of land currently under license to the Medowie Sport and Community Club is zoned RE2 under the 2013 Local Environment Plan.

On 23 June 2015, Council resolved, inter alia, to adopt the draft Ferodale Sports Complex Master Plan. The draft Ferodale Sports Master Plan was developed and exhibited for public comment between 1 April 2015 and 10 May 2015. Feedback received from the community consultation during the exhibition period was used to further develop the design for the Master Plan. The works subject to this report are consistent with the adopted Master Plan.

The proposed building design is based on it being a multi-purpose community facility similar to what Council provides in many other areas across the local government area. Council has and continues to be very clear that the building will not be designed as a licensed club or for gaming facilities.

The design has similar characteristics to many other multi-purpose community facilities that have been built by Council in past years. The total floor space is 803m². Of this total size, 55% is deemed to be the main hall area. The ratio of main hall space to total space fares favourably with other similar sites that Council has built. As an example, the very successful Raymond Terrace Senior Citizens site has only 48% of its total floor space available for these multi-purpose activities.

At its meeting on 24 November 2015 Council resolved to place on public exhibition the draft Medowie Strategy. As part of the draft Strategy, based on projected population growth in Medowie, there would be demand for an additional community facility based on relevant Council standards.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Provide passive and active recreation and leisure services and facilities.	Maintain and develop recreational facilities for residents and visitors.

FINANCIAL/RESOURCE IMPLICATIONS

Council's Capital Works Section has prepared a preliminary cost estimate for the works proposed at \$3.867M (**ATTACHMENT 3**). This allows for the building, bowling green, playground, earthworks and landscaping and all car parking/roadworks as per the Master Plan. This includes an allowance for construction contingency and design/project management fees. Prior to any works, detailed plans would be prepared that enable thorough estimation, approvals sought and the required procurement process undertaken.

At its meeting on 23 June 2015 Council considered a staging plan and funding strategy for the works. The funding strategy took into account the funding streams that are available to Council for this type of development.

Funding of the project through developer contributions under Section 94 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* could be available for this type of community facility. The current work schedule outlined in Council's Section 94 Developer Contributions Plan does not include this project as a works item. Accordingly, the use of developer contribution funding for this project would require review and amendment of Council's existing Section 94 Developer contributions plan. This would require Council to consider this matter and resolve separately to review and amend the plan and place on public exhibition as per the processes required under the *EP&A Act*.

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

The funding options that are available for Council are:

- 1) Allocate \$1.5M from the Medowie Section 94 plan and borrow monies for the remaining \$2.367M and fund repayments through future general rate revenue and future Section 94. This option would be subject to Council's future consideration of potential amendments to the Section 94 Developer Contributions Plan.
- 2) Borrow monies and fund repayments through current and future Section 94 income and future land sales income. The use of section 94 funds would be subject to Council's future consideration of potential amendments to the Section 94 Developer Contributions Plan.
- 3) Borrow monies and fund repayments through general rate revenue and future land sales income.
- 4) Borrow monies and fund repayments through general rate revenue.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes		
Section 94	Yes		
External Grants	Yes		
Other	Yes	3,867,000	Subject to future budgetary processes.

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications to adopting the recommendation.

The risks associated with adopting the recommendations are listed below:

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the estimate based on the concept plan is not accurate leading to an over or under budget allocation for the proposed works.	Medium	Acknowledge that the estimate is based on a concept plan and further investigations will be required to obtain detailed designs and estimates. These detailed designs and estimates will need to be undertaken prior to the allocation of budget through the Council's budget and project management	Yes

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

		processes.	
There is a risk that collected s94 funds will not match the required funds to undertake works leading to a shortfall in required budget and community expectations not being met.	High	Adopt the recommendations and do not commence works until a funding strategy has been approved by Council through the standard budgetary process.	Yes
There is a risk that the building could be used as a licensed club and gaming facility leading to alienation of members of the community	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed works will enable greater public use and enjoyment of the Sports Complex through the provision of new infrastructure and facilities. The proposal expands the opportunity for organised sporting events as well as informal community interaction at a range of levels.

The Medowie Sports and Community Club who will manage the proposed multi-purpose community facility and bowling greens currently has 88 members. This group has a current license over the one hectare parcel of land at the front of the Ferodale Sporting Complex. Council staff are preparing an extension of this agreement for consideration in the near future.

The 2015 April storm event highlighted the requirement for Council to consider the need to provide additional and appropriately designed centres for evacuation and recovery purposes. The public consultation undertaken as part of the Master Plan process supported this need. The proposal would accommodate this demand through the construction of the multi-purpose community building which could fulfil the need of a community evacuation and recovery centre. The design has many attributes (location, main hall size, number of office spaces, servery, kitchen, storerooms) that would lend itself to such a use.

The proposed location and design inclusions would mean that it would have much appeal to a range of organisations and the broader community. The proposed facility will have capacity to seat 250 people. Internal consultation has identified a range of uses that Council itself would have for such a facility.

CONSULTATION

Previous Consultation

The Master Plan process included a number of engagement activities:

- 1) A first round of consultation was undertaken during the development of the draft Master Plan with the Medowie Sports Council and the committee of the Medowie Sport and Community Club. This consultation aimed to ensure that members of each of the sporting clubs presently operating in Medowie had the chance to provide input for the review.
- 2) Due to the draft Master Plan's potential environmental implications, preliminary consultation with Council's Strategy and Environment Section has been completed. The aim of this consultation is to ensure a balance is found between the potential community usages of the proposed works and the natural environment of the area.
- 3) Public exhibition from 1 April 2015 to 10 May 2015 on Council's website and copies were also available for viewing at Council's Administration Building, Tomaree Library and Tilligerry Library. Notification of the exhibition was advertised in the Examiner and details were also posted on Council's website.
- 4) A face-to-face community consultation session was held on 4 May 2015 at the Ferodale Sports Complex. Notification of the consultation session was advertised on Council's website, invitations emailed to the Sports Council delegates and flyers distributed to Ferodale Sports Complex, the Medowie Community Centre, Medowie post office and bakery. No members of the community attended this session. Attendance may have been affected by storms of April 2015.
- 5) During the exhibition period the community were able to give feedback via written submissions or taking part in Council's on-line survey. Council received a total of 13 written submissions and received a total of 43 respondents for the survey.

There were no submissions opposing the works that are being proposed as part of this report.

Council staff have undertaken preliminary consultation with the Executive of the Medowie Sports and Community Club as part of developing the concept plan shown as **(ATTACHMENT 1)**.

Future Consultation

Once the Development Application is submitted there will be a required notification period. This will be undertaken to ensure all legislative requirements are fulfilled.

A community drop-in session will also be held at a date and time that is to be determined. Relevant staff will be in attendance to answer any questions that community members may have on the proposal.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Proposed Multi-Purpose Community Facility Site Plan.
- 2) Council Adopted NOM 271015 (Min. No. 330).
- 3) Cost Estimate for Proposed Works - Stage 1.

COUNCILLORS ROOM

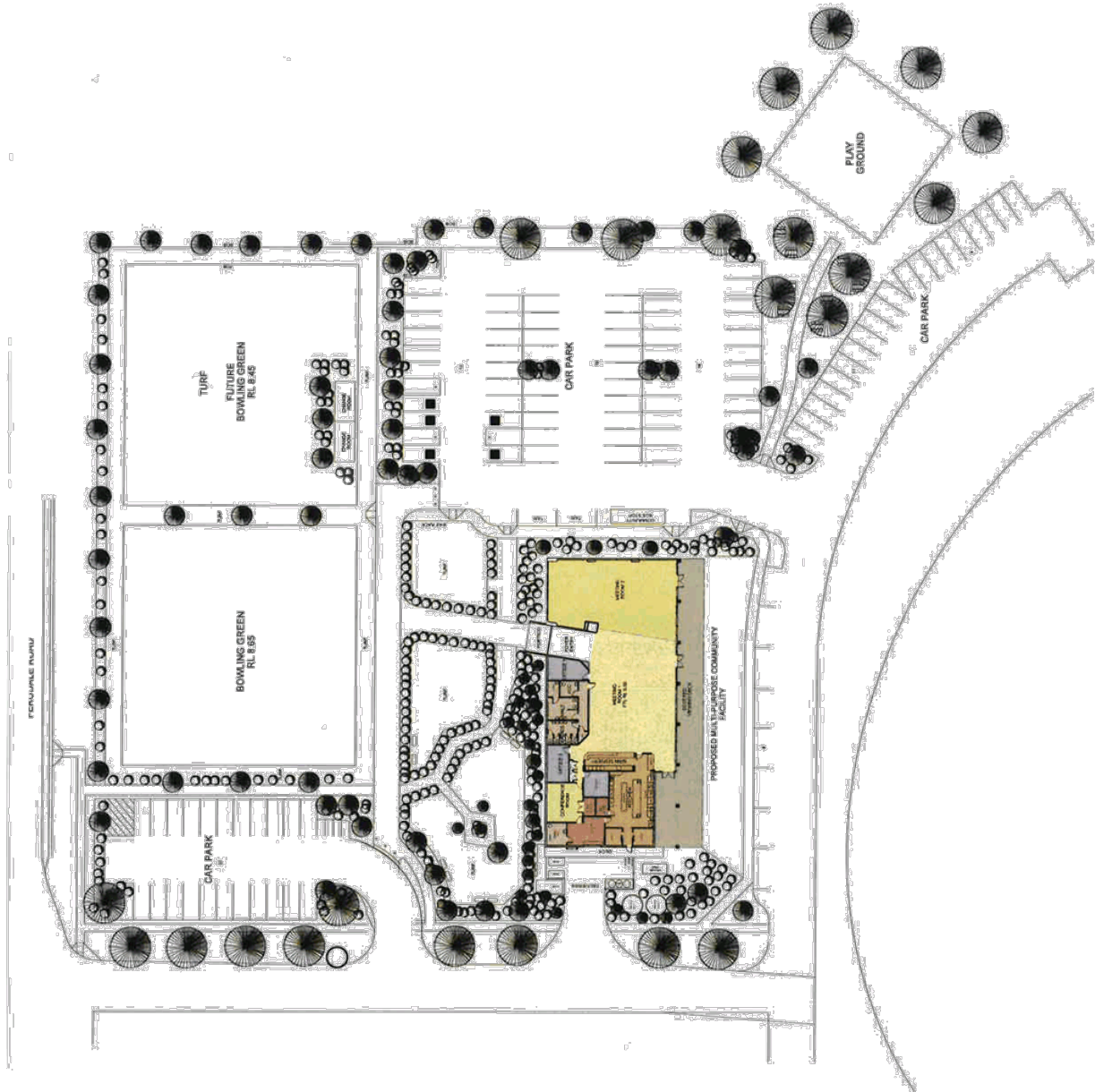
Nil.

TABLED DOCUMENTS

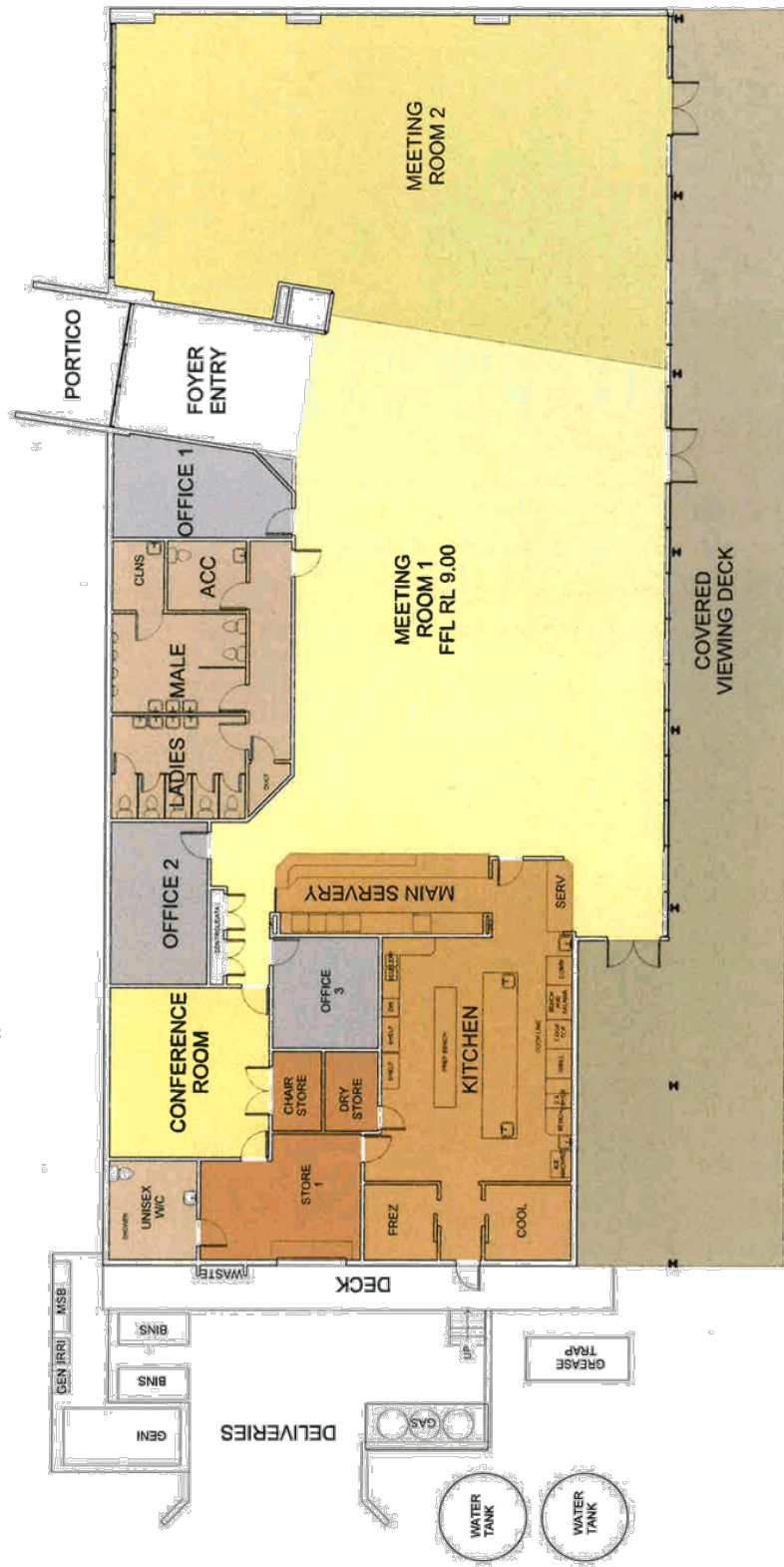
Nil.

ITEM 4 - ATTACHMENT 1
FACILITY SITE PLAN.

PROPOSED MULTI-PURPOSE COMMUNITY
FACILITY SITE PLAN.



ITEM 4 - ATTACHMENT 1 PROPOSED MULTI-PURPOSE COMMUNITY FACILITY SITE PLAN.



PROPOSED MULTI-PURPOSE COMMUNITY FACILITY

MINUTES ORDINARY COUNCIL - 27 OCTOBER 2015

NOTICE OF MOTION

ITEM NO. 4

FILE NO: PSC2015-01000/946

TRIM REF NO: PSC2011-02341

FERODALE SPORTS COMPLEX

COUNCILLOR: CHRIS DOOHAN

THAT COUNCIL:

- 1) Be provided with a report as soon as possible that outlines the concept design, estimate and funding strategy for delivery of stage 1 (community building, car park, access road, playground and bowling green) of the Ferodale Sports Complex Master Plan.

**ORDINARY COUNCIL MEETING - 27 OCTOBER 2015
MOTION**

330	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that Council be provided with a report as soon as possible that outlines the concept design, estimate and funding strategy for delivery of stage 1 (community building, car park, access road, playground and bowling green) of the Ferodale Sports Complex Master Plan.</p>
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**BACKGROUND REPORT OF: JASON LINNANE – GROUP MANAGER
FACILITIES AND SERVICES**

BACKGROUND

Council adopted a master plan for the Ferodale Sports Complex in June 2015.

Amongst other things the master plan included a community building, car park, access road, playground and bowling green.

Options for funding the works are currently being investigated which may include section 94 developer contributions, subject to review and amendment of Council's section 94 contributions plan.

MINUTES ORDINARY COUNCIL - 27 OCTOBER 2015

The Ferodale Sports Complex Master Plan (adopted 23 June 2015) is included in the proposed revision of the Medowie Strategy.

Staff have been working on draft designs for the works mentioned in this Notice of Motion. This has included preliminary consultation with the Medowie Sports and Community Club who are the lessees of the site.

ATTACHMENTS

Nil.

ITEM 4 - ATTACHMENT 3 COST ESIMATE FOR PROPOSED WORKS - STAGE 1.

MEDOWIE SPORTS COMMUNITY COMPLEX – STAGE 1 ESTIMATE

Component	M²	Rate \$/M	Estimate (\$)
Roadways/Carparks	4,320	\$120	\$518,400
Earthworks and Drainage		Item	\$251,000
Bowling Green	1,444	\$125	\$180,500
Building	803	\$2,700	\$2,168,100
Playground	442	\$220	\$97,240
Landscape/Walkway/Fencing/Lighting/Project Management/Design			\$652,300
Stage 1 Project Estimate Total			\$3,867,540

ITEM NO. 5

**FILE NO: PSC2015-01000/985
TRIM REF NO: PSC2011-02312**

APEX PARK, NELSON BAY - DRAFT MASTER PLAN

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the public submissions received during the public exhibition period.
- 2) Adopt the draft Apex Park Master Plan (**ATTACHMENT 1 and TABLED DOCUMENT 1**)
- 3) Endorse the proposed funding strategy as shown in (**ATTACHMENT 2**).

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Sally Dover</p> <p>That the recommendation be adopted.</p>
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**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

388	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Received and noted the public submissions received during the public exhibition period.2) Adopt the draft Apex Park Master Plan (ATTACHMENT 1 and TABLED DOCUMENT 1)3) Endorse the proposed funding strategy as shown in (ATTACHMENT 2).
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BACKGROUND

The purpose of this report is to consider the submissions made during the public exhibition of the draft Master Plan for Apex Park, to adopt the amended draft Master Plan for Apex Park and endorse the proposed funding strategy.

Apex Park is located in Nelson Bay and is bounded by Laman Street, Victoria Parade and Teramby Road. The park is Crown land, with Council appointed as Trustee. It comprises an area of 1.22 hectares and contains pathways, park furniture, a war memorial, memorial steps, memorial well and the visitor information centre.

The Nelson Bay Town Centre and Foreshore Strategy, which was adopted in 2012, identified the need for the revitalisation of Apex Park with the development of a master plan being the first step in this process.

On 22 September 2015 Council resolved to:

- 1) "Place the Apex Park Draft Master Plan (**ATTACHMENT 3**) on public exhibition for a period of 42 days and accept public submissions on the document".

The Apex Park Draft Master Plan was exhibited for public comment between 1 October 2015 and 11 November 2015. Feedback received from the community has been used to further develop the design of the draft Apex Park Master Plan.

Amendments to the initial Apex Park Draft Master Plan include additional way-finding and interpretive signage, an indicative plant list and the inclusion of all items of heritage significance such as the memorial steps, the well and the cenotaph. The refined draft Apex Park Master Plan has now been prepared for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Provide passive and active recreation and leisure services and facilities.	Maintain and develop recreational facilities for residents and visitors.

FINANCIAL/RESOURCE IMPLICATIONS

Council's Capital Works Section has prepared a cost estimate for all works proposed in the draft Apex Park Master Plan (**ATTACHMENT 4**). The estimate to complete all of the proposed works is \$1,199,380 which includes a construction contingency and project management fees. Prior to any works, detailed plans would be prepared and the required procurement process undertaken.

The size of investment required to complete the draft master plan works has required a funding strategy to be developed. As a development of this nature could not be solely funded through Council's existing funding sources, a funding strategy (**ATTACHMENT 2**) totalling \$1,199,380 was developed to investigate potential

funding sources that would allow Council to complete the works shown. The funding strategy (**ATTACHMENT 2**) takes into account the funding streams that are available to Council for this type of development. It should be noted that the funding strategy assumes the availability and success of the grants. The works in the funding strategy have also been prioritised to acknowledge the remaining useful life of the existing assets, the benefit to the community and the benefit to the overall sporting facility. The types of funding that have been included in the funding strategy (**ATTACHMENT 2**) include:

- Section 94 Funds.
- Crown Land Reserve Funds.
- Land Sales Funds.
- Grant Funds.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	400,000	Use of Crown Land Reserve Funds would be subject to the relevant approval process.
Section 94	Yes	399,380	
External Grants	Yes	150,000	External grant funding has not been approved and would be subject to the relevant application process.
Other	Yes	250,000	The 2007 review identified underutilised areas of Council owned land for reclassification and rezoning. This process is currently awaiting NSW Department of Planning approval.

LEGAL, POLICY AND RISK IMPLICATIONS

There is no legislative process for the preparation of a master plan. The recommended works are consistent with the Crown Lands status of the land.

The risk implications associated with adopting the recommendation are listed below:

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without having planning and investigation studies	Low	Adopt the Recommendations to allow for the appropriate planning and investigation	Yes

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

completed, Council's ability to make informed sustainable decisions would be affected leading to re-work and unidentified costs.		studies to be undertaken, so that Council is able to make informed and sustainable.	
There is a risk that the estimate based on the Master Plan is not accurate, leading to an over or under budget allocation for the proposed works.	Low	Adopt the recommended funding strategy acknowledging that as grant funding becomes available the mix of funding may change. The budget determined will inform the detailed design to ensure the design can be achieved. Council's procurement process will also ensure value for money in the construction phase.	Yes
There is a risk that the heritage status of the memorial steps, the well and the cenotaph will be degraded by the proposed works.	Low	Undertake a Heritage Impact Statement prior to any works on these heritage items.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The draft Apex Park Master Plan will enable greater public use and enjoyment of the site through the provision of new infrastructure and facilities. The proposal provides a continuous connection for pedestrians in a west/east direction and has an improved connection between Stockton Street and the foreshore including connecting the Bridle Path.

The draft Apex Park Master Plan shows stabilisation of the embankment fronting Teramby Road. This will be achieved through the removal of noxious weeds and the planting of species native to the local area.

To ensure that Apex Park continues to be an attractive area to host events, the provision of electricity points has been included which will allow for easier set up of temporary facilities without the need for multiple extension cords.

CONSULTATION

The draft Apex Park Master Plan was publicly exhibited from 1 October 2015 to 11 November 2015 on Council's website and copies were also made available for viewing at Council's Administration Building, Raymond Terrace Library, Tomaree Library, Tilligerry Library and the Nelson Bay Visitor's Information Centre.

Notification of the exhibition was advertised in the Examiner and details were also posted on Council's website.

A face-to-face community consultation session was held on 7 October 2015 at Apex Park. Notification of the consultation session was advertised on Council's website, the Port Stephens Examiner and invitations were also emailed to stakeholder groups such as the Tomaree Residents Ratepayers Association (TRRA) and local Parks and Reserve Committees. Seven (7) members of the community attended this session.

During the exhibition period the community was able to give feedback via written submissions. Council received a total of six (6) written submissions.

Overall the feedback and submissions received were complimentary of the proposal with some minor amendments suggested, which have been incorporated where possible.

A summary of the written submissions and feedback received through the exhibition period is attached as **(ATTACHMENT 5)**.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Draft Apex Park Master Plan proposed for adoption.
- 2) Funding Strategy.
- 3) Apex Park Exhibited Master Plan.
- 4) Apex Park Cost Estimate.
- 5) Community Consultation Report.

COUNCILLORS ROOM

- 1) Apex Park Master Plan proposed for adoption.

TABLED DOCUMENTS

- 1) Apex Park Master Plan proposed for adoption.

ITEM 5 - ATTACHMENT 1

DRAFT APEX PARK MASTER PLAN PROPOSED FOR ADOPTION.




ATTACHMENT 1
DRAFT APEX PARK MASTER PLAN
PROPOSED FOR ADOPTION

- LEGEND**
- Existing trees to be retained
 - Existing Araucaria feature trees to be retained
 - Existing feature Date Palm trees to be retained

- 1** PARK SEAT to be upgraded and relocated with consideration for view corridor
- 2** OPEN GRASSED AREA and VEGETATION CORRIDOR to be retained and managed as appropriate. This includes management of informal public access paths and issues of public safety and erosion control.
- 3** Maintain and upgrade BRIDLE PATH as necessary. Provide measures to slow cyclists and reduce potential pedestrian and cyclist conflict.
- 4** GRASSED TERRACE AMPHITHEATRE - Create low seating walls to existing grass slope to enhance / encourage passive use of the park
- 5** EMBANKMENT STABILISATION works including the establishment of low vegetation
- 6** RETAINING WALLS to be upgraded along northern boundary to match existing material used along eastern boundary retaining walls
- 7** HERITAGE ITEMS of local significance, including cenotaph, remains of memorial steps and the well to be retained, restored and managed as appropriate.
- 8** PARK FURNITURE to be upgraded throughout the park to a consistent style
- 9** 'LONE PINE' to be retained and protected. Further consultation to be undertaken with key stakeholders to review current location, during implementation.
- 10** Upgrade RETAINING WALL surrounds to match existing on lower side of park
- 11** Widen ENTRY PATHWAY, upgrade footpath pavement and create a WATER FEATURE along the pathway edge. Upgrade existing banner poles to incorporate suitable LIGHTING and minimise visual clutter.
- 12** Widen ENTRY STEPS and upgrade paving material and railings
- 13** Retain existing WAR MEMORIAL MONUMENTS and investigate design solutions to better integrate the area into the overall character of the park
- 14** Upgrade existing RAMP to meet access requirements in accordance with relevant Standards
- 15** Future consideration to be given to the VISITORS CENTRE park footage to encourage activation between the building and the park
- 16** Install WAYFINDING AND HISTORICAL INTERPRETIVE SIGNAGE
- 17** Park ELECTRICAL upgrade to incorporate provision of three phase power for events support



APEX PARK MASTER PLAN NOVEMBER 2015



MASTER PLAN NOTE
Example of the desired open grass and tree character for the park. Low flowering garden beds to display colourful and site appropriate species e.g A. *Carpobrotus sp.* (Pigface), B. *Gazania sp.*, C. *Westringia sp.*



MASTER PLAN NOTE 11
Example of a possible water feature treatment along the edge of the main entry pathway



MATERIAL PALETTE
Palette examples



MASTER PLAN NOTE 4
Examples of grassed terraces with low sitting walling; to enhance and encourage passive use of the park



MASTER PLAN NOTE 8
Example park furniture palette

APEX PARK : DESCRIPTION NOTES



ITEM 5 - ATTACHMENT 2 FUNDING STRATEGY.

Attachment 2 – Funding Strategy

The below table outlines the major proposed projects and proposed funding strategy.

Project	Year	Total Projected Cost	Grants	Section 94	Crown Land	Land Sales	Comments
Park Furniture	2018/19	\$63,000		\$20,979		\$42,021	
Bridal Path	2018/19	\$101,080	\$75,000	\$26,080			<i>Subject to Grant approval.</i>
Grassed Terraced Amphitheatre	2018/19	\$126,000		\$41,958		\$84,042	
Embankment Stabilisation	2018/19	\$24,500		\$8,159		\$16,341	
Retaining Walls	2018/19	\$3,150		\$1,049		\$2,101	
Heritage Items	2018/19	\$21,000		\$6,993		\$14,007	
Planter Retaining Walls	2018/19	\$44,450		\$14,802		\$29,648	
Entry Pathway and Water Feature	2018/19	\$386,960	\$75,000	\$123,858	\$142,952	\$45,150	<i>Subject to Grant approval and subject to ratification by Crown Lands.</i>
Entry Steps	2018/19	\$140,000		\$59,185	\$80,815		
Accessible Ramp	2018/19	\$44,240		\$14,732	\$29,508		
Wayfinding and Interpretive Signage	2018/19	\$70,000		\$23,310	\$46,690		
Three Phase Power	2018/19	\$105,000		\$34,965	\$70,035		
Landscaping	2018/19	\$70,000		\$23,310	\$30,000	\$16,690	
Total		\$1,199,380	\$150,000	\$399,380	\$400,000	\$250,000	

The funding streams for each project have been identified based on a range of factors including:

- The projects eligibility for existing grant opportunities
- The projects potential to attract grant funding for example a shared pathway is a more attractive project to grant funding bodies than implementation of three phase power
- The projects eligibility under Councils Section 94 plan

ATTACHMENT 3
APEX PARK EXHIBITED MASTER PLAN



- 1 PARK SEAT to be upgraded and relocated with consideration for view corridor
- 2 OPEN GRASSED AREA and VEGETATION CORRIDOR to be retained and managed as appropriate
- 3 Maintain and upgrade BRIDLE PATH as necessary. Provide measures to slow cyclists and reduce potential pedestrian and cyclist conflict.
- 4 GRASSED TERRACE AMPHITHEATRE - Create low seating walls to existing grass slope to enhance / encourage passive use of the park
- 5 EMBANKMENT STABILISATION works including the establishment of low vegetation
- 6 RETAINING WALLS to be upgraded along northern boundary to match existing material used along eastern boundary retaining walls
- 7 1929 MEMORIAL STEPS to be retained and restored. Provide interpretive signage.
- 8 PARK FURNITURE to be upgraded throughout the park to a consistent style
- 9 'LONE PINE' to be retained and protected
- 10 Upgrade RETAINING WALL surrounds to match existing on lower side of park
- 11 Widen ENTRY PATHWAY, upgrade footpath pavement and create a WATER FEATURE along the pathway edge. Upgrade existing banner poles to incorporate suitable LIGHTING and minimise visual clutter.
- 12 Widen ENTRY STEPS and upgrade paving material and railings
- 13 Retain existing WAR MEMORIAL MONUMENTS and investigate design solutions to better integrate the area into the overall character of the park
- 14 Upgrade existing RAMP to meet access requirements in accordance with relevant Standards
- 15 Future consideration to be given to the VISITORS CENTRE park frontage to encourage activation between the building and the park
- 16 Install SIGNAGE to improve legibility, clarity and character of existing park entrances
- 17 Park ELECTRICAL upgrade to incorporate provision of three phase power for events support



APEX PARK MASTER PLAN DRAFT MAY 2015

MASTER PLAN NOTE
Example of the desired open grass and tree character for the park

MASTER PLAN NOTE 11
Example of a possible water feature treatment along the edge of the main entry pathway

MATERIAL PALETTE
Palette examples

MASTER PLAN NOTE 4
Examples of grassed terraces with low sitting walling; to enhance and encourage passive use of the park

MASTER PLAN NOTE 8
Example park furniture palette

APEX PARK : DESCRIPTION NOTES



MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

ITEM 5 - ATTACHMENT 4 APEX PARK COST ESTIMATE.

ATTACHMENT 4 - COST ESTIMATE

APEX PARK MASTER PLAN ESTIMATE					
NO	ITEM	QUANTITY	UNIT	COST	TOTAL
1.1	SUPPLY AND INSTALLATION * 5 PICNIC TABLES	5	ITEM	\$ 5,000.00	\$ 25,000.00
1.2	SUPPLY AND INSTALLATION * 8 BENCH SEATS	10	ITEM	\$ 2,000.00	\$ 20,000.00
				TOTAL	\$ 45,000.00
2.1	STRIP, PREP & CONSTRUCT - 2000M*1. WIDE	560	M2	\$ 120.00	\$ 67,200.00
2.2	CYCLIST CHICANE	1	ITEM	\$ 5,000.00	\$ 5,000.00
				TOTAL	\$ 72,200.00
3.1	EARTHWORKS	40	HOURS	\$ 250.00	\$ 10,000.00
3.2	FORMWORK & REC - LABOUR * 3 * 1 WEEK	240	HOURS	\$ 90.00	\$ 21,600.00
3.3	FORMWORK - MATERIALS	1	ITEM	\$ 10,000.00	\$ 10,000.00
3.4	POUR - LABOUR * 3 * 1WEEK	120	HOURS	\$ 90.00	\$ 10,800.00
3.5	POUR MATERIALS	60	M3	\$ 280.00	\$ 16,800.00
3.6	STRIP FORM- LABOUR *3 * 1 WEEK - INC MAKE GOOD	120	HOURS	\$ 90.00	\$ 10,800.00
3.7	MAKE GOOD TURFING ETC	1	ITEM	\$ 10,000.00	\$ 10,000.00
				TOTAL	\$ 90,000.00
4.1	WEED MATTING AND LANDSCAPING	350	M2	\$ 50.00	\$ 17,500.00
				TOTAL	\$ 17,500.00
5.1	PREPARE SURFACE	30	M2	\$ 75.00	\$ 2,250.00
5.2	APPLY REATMENT	30	M3	\$ 150.00	\$ 4,500.00
				TOTAL	\$ 2,250.00
6.1	RESTORATION WORKS OF HERITAGE ITEMS	PC	ITEM	\$ 15,000.00	\$ 15,000.00
				TOTAL	\$ 15,000.00
7.1	DEMOLISH EXISTING	1	ITEM	\$ 5,000.00	\$ 5,000.00
7.2	CONSTRUCT FOOTING	50	LM	\$ 85.00	\$ 4,250.00
7.3	REBUILD CONCRETE BLOCK WALL	50	M2	\$ 450.00	\$ 22,500.00
				TOTAL	\$ 31,750.00
8.1	STRIP AND PREPARE SUBGRADE	200	M2	\$ 7.00	\$ 1,400.00
8.2	PAVING MATERIALS - UNIT PAVER	200	M2	\$ 200.00	\$ 40,000.00
8.3	LIGHTING	8	ITEM	\$10,000	\$ 80,000.00
8.4	WATER FEATURE	PC	ITEM	\$150,000.00	\$150,000.00
8.5	MAKE GOOD		ITEM	\$ 5,000.00	\$ 5,000.00
				TOTAL	\$ 276,400.00
9.1	DEMOLISH EXISTING STAIRS	40	HOURS	\$ 250.00	\$ 10,000.00
9.3	FORMWORK & REC - LABOUR * 3 * 1 WEEK	240	HOURS	\$ 90.00	\$ 21,600.00
9.4	FORMWORK - MATERIALS	1	ITEM	\$ 10,000.00	\$ 10,000.00
9.5	POUR - LABOUR * 3 * 1WEEK	120	HOURS	\$ 90.00	\$ 10,800.00
9.6	POUR MATERIALS	60	M3	\$ 280.00	\$ 16,800.00
9.7	STRIP FORM- LABOUR *3 * 1 WEEK - INC MAKE GOOD	120	HOURS	\$ 90.00	\$ 10,800.00
9.8	RECLAD STEPS	1	ITEM	\$ 10,000.00	\$ 10,000.00
9.9	HAND RAIL	1	ITEM	\$ 10,000.00	\$ 10,000.00
				TOTAL	\$ 100,000.00
10.1	DEMOLISH EXISTING	140	M2	\$ 50.00	\$ 7,000.00
10.2	FORM AND POUR	140	M2	\$ 140.00	\$ 19,600.00
10.3	MAKE GOOD	1	ITEM	\$ 5,000.00	\$ 5,000.00
				TOTAL	\$ 31,600.00
11.1	SIGNAGE SUPPLY AND INSTALLATION	PC	ITEM	\$ 50,000.00	\$ 50,000.00
				TOTAL	\$ 50,000.00
12.1	SUPPLY AND INSTALLATION	PC	ITEM	\$ 75,000.00	\$ 75,000.00
				TOTAL	\$ 75,000.00
13.1	LANDSCAPING	1	ITEM	\$ 50,000.00	\$ 50,000.00
				TOTAL	\$ 50,000.00
				TOTAL	\$ 856,700.00
CONTINGENCY - 20%		1	ITEM	20%	\$ 171,340.00
DESIGN AND SUPERVISION - 20%		1	ITEM	20%	\$ 171,340.00
				TOTAL	\$ 1,199,380.00

ATTACHMENT 5

**Community Consultation Report
Apex Park Draft Master Plan**

The draft Apex Park Master Plan was prepared to set the long term vision for the parkland.

TRIM No. PSC2015-03137

CONSULTATION OBJECTIVE:

1. To seek feedback from the community on the draft master plan for Apex Park, Nelson Bay to identify which aspects of the plan appealed, caused concern and any possible suggestions to inform the development of further detailed design.

CONSULTATION ACTIVITIES:

- The draft master plan was made available to the public between the dates of 1 October 2015 to 11 November 2015.
- The plan was displayed at the following locations, along with an explanation as to how people could provide feedback:
 - on Council's website;
 - Council's Administration Building;
 - Raymond Terrace Library;
 - Tomaree Library;
 - Tilligerry Library, and
 - Nelson Bay Visitor Information Centre.
- Details of the exhibition period and community drop in information session were advertised in the local paper 'The Examiner' and also on Council's website.
- A drop in information session was held on Wednesday 8 October 2015 between 4:00pm and 6:00pm, where the community could come and view the draft plan, speak with the project team and fill out feedback forms.

CONSULTATION OUTCOMES:

Community Information Session

The community information session was held on Wednesday 8 October, 2015 between 4:00pm and 6:00pm on site at Apex Park. The project team were available to discuss the draft master plan. Approximately seven (7) people attended the drop in session and no feedback forms were completed on the day or returned following this session.

Submissions Received

A total of six (6) submissions were received during the consultation period. These were all submitted via email.

ITEM 5 - ATTACHMENT 5 COMMUNITY CONSULTATION REPORT.

The following is a summary of issues, comments and concerns raised:

No.	Date of Receipt	Form of Submission	Organisation	Comments	Response
1	06 Oct 2015	Email	PS Historical Society	1) Suggestion to incorporate historical interpretive signage in the park	1) The plan recommends an interpretation of the 1928 steps and this can be broadened to include historical information for the whole site.
2		Email	Resident 1	1) Refer master Plan note no.2. Suggestion to remove trees of poor health and/or considered weeds and continue garden planting of native species such as Gynea Lily.	1) The plan recommends maintaining the landscape as it has been historically managed. The suggested continuation of the cleared garden planting with native species could be achieved over time through a combination of tree removal as deemed necessary, which the plan supports.
3	14 Oct 2015	Email	Resident 2	1) Suggestion to include greater details on plant selection for the site 2) Preference for composite material furniture as opposed to aluminium furniture. If the latter is to be used then shelter for shade is also a requirement, as the seating gets too hot in summer. 3) Suggestion to move the lone pine from its current position, to a more suitable location and not in a view corridor 4) Concern regarding cyclists using the park and particular concern in relation to the ramp where it intersects Teramby Road and also at the top of the hill and potential hazards with pedestrians and also the bus stop on Teramby Road	1) Noted. Additional details have been included within the 'Description Notes' which supplement the master plan. 2) Noted. Consideration of materials will be undertaken during the development of detailed design. 3) Noted. An amendment has been made to the plan to allow for further consultation with key stakeholders on a proposed new location for the Lone Pine. 4) The plan proposes to implement measures to slow cyclists and reduce potential pedestrian and cyclist conflict e.g. chicane

ITEM 5 - ATTACHMENT 5 COMMUNITY CONSULTATION REPORT.

No.	Date of Receipt	Form of Submission	Organisation	Comments	Response
				5) Suggestion to incorporate way finding signage throughout the park	
4	08 Nov 2015	Email	Resident 3	<p>Opposes the draft Master Plan and recommends rejecting it for the following reasons:</p> <ol style="list-style-type: none"> 1) There is no planning statement on the use of zones for the park; 2) Believes it is seeking to legitimise work already completed on site, that was not exhibited; 3) Believes the plan indicates that Council is going to 'surreptitiously' remove the amenities building and heritage listed well; 4) Believes the plan has ignored the park's heritage listing as the Heritage Advisory Committee has not been consulted and a Heritage Impact Statement has not been completed; 5) The recommendation to restore the heritage listed 1929 memorial steps and install interpretive signage will create an unsafe situation for pedestrians; 6) Inadequate parking surrounding the park limits the potential use and attractiveness 	<ol style="list-style-type: none"> 1) The proposed works in the master plan are in keeping with the objectives of the zone for the site. 2) Noted. 3) Council has no intention of removing the existing amenities building or the heritage listed well. An additional note will be added to the plan to reflect this. 4) The master plan has been placed on exhibition seeking input from the community and user groups. 5) Noted. Any future restoration works of the heritage steps and accompanying signage will consider public safety. 6) Noted.
5	10 Nov 2015	Email	Tomaree Residents Ratepayers Association	<ol style="list-style-type: none"> 1) Recommends that the master plan incorporate key extracts from the Nelson Bay Town Centre and Foreshore Strategy, as it is believed that this will 	<ol style="list-style-type: none"> 1) The master plan contributes to this larger vision developed by the Strategy and in future can be attached as a supporting document to the master plan on Council's website.

ITEM 5 - ATTACHMENT 5 COMMUNITY CONSULTATION REPORT.

No.	Date of Receipt	Form of Submission	Organisation	Comments	Response
				<p>give the plan context and will confirm the high status of this site in decisions relating to the future improvement of Nelson Bay;</p> <p>2) Recommends that the plan should include more specific guidelines for landscaping in the park;</p> <p>3) Suggests speed management of cyclists in the park;</p> <p>4) Suggests that there are safety provisions incorporated into the park relating to the crossing of Terramby Road;</p> <p>5) Suggests the relocation of the Lone Pine in the short term to ensure sight lines from Stockton Street are not interrupted;</p> <p>6) Recommends way finding signage also be included in the park plan;</p> <p>7) Suggests incorporating signage to encourage increased use of the overhead walkway;</p> <p>8) Suggests incorporating public art and specifying specific locations within the park;</p> <p>9) Recommends acknowledging the current use of the park for markets, events etc...</p> <p>10) Suggests developing guidelines for bin locations and styles;</p> <p>11) Recommends that the informal access at the north-western end of the park be formalised.</p>	<p>2) Noted. Additional details have been included within the 'Description Notes' which supplement the master plan.</p> <p>3) The plan proposes to implement measures to slow cyclists and reduce potential pedestrian and cyclist conflict e.g. chicane</p> <p>4) Managing the safety of pedestrians at road crossings is a critical concern. However, the management of these crossings is beyond the scope of the plan.</p> <p>5) Noted. An amendment has been made to the plan to allow for further consultation with key stakeholders on a proposed new location for the Lone Pine.</p> <p>6) Noted and incorporated into the plan.</p> <p>7) Noted and incorporated into the plan.</p> <p>8) Public art is not precluded in this plan however any future proposal would need to be reviewed under Council's Public Art Policy.</p> <p>9) Noted and incorporated into the plan.</p> <p>10) Bins will be updated as necessary in existing locations.</p> <p>11) It is noted that informal access paths exist on the site and the plan has been amended to permit active management of these paths to ensure safety and minimise any potential erosion impacts.</p>

ITEM 5 - ATTACHMENT 5 COMMUNITY CONSULTATION REPORT.

No.	Date of Receipt	Form of Submission	Organisation	Comments	Response
6	11 Nov 2015	Email	Heritage Advisory Committee	<ol style="list-style-type: none"> 1) Heritage is not mentioned in the proposal 2) There does not appear to be any heritage assessment undertaken on the potential impact of proposed works? 3) The master plan mentions works to be undertaken on 1929 memorial steps and War Memorial monuments – this work is not detailed and it appears that there has been no heritage impact assessment on the heritage items. 4) Further liaison with Councils Heritage Advisor is required including details of proposed works, an assessment of heritage impact and heritage impact statement to be carried out. 5) Agree the plan will improve the site considerably 6) Consideration on seating, terraces and retaining walls being constructed with edge protectors to deter skateboarders 7) Suggest materials that do not deteriorate quickly 8) Consideration on the historical significance of the War Memorials, particularly the original memorial steps and well. Consultation should be conducted with the Heritage Advisor and Heritage Advisory Committee in relation 	<ol style="list-style-type: none"> 1) Heritage is noted in the plan with the proposal to restore and retain the memorial steps. Additional notes have been incorporated listing all heritage items. 2) Heritage impact was considered in the development of the plan and proposed works are in accordance with the objectives of the zoning for this park. It is not believed that any works proposed in this plan will have any adverse effects on any heritage items and in fact will only enhance the setting of the park to create more awareness of its heritage. 3) All works depicted in this plan will be subject to further detailed design when Council is planning to implement them. Where necessary Council staff will seek appropriate clarity regarding how heritage items should be managed in relation to these works. 4) The master plan for this park has been developed to provide a long-term vision for the park. The objective at this stage is to seek feedback from the community and to identify likes, suggestions and concerns. This will then inform the development of the detailed design, for work Council has available funding to do so. Further liaison will be undertaken at this stage, when more detail is available. 5) Noted and appreciated. 6) Noted. All works depicted in the plan will be subject to detailed design. 7) Noted. Consideration of

ITEM 5 - ATTACHMENT 5 COMMUNITY CONSULTATION REPORT.

No.	Date of Receipt	Form of Submission	Organisation	Comments	Response
				<p>to information on this.</p> <p>9) It ignores the current Port Stephens Council LEP 2013 for heritage listed items in that:</p> <p>10) a. there has been no consultation with the Port Stephens Council Heritage Advisory Committee nor Heritage Advisor on the changes</p> <p>11) b. there is no Heritage Impact Statement on the changes</p> <p>12) The proposed changes in "Item 7 '1929 Memorial Steps' to be retained and restored. Provide interpretive signage" should consider the safety of pedestrians crossing Teramby Road to the marina precinct. There should be one clearly defined road crossing and ensure improvements do not confuse pedestrians and drivers.</p>	<p>materials will be undertaken during the development of detailed design.</p> <p>8) The plan has considered the heritage steps and an additional note has been added to the plan to specifically list all heritage items.</p> <p>9) Works proposed in this plan are in accordance with the objectives of the zoning for this site.</p> <p>10) The master plan has been placed on exhibition seeking input from the community and user groups, including the Heritage Advisory Committee</p> <p>11) All works depicted in this plan will be subject to further detailed design and Council funding. Heritage impact will be a key consideration during future detailed design development of any proposed works in the park.</p> <p>12) Noted. Any future restoration works of the heritage steps and accompanying signage will consider public safety.</p>

ITEM NO. 6

FILE NO: PSC2015-01000V2/073
TRIM REF NO: PSC2015-01866

POLICY REVIEW - MARKETS POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the draft Markets Policy shown with an amendment made post public exhibition period (**ATTACHMENT 1**).
 - 2) Revoke the Community and Cultural Markets Policy dated 18 November 1997 (Min No. 1362) (**ATTACHMENT 2**).
-

ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Sally Dover</p> <p>That the recommendation be adopted.</p>
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ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION

389	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Adopt the draft Markets Policy shown with an amendment made post public exhibition period (ATTACHMENT 1).2) Revoke the Community and Cultural Markets Policy dated 18 November 1997 (Min No. 1362) (ATTACHMENT 2).
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BACKGROUND

The purpose of this report is to adopt the draft Markets Policy (**ATTACHMENT 1**) which has been on public exhibition for 28 days ending 9 November 2015.

Whilst there were no written submissions to the draft policy during the public exhibition period, a face to face meeting held with the Raymond Terrace Community

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

Market Operator revealed an idea to include Bettles Park Raymond Terrace as an approved site for ongoing markets. This idea has now been included into the draft policy.

The only amendment to the draft policy post exhibition is to include a new item at 7.8 in the Policy Statement to read "Raymond Terrace, Bettles Park – Lot 1/DP1093118".

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Port Stephens has a sustainable and diversified economy.	Provide processes and services that deliver benefit to tourism in Port Stephens. Provide Economic Development services to local business.

FINANCIAL/RESOURCE IMPLICATIONS

The licensing of Council owned and managed land for markets raises approximately \$20,000 in external income. This income is used to offset the cost of maintaining public open space and the subsequent cost to ratepayers.

The implementation of this policy falls to the Strategy and Environment Section.

The main improvement brought about by the processes that will support the new policy is the simplification and fairness of the fee estimation process. In short the fee structure to be set out in the Events and Activity Assessment Guidelines and the Fees and Charges Schedule will be:

(1) Not for profit and charity market operators	
a. Administration fee	\$150 per contract
b. Annual fee	15% of gross stall holder fees
c. Site maintenance fee	As negotiated
(2) Commercial market operators	
a. Administration fee	\$295 per contract
b. Annual fee	25% of gross stall holder fees
c. Site maintenance fee	As negotiated

The new policy will in effect reduce the cost to the not for profit/community/charities however the policy also opens the door for more markets on other sites that will in turn bring in more revenue.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Income used to help offset operational costs.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Any activity on Crown Land or Council owned Community land requires formal approval under either the *Crown Lands Act 1989* or the *Local Government Act 1993*.

This draft policy has similar objectives to the Events Policy and the Commercial Operators Policy in that it aims to create new economic opportunities through the equitable distribution of Council owned and managed land and the clear understanding of the rights and responsibilities of all stakeholders.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that not having a Markets Policy may result in market operators conducting unapproved and unsuitable business on Council land resulting in safety, legal, financial, environment and reputation damage.	Low	Adopt the recommendations.	Yes
There is a risk that not having a Markets Policy may result in conflict between prospective market operators and the general community resulting in safety and reputation damage.	Low	Adopt the recommendations.	Yes
There is a risk that not having a Markets Policy may result in lengthy decision making	Low	Adopt the recommendations.	Yes

processes when assessing requests for use of Council land resulting in added costs to small business and reputation damage to Council.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendations creates opportunities for people to participate in vibrant community and cultural experiences on Council owned and managed land. Managing the allocation of foreshores and park areas needs to be carefully considered through this Policy as these areas attract large numbers of people at peak times and the interaction between passive users and commercial operators has the potential to create conflict.

The local economy benefits from this Policy because small enterprises are able to access Council owned and managed land and conduct their businesses at reasonable rates for their customers.

This Policy and the conditions contained in the Events and Activity Assessment Guideline ensure that environmental constraints at any given site are fully considered and managed.

CONSULTATION

During public exhibition:

- 1) Public Notice in Port Stephens Examiner/Internet with 28 day exhibition period ending 9 November 2015.
- 2) Direct letter with draft policy to existing three market operators and Tomaree Sports Council with the option to meet and discuss in person.
- 3) One face to face meeting with Raymond Terrace Community Markets Operator where the idea of including Bettles Park Raymond Terrace as an approved site for ongoing markets was raised.

After adoption as a new policy:

- 4) Copy of the new Markets Policy shall be mailed to the three existing market operators for their records.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Draft Markets Policy.
- 2) Cultural and Community Markets policy 18/11/97 Min 1362.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2015-01866
TITLE: MARKETS POLICY
POLICY OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

PURPOSE:

The purpose of this policy is to establish an approach to the approval of markets and the level of commitment it requires from Market Operators to achieve quality markets. It aims to achieve well-managed markets that complement the offerings of local businesses.

CONTEXT/BACKGROUND:

Port Stephens Council (Council) recognises the benefit that markets provide the community. Well-managed markets are an important part of the development of vibrant and sustainable local communities.

Council has held a policy position on markets since 1993. The approach to markets over these years has been to enable community groups to run monthly craft and cultural markets on Council owned and managed land. Since these early times though, the demand for Council owned and managed land has increased and the standards for community health, safety and environmental controls have changed.

The intent of this policy is to clearly define how Council will continue to approve markets that complement the local businesses, support the visitor economy and provide diverse social opportunities.

SCOPE:

1. The Markets Policy applies to Ongoing Markets on Council owned and managed land within the Port Stephens Council local government area. Ongoing Markets are classified as markets that operate more than four occasions in a calendar year.
2. Markets that are not covered by this policy include:
 - 2.1. Markets that are part of an event;
 - 2.1.1. Markets that are part of an event are managed under the Council's Event Policy and must meet requirements of the Event and Activity Assessment Guidelines and receive an event approval before operation.
 - 2.2. Temporary Markets that operate up to four occasions within a calendar year;

Policy

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Policy



- 2.2.1. Temporary markets are managed under the Council's Event Policy and must meet requirements of the Event and Activity Assessment Guidelines and receive an event approval before operation.
- 2.3. Markets on land that is not Council owned or managed land;
 - 2.3.1. The Markets Policy does not apply to markets on land that is not owned or managed by Council. Markets on land that is not owned or managed by Council may require other development approvals.

DEFINITIONS:

Council Land	Land that is owned or managed by Council.
Event	A planned (public or private) activity held on publicly owned or managed land requiring formal assessment and approval.
Event Approval	Formal approval granted by Council for an event or temporary market.
Event Advisory Group	A group comprising a minimum of three Council representatives with relevant knowledge of outdoor events and trading. It may engage additional members to provide expert advice on specific site and issues.
Event and Activity Assessment Guidelines	Includes guidelines, processes and other internal documents used by Council staff in the assessment and approval of event applications and market applications.
Market Approval	Formal approval granted by Council for a market to begin operation.
Market Operator	The individual or group who intend to operate the market and who will enter into an agreement with Council for use of the site.
Market Proposal	A detailed document describing the layout, management and preliminary operational plans for a market. The Market Proposal is submitted after a Market Application has been given in principal support to finalise approval.
Market Application	An application form enabling Market Operators to indicate interest in using a site on Council land to operate a market.
Ongoing Market	A regularly scheduled outlet for the sale of goods and services at the same or similar location, with the majority of goods and services provided by the producer, grower, craftsperson or service person.

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Policy



Priority Locations	A site that may be activated as required if deemed necessary or appropriate by Council.
Temporary Market	A market that operates up to 4 times within a calendar year.

POLICY STATEMENT:

Council is committed to:

1. Supporting quality markets that demonstrate capacity to meet community needs, strengthen the local economy and complement the offerings of local businesses;
2. Ensuring a consistent assessment framework including an equitable fee structure for the approval of Market Proposals and Market Applications;
3. Markets that minimise the impact on the environment, local residents and nearby businesses;
4. Market sites being well maintained by Market Operators;
5. Markets that ensure community health and well-being;
6. Assessing applications for markets based on this policy and the criteria set out in the Events and Activity Assessment Guidelines;

7. Approving Ongoing Markets at the following locations:
 - 7.1. Karuah, Longworth Park – Lot 7010 / DP 1050943,
 - 7.2. Lemon Tree Passage, Henderson Park – Lot 93 / DP 217567,
 - 7.3. Nelson Bay, Apex Park – Lot 7145 / DP 1063859 and Lot 155 / DP 753204,
 - 7.4. Nelson Bay, Neil Carrol Park – Lot 101 / DP 1175980,
 - 7.5. Nelson Bay, Tomaree Sports Complex – Lot 1 / DP 1136350,
 - 7.6. Nelson Bay, Town Centre – various lots,
 - 7.7. Raymond Terrace, Riverside Park – Lot 7005 / DP 94774,
 - 7.8. Raymond Terrace, Bettles Park – Lot 1 / DP 1093118.

8. Approving Ongoing Markets at Priority Locations;
 - 8.1. From time to time Council may initiate a process to identify suitable markets for locations that require activation;

9. A one year moratorium from the commencement date of this policy on the terms and conditions of all current markets on Council owned and managed land, after which these markets shall be assessed and approved under this policy and the Event and Activity Assessment Guidelines; and

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Policy



10. Ensuring security of tenure for approved Market Operators. Accordingly, those Market Operators shall be offered the first right of refusal for any new licence subject to all requirements of the *Local Government Act 1993*, the *Crown Lands Act 1989* and the assessment criteria set out in Council's Event and Activity Assessment Guidelines.

POLICY RESPONSIBILITIES:

Overall review and evaluation of this policy lies with the Communications Section Manager.

Key areas for implementation are delegated to the following positions:

- Tourism and Event Coordinator – implement the policy, review and update the Events and Activity Assessment Guidelines and supporting documents relating to this policy; issuing of market approvals under delegation; Internal and external relationship management.
- Community and Recreation Assets Coordinator – provides advice on the implementation of the policy.
- Tourism & Events Team: Operational implementation of the policy and associated documentation.

RELATED DOCUMENTS:

- 1) Events Policy (PSC2015-01072)
- 2) Setting of Fees and Charges Management Directive
- 3) Port Stephens Local Environment Plan 2013
- 4) Local Government Act 1993
- 5) Food Act 2003
- 6) Advertising Signs Policy
- 7) Alcohol in Parks and Reserves Policy
- 8) Mobile Food Vending Vehicle Policy 2014
- 9) Temporary Structures on Footways Policy
- 10) Port Stephens Foreshores Generic Plan of Management
- 11) Port Stephens General Community Use Generic Plan of Management
- 12) Port Stephens Natural Areas Generic Plan of Management
- 13) Port Stephens Urban Parks Generic Plan of Management
- 14) Port Stephens Sportsgrounds Generic Plan of Management
- 15) Port Stephens Council Event and Activity Assessment Guidelines

Policy

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Policy



CONTROLLED DOCUMENT INFORMATION:

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TRIM container No	PSC2015-01866	TRIM record No	001
Audience	Existing and potential Market Operators; Event Operators; local business associations and their members; Destination Port Stephens and its members, Tomaree Sports Council.		
Process owner	Tourism and Events Coordinator.		
Author	Tourism and Events Coordinator. Community Services Section Manager.		
Review timeframe	Every four years	Next review date	December 2019.
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	10/11/15	K Latham/S Bernasconi	Amended document post public exhibition.	

<p>Policy</p> <p><small>WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au</small></p>			
Issue Date: xx/xx/xxxx	Printed: 13/08/2015	Review Date: 01/06/2019	Page: 5 of 5

PORT STEPHENS COUNCIL POLICIES

DEPARTMENT	COMMUNITY & RECREATION SERVICES
POLICY TITLE	COMMUNITY & CULTURAL MARKETS
FILE REFERENCE	R7700-61
Date Adopted	18/11/97 Min 1362
Date of Review	

OBJECTIVES

To regulate markets and fairs in Port Stephens Council so as to support:

- Charity
- Tourism
- Employment
- Art, Craft and Cultural Heritage

DEFINITIONS

Management	Development Applicant or Permit Holder
Market	Shall be read to include a fair and any other event which involves more than six stalls on the one site or adjacent sites, at which goods and services of any description are offered for sale to the public. Annual shows, carnivals, festivals held within this Shire are exempted from the requirements of this Policy. This will be determined by Council during the assessment of any such application.
Permit Holders	Shall be the person/organisation to whom a permit to run a market is issued.
Stall Holder	The person to whom a site is issued by market management.
Authorised Employee	A designated employee of Port Stephens Council.

POLICY STATEMENT

1. Definition and Application

This Policy applies to the "monthly" markets held at Nelson Bay CBD, Neil Carroll Park, Nelson Bay or any other market approved by Council.

The Council will regulate markets conducted on any Council controlled land as defined in the Local Government Act, 1993, and will participate in policing of the provision of the Act, or other relevant Acts, e.g. Food Act, 1989, in those areas declared to be "market locations" by Council within the meaning of that Act.

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

The Council shall, in implementing this policy, liaise with the Police Services, Department of Land and Water Conservation, community groups and service organisations within the Port Stephens area or any one or more of such bodies in any manner considered necessary by Council to achieve the policy objectives.

2. Market Income

The management of the market must be charity and community based, in that net profit is directed to benefit local charity and community based organisations.

3. Supplementary Market

Market Frequency - Markets may only be held on any one site at a frequency of not more than 28 market days per calendar year. The dates of these market days will be submitted by the operator and approved by Council staff by the end of November each year.

FAIRS AND MARKETS - REGULATING CODE

1. Market Management - Responsibility

The management of each market will be responsible to Council for the entire management of the market and enforcement of this code. Market Management shall be the permit holder as described under "Definitions". The market manager shall ensure that the conduct of the market, all stall holders and any charity workers is at all times in accordance with these provisions and the requirements of all relevant Legislation, Acts and Ordinances.

A copy of this policy and code is to be retained on site by the Market Management and its personnel at all times when a market is in progress and made available upon request from a member of the public

The Market Management shall be present at the market at all times. The Market Management or his or her delegated personnel shall immediately act on any instruction issued by an authorised employee of Council.

The Market Management or his or her personnel shall be properly identified and recognisable by members of the public at all times a market is in progress.

The Market Management or his or her personnel shall ensure that licensing requirements of the Police eg: sale of second hand goods, are to be met.

2. Development Consent

Each market proposal shall be accompanied by a Development Application which adequately addresses all matters detailed in this policy and code and satisfies all other requirements of the Environmental Planning & Assessment Act, 1979, as amended. No market shall be conducted without site specific development consent of Council.

Approval for single event markets must be obtained and no approvals will be granted for markets which would clash with regular established ones.

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

Only one approval for a regular market will be given in or adjacent to existing localities of the shire.

The development application must specify the names of Market Management Personnel.

All Development Consent conditions shall be specified as an attachment to this agreement. The Development Applicant or Permit Holder shall be responsible for compliance with these conditions and all associated costs in complying with those conditions.

3. Agreement and Permit

(a) Agreement:

Management must enter into an agreement with Council. The term of the agreement will be up to five consecutive years and will be accompanied by a permit and set of conditions. The agreement will be terminated if the permit conditions are not satisfactorily complied with.

(b) Permit:

Management will be granted a twelve month permit. The permit will set out conditions which will be in accordance with the requirements of this Policy. The permit will be automatically renewed each year for the life of the agreement unless the permit conditions are not met. If the permit is not renewed the agreement is automatically terminated.

4. Management Plan

A requirement of this Policy shall be that a management plan be submitted together with the development application of any market proposed within the Port Stephens Council.

5. Management Plan Criteria

(a) Stall Layout Plan

- (i) Plan view of market site and proposed location of stalls.
- (ii) Total number of stalls.
- (iii) Distance between stalls and between rows.

(b) Capital Expenditure

- (i) Forecast of expected costs involved in running the markets which may require consideration by Council, i.e.:
 - Hiring of traffic control personnel;
 - Hiring of amenities; and;
 - Fee for inspection by Council authorised officers.

*(c) Compliance with Legislation e.g. Local Government Act, Trade Practices Act and Fair Trading Act,
Noise Control Act, Food Act. Motor Traffic Regulations.*

- (i) Method of ensuring market operation is in accordance with all relevant legislation,

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

6. Ground Maintenance

Each Market Management shall be responsible for reinstating the condition of the market site grounds immediately after each market to the satisfaction of the Community & Recreation Services Manager or the controlling authority of the ground. It is therefore in the interest of the Market Management to ensure that stall holders are strictly controlled in their vehicle movement, stall erection, etc. with particular emphasis on the control during or after periods of wet weather.

7. Public Risk Insurance

To operate the markets the organiser must hold a Public Risk Insurance Policy of not less than \$10 million covering the organisation of the markets. The policy is to specifically indemnify the Port Stephens Council from any claim arising from or incidental to the holding or conducting of the market. A certificate of currency is to be presented to the Council prior to the commencement of any market.

The individual stall holders must hold public liability cover and product liability cover or alternatively the organiser must hold a blanket cover for all stall holders (which they may contribute towards) with Council's interests noted accordingly.

Stall holders and/or operators of any mechanical ride or device, or any animal ride, are required to hold an individual policy specifically related to that ride or device and in the same general terms of indemnity.

8. Market - Hours of Operation

Each market licence shall stipulate the hours between which the market may operate, and where not specifically stated, these hours shall be 7.00am, but no noise before 8.00am (and to finish by 6.00 p.m.) on the day of the market. The market site must be completely vacated of all stalls and stall holders, together with their goods and chattels on the conclusion of each days trading.

9. Council Authority and Inspection

All markets will be subject to regular inspection by Council officers to ensure compliance with the provisions of this Code, the Local Government Act, the Food Act, Noise Control Act and various regulations thereunder. Market management personnel are required to act immediately on instructions issued by an authorised employee of Council. The Council Officer should liaise with market management on arrival and departure.

An inspection fee will be charged for each inspection and receipted to the Market Management when inspections are carried out by a Council employee.

The inspection fees will be determined from time to time by Council and listed in Council's fees and charges.

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

10. Financial Report

A financial audit, certified by an auditor, shall be submitted to Council annually. All records, including financial and trading accounts, shall be made available to Council within 14 days of a request, or at a time negotiated between management and Council. Failure to comply with this requirement will constitute grounds for immediate cancellation of permit.

11. Market Grounds - Camping or Overnight Lodging

No person shall camp or lodge overnight on a market site.

Exemption - One site may be allocated and occupied for the purposes of security.

12. Rides, Devices and Control of Animals

Market Management shall not allow on site, nor issue any permit for, any mechanical ride or any animals or device without the owner/operator of the device obtaining specific approval of Council. The operator of such a device must hold a Public Risk Insurance Policy in the terms of Clause 7 and a current license issued by WorkCover Authority, New South Wales. Each such ride is to be positioned on an outer or edge row of stalls and is to be surrounded by an adequate barricade or fixed rope or rail to keep the public clear of the operational area.

Any animal used for rides which becomes intractable or in any way poses a danger to any person or other animal shall be immediately removed from the market site. The area where animals are tethered between use periods shall be kept clean of animal droppings, excess feed, etc. Water containers and such like shall be positioned so as to not pose a hazard to any person.

Market Management shall be responsible to ensure that no cats or dogs (including 'free' puppies or kittens) are allowed on the entire market site, but excluding seeing-eye dogs. Market Management shall discuss all proposed livestock sales, such as live poultry for example, in consultation with Council Health Officers.

13. Electrical Connections and Outlets

The Market Management shall be responsible for any usage and associated costs of electricity and the provision of electricity and the maintenance of all electrical connections, outlets etc, necessary for use by any stall holder. He/she shall also be responsible to ensure that all electrical leads used by stall holders are suspended at least 2.4m from the ground and clear of the space needed by public usage, that such suspension device is non-conducting and that all leads, sockets and other connections are kept in good and serviceable condition and are used and maintained strictly in accordance with all Australian Standard Codes relating to electrical fittings and the use of electricity.

The Market Management shall immediately observe any instruction or requirement of any authorised electrical inspector, and ensure that all stall holders do likewise. Any electrical fitting, lead or connection which is suspect in any way, shall immediately be disconnected from the source of electricity supply, and shall not thereafter be used until repaired or serviced by a licensed electrician.

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

14. Fire Control

The Market Management shall be responsible for providing the following equipment which is to be kept on the market site under his or her control at all times during the conduct of a market.

- (a) 1 x 9kg dry chemical fire extinguisher
- (b) 1 x 5.5kg carbon dioxide fire extinguisher
- (c) 1 x 1800mm x 3200mm fire blanket

The Market Management shall ensure that each stall holder whose trading requires the use of cooking oils or fats, has in their possession adjacent to the cooking device the following equipment.

- (d) 1 x 5.5kg carbon dioxide fire extinguisher
- (e) 1 x 1800mm x 3200mm fire blanket.

15. Noise Control - Amplification

Council will not permit the generation of excessive noise nor the use of any device for the amplification of sound or music in the market site, subject to the following exemption:

Exemption

- *One set of equipment to be used in conjunction with the public address system to be under the personal control of market management and located adjacent to the market management base location.*
- *A second set of equipment may be used for public entertainment.*

Both sets of equipment and associated loud speakers are to be adjusted and controlled in a manner which will limit noise levels to be no more than 5 dB (A) above normal background noise levels at any location on the site boundaries.

Noise levels generally are to be controlled so as to comply with the provisions of the Noise Control Act, in any case are not to exceed 5dB(A) above background level as measured on any location on the boundaries of the market site.

16. Allocation of Stall Spaces

Preference in allocation of stall spaces will be given in the following order:

- (a) Port Stephens Council residents
- (b) Regional residents
- (c) Others

17. Goods for Sale

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

Priority will be given to home produced, crafted or recycled goods produced in the Port Stephens area and surrounding regions. The ongoing implementation of this Policy will continue to increase the local community content.

All food products must be stored, prepared and packaged for sale in strict accord with the requirements of the Food Act and Regulations thereunder.

Goods and services which have some latent danger or are hazardous, shall not be offered for sale and must comply with the relevant legislation.

18. Waste Disposal

Market Management is required to arrange for the provision and servicing of an adequate number of garbage bins or bulk waste bins to effectively dispose of all refuse and litter generated throughout the period of the market. The market site is to be maintained free of litter and to be left in a clean and tidy condition at the end of the day.

19. Public Amenities

The Market Management shall be responsible for the market day maintenance and cleanliness of public toilets used in conjunction with the market. Should it be necessary to provide temporary toilet facilities, the provision and servicing of these units, and all costs involved, are to be the responsibility of the Market Management.

20. Enforcement - Authorised Personnel

The following persons shall be authorised to police this policy.

- (a) All authorised employees of Port Stephens Council.
- (b) Officers of the New South Wales Police Service.
- (c) Market Management as consented to by Port Stephens Council.

21. Legal Action

All breaches of this Policy shall be referred to Port Stephens Council which shall determine the course of action to be taken.

22. Signs and Structures

Signs are to be erected so as to clearly display rules to members of the public entering market ground sites. The location of such signs will be determined from time to time in consultation with Council and Market Management.

REVIEW

A review of this policy relating to development consent of markets within the Port Stephens area shall be undertaken 12 months after adoption, or otherwise as determined by Council.

Authority -

- Local Government Act, 1993, As Amended

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

- Food Act
- Dog Act
- Construction and Safety Act
- Factories and Shops Act
- Motor Traffic Act
- Environmental' Offences and Penalties Act
- Secondhand Goods Act
- Environmental Planning and Assessment Act
- Public Health Act 1991

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

Extract of Minutes 15/7/97

MARKETS IN PORT STEPHENS

AUTHOR: Peter Avis and Paul Douglass

DEPARTMENT MANAGER'S RECOMMENDATION:

1. That the report be received and noted
2. That the Draft Policy for operation of Community and Cultural Markets on Council owned/managed land, as per **ATTACHMENT 6.1**, be placed on exhibition until 31 August 1997 and referred back to Council for adoption following the completion of the exhibition period and
3. That the procedure for signing Development Applications for Community and Cultural Markets as per points 1 - 4 in the Legal and Policy Implications section of the report be adopted.

Manex Comments: The appropriate co-ordination and corporate consultation has taken place.

Community and Recreation Committee's Recommendation: That the Department Manager's Recommendation be adopted.

1117 **Councillor Nell** **Resolved that the Community & Recreation**
 Councillor Titmarsh **Committee's Recommendation be adopted.**

BACKGROUND

History

On the 13 August 1996 Council adopted the following Notice of Motion:-

"That Council prepare a report on markets in Port Stephens. That this report include information on the following items:

- 1 Approval process
- 2 Conditions applying
- 3 When and where they are operating
- 4 The benefits and disadvantages to Local Traders"

Prior to this, in December **1993** a report on markets on council controlled or owned land was put to Council entitled "Community and Cultural Markets" and on the 14 December **1993** Council resolved:-

1. "That the Draft Policy for Community and Cultural Benefit markets be put on public exhibition for the operation of these markets until January 1994
2. That a Development Application be submitted for the operation of these markets
3. That Council review the policy after the public exhibition period and determination of the Building Application

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

4. That markets presently operating at various locations continue until the draft policy is considered"

ATTACHMENT 6.2 contains a copy of that report.

Development Applications were submitted for 'Council' sites following the meeting but were withdrawn as the uses were not permissible. Council made application for an amendment to its 1987 Local Environmental Plan for 'Temporary use of land'. In 1995 this was approved as item 28B and states that "despite any other provision of the plan, a person may, with consent of the council, carry out development on land for any purpose (not being designated development) for a period of 28 days, whether consecutive or non-consecutive, in any one year."

When and Where are they operating

Listed below are the markets currently acknowledged by Council and operating on Council owned or managed land:

- Nelson Bay Craft Markets, Neil Carroll Park, Shoal Bay Road, Nelson Bay - run by Torch Bearers for Legacy, once per month, and fortnightly during school holidays subject to notifying Council
- Community Fair and Fireworks Display McCann Park, Lemon Tree Passage - run by the Lions Club, once per year
- Nelson Bay Business Centre - run by Chamber of Commerce, once per month, operating with development consent

Development consents for the Neil Carroll Park and McCann Park markets as yet have not been applied for and the Community and Cultural Benefit Markets Policy was not advertised as the 18 month time lapse that occurred awaiting the LEP amendment and the introduction of subsequent projects reduced the emphasis on this as a priority.

Listed below are some of the well known markets which operate on other than Council managed or controlled land:

- Waterside Fair Markets, d'Albora Marinas, Nelson Bay - last Sunday of the month
- Anna Bay Craft Markets, Lutheran Church Grounds Anna Bay - 1st Saturday of every month (1st and 3rd in December)
- Salt Ash Markets, Church Grounds Nelson Bay Rd, Salt Ash - 2nd Saturday of every month

This is not considered to be an exhaustive list of markets operating in Port Stephens.

Some of the 'Council' sites that may be considered by Council Committees or charities for Community and Cultural markets include all public halls, the Council Administration Building carpark, Raymond Terrace Indoor Sports and Community Centre, Riverside Park, Raymond Terrace, Longworth Park, Karuah and operational land owned by Council.

FINANCIAL / RESOURCE IMPLICATIONS

Development Consent conditions may be placed on Council (as land owner). Applicants (Market Organisers) would be reasonably expected to have these conditions and any associated costs passed onto them within a markets site occupation agreement

LEGAL AND POLICY IMPLICATIONS**Approval Process**

The holding of markets in Port Stephens requires development consent as it is considered to be a commercial use. There are currently no policies to guide the assessment of a request to sign a development application for markets.

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

Council may have two roles, firstly it must consent to the lodging of a Development Application, if it is the land owner and secondly to assess and determine the development application through the development approval process.

A development application can only be submitted with the approval of the land-owner. In this respect if Community and Cultural markets are proposed over Council's land then Council's first opportunity to approve or disapprove is at the owner's consent stage. The suggested method for consideration of markets is :-

1. Development Application Form Completed by Applicant
2. Development Application Form submitted to owner for signature
3. If owner is Council, then delegated staff consider the proposal against approved Market Policy and either:
 - a) sign the Development Application or
 - b) return the application to the applicant with reasons
4. Ward Councillors advised of the application and its status.

Any signed applications would be advertised and adjoining property owners potentially affected notified under the normal development assessment process.

There is an increasing interest in the use of Council land for markets by individuals or business operators not necessarily linked to culture or the community. To distance itself from the issue of competition with business. Council may consider allowing only "Community and Cultural Markets" to operate on its land, unless the application is received from the area's local Chamber of Commerce.

ATTACHMENT 6.1 contains a copy of a Draft Market Policy which has been significantly amended compared to the draft policy previously considered by Council. It includes objectives, definitions, policy statements and regulating codes. The use of this policy would clearly regulate and control the operations of markets in the Port Stephens Council area.

Conditions applying

There are standard conditions that apply to current markets on Public Reserves and relate to the consideration of other park users, site usage fees and bonds, liability insurance, ablution facilities, food hygiene, vehicles on reserves, parking etc. as part of the reserve booking conditions.

Applications for markets not on Council controlled land would be conditioned under the normal development approval process.

Any consent issued to Council (as land owner) would include conditions relating to time limit of consent, limitation of hours, times, dates, vehicular access, parking, traffic control, number of stalls, types of activities, food hygiene matters and provision of ablution facilities. These conditions would be included in the markets site occupation agreement and imposed on the markets organiser.

PUBLIC IMPACT

It can be said that some community and cultural needs are satisfied with the operation of markets. Weekend markets can be useful to people with busy working lifestyles. Local community hall or reserve markets provide leisure activities for stall holders and the community and an income for community facilities either through local committees or Council fees and charges.

The benefit and disadvantages to local traders

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

This is extremely difficult to quantify. There has been mixed response in correspondence. In some localities it is considered that food establishments perceive benefits whilst general retail may perceive markets to be a disadvantage, whilst in other locations all types of business have objected.

CONSULTATION

Byron Shire Council; Phil Buchan - Engineering Services and Jim Neely - Special Projects Departments

OPTIONS

Not permit markets on Council land
Vary approval process
Vary new draft policy

Attachment 6.2

4/3130-00 COMMUNITY AND CULTURAL MARKETS

Author: Peter Avis

MANEX COMMITTEE'S RECOMMENDATION:

1. That the Draft Policy for Community and Cultural Benefit Markets be put on public exhibition until the end of January 1994.
2. That a Development Application be submitted for the operation of these markets.
3. That Council review the policy after the public exhibition period and determination of the Development Application.
4. That markets presently operating at various locations continue until the draft policy is considered.

BACKGROUND

At present markets operate approximately fortnightly at Neil Carrol Park and Tomaree Sports Complex, monthly at Lemon Tree Passage foreshore and once per year at McCann Park, Lemon Tree Passage and "Oz Ski" Raymond Terrace. It is proposed to retain these locations for markets and to include all public halls, the Council Administration Building car park, Raymond Terrace Indoor Sports and Community Centre, Riverside Park, Raymond Terrace, and Longworth Park, Karuah, as sites for these markets.

FINANCIAL IMPLICATIONS

Initial expenditure of \$100.00 for submission of the Development Application offset by continuing income rental for use of Council Managed land.

LEGAL AND POLICY IMPLICATIONS

Lodgement of Development Applications will ensure that only legal market activities occurs within the zonings. The policy will ensure all approvals comply with any development consent. **Draft Policy Attachment B**

PUBLIC IMPACT

Markets have been increasingly popular. Objections may come from local businesses.

CORPORATE CONSULTATION

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

Corporate Services and Community Planning Departments and Chamber of Commerce.

OPTIONS

Disallow market operations on Council managed land.

ATTACHMENT B

DRAFT - CULTURAL AND COMMUNITY BENEFIT MARKETS - POLICY

Policy Objective

To permit and promote markets on Council managed sites which are of community and cultural benefit.

This will be achieved if:

1. Council sites have received development consent for the operation of these markets.
2. The promoters of the markets are proven recognised non-profit organisations.
3. The promoters clearly identify the community or cultural benefits to result from the market operations.
4. Promoters of the markets are given approval in writing from Council which includes the following conditions;
 - the promoter clearly and safely defining the agreed site
 - the promoter booking of the site with Council
 - the promoter ensuring accesses, walkways and other areas are available for public use at all times
 - the promoter providing evidence that local traders are offered first option of sites
 - the promoter ensuring Council's assets are maintained in their existing condition
 - the promoter ensuring all stall holders have appropriate licences for sales and operations and comply with statutory codes and standards
 - the promoter providing evidence of the appropriate public liability insurances required for the operation
 - the promoter ensuring sign posting for markets complies with Council's policy on sign posting
 - the promoter providing additional garbage services where required
 - the promoter pay appropriate fees and charges as set by Council from time to time

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

Extract of Minutes 21/10/97

ITEM NO 8

FILE NO: R7700-61

MARKETS IN PORT STEPHENS

AUTHOR: Debbie Pickering

DEPARTMENT MANAGER'S RECOMMENDATION:

1. That the policy for operation of Community and Cultural Markets on Council owned/managed land be adopted.
2. That copies of the policy be forwarded to all 355B Hall Committees requesting their compliance with the policy.

Manex Comments: The appropriate co-ordination and corporate consultation has taken place.

Community and Recreation Committee's Recommendation: That the matter be deferred for consideration at the November meeting.

1317 Councillor Creighton
Councillor Robinson

**Resolved that the Community & Recreation
Committee's Recommendation be adopted.**

BACKGROUND

Council at its meeting 15 July 1997 resolved:

"That the Draft Policy for operation of community and Cultural Markets on Council owned/managed land, be placed on exhibition until 31 August 1997 and referred back to Council for adoption following the completion of the exhibition period"

The Draft Policy was placed on public exhibition until 31 August 1997 and no submissions were received.

FINANCIAL/RESOURCE IMPLICATIONS

Development Consent conditions may be placed on Council (as land owner). Applicants (Market Organisers) would reasonably expect to have these conditions and any associated costs passed on to them within a markets site occupation agreement.

LEGAL AND POLICY IMPLICATIONS

The use of the Community and Cultural Markets Policy would clearly regulate and control the operations of markets in the Port Stephens Council area.

<http://myport/Policies/Community and cultural markets.doc>

**ITEM 6 - ATTACHMENT 2 CULTURAL AND COMMUNITY MARKETS POLICY
18/11/97 MIN 1362.**

PUBLIC IMPACT

Local community markets provide leisure activities for stall holders and the community and an income for community facilities either through local committees or Council fees and charges.

CONSULTATION

Public exhibition.

OPTIONS

Accept/reject/amend report.

I:/MINUTES/POLICY/MINUTES/MARKETS.DOC

<http://myport/Policies/Community and cultural markets.doc>

ITEM NO. 7

**FILE NO: PSC2015-01000V2/069
TRIM REF NO: PSC2015-01492**

AUDIT COMMITTEE ANNUAL REPORT 2014-2015

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Audit Committee 2014-2015 Annual Report as presented.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor Steve Tucker That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

390	Councillor Ken Jordan Mayor Bruce MacKenzie It was resolved that Council adopt the Audit Committee 2014-2015 Annual Report as presented.
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BACKGROUND

The purpose of this report is to present to Council the Audit Committee's Annual Report for the period 2014-2015.

The Audit Committee has been established in accordance with the Office of Local Government 'Best Practice Guidelines 08/64'.

The Annual Report to Council summarises the Audit Committees activities for the 2014-2015 period in accordance with the Audit Committee Charter, Item 5.1 Reporting to Council.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2015-2019
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with development of the Annual Report are covered within the existing 2015-2016 budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		2015-2016 budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Audit Committee activities remain consistent with the Audit Committee Charter, all relative legislative requirements and the Office of Local Government Guidelines.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council is not compliant with the Audit Committee Charter and relevant legislation.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the Audit Committee will continue to add significant rigour to Council's governance framework, risk control, compliance and financial reporting and will enhance Council's reputation, operations and financial sustainability.

CONSULTATION

- 1) Audit Committee.
- 2) Executive Leadership Team.
- 3) Internal Auditors.
- 4) External Auditors.

OPTIONS

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

ATTACHMENTS

- 1) Audit Committee Annual Report 2014-2015.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



PORT STEPHENS
COUNCIL

REPORT

AUDIT COMMITTEE

2014-2015 ANNUAL REPORT

Date: 30 November 2015
File No: PSC2015-01492
Subject: Audit Committee 2014-2015 Annual Report

Background:

At its meeting held on 9 February 2010, Port Stephens Council resolved to establish a Section 355c Audit Committee (Committee) in accordance with Division of Local Government Best Practice Guidelines 08/64. The objective of the Committee is to enhance the corporate governance of Council through the provision of independent oversight, review and advice. The Committee has no executive powers and assists Council by providing independent assurance and critical review on the organisation's governance, financial, risk control and compliance frameworks.

The Committee's Charter includes a requirement to report annually to Council on the Committee's achievements. Accordingly, the Committee is pleased to present this report on its activities for the 2014-2015 financial year.

Management by Council of governance and risk activities is a crucial requirement for business success. The Audit Committee continues to guide Council in managing risk as an integral part of management practices and as a safe guard to ensuring continuity of business.

Audit Committee structure

The Committee has four voting members. Two are independent members in accordance with the Division of Local Government's Best Practice Guidelines, and two Councillors represent Council on the committee with an additional Councillor appointed as a sub delegate. Non-voting members include the General Manager, Group Managers, Financial Services Section Manager and the Governance Manager. Representatives from Council's internal audit provider, PKF Lawler and external audit provider, Pitcher Partners also attend meetings as required.

Audit Committee members 2014-2015 are:

- Mr David Wheeler (independent Chair)
- Mr Ben Niland (independent member)
- Councillor Ken Jordan
- Councillor John Morello
- Councillor Chris Doohan (sub delegate)

Committee meetings were held on the following dates:

- 24 July 2014
- 23 October 2014
- 26 February 2015
- 28 May 2015

ITEM 7 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2014-2015.

The budget for the Audit Committee enables a minimum of four meetings (held quarterly) per year; however, the actual number held is dependent on the committee and the extent of issues awaiting review.

Attendance at the four (4) meetings held to 30 June 2015 is as follows:

David Wheeler	2
Ben Niland	3
Councillor Jordan	3
Councillor Morello	2
Councillor Doohan (sub delegate)	1
General Manager	4
Group Manager Corporate Services (or representative)	4
Group Manager Facilities and Services (or representative)	4
Group Manager Development Services (or representative)	4
Financial Services Section Manager	4
Governance Manager	3
Internal Auditor representative	4
External Auditor representative	2

It should be noted that representation by the external auditor is only required twice per annum, reflecting key stages of the external audit scope.

Cost of audit activities to Council

The following provides an estimate of the cost of audit related activities to Council for 2014-2015:

Internal Audit contract fees	\$43,121
2014-2015 External Audit fee	\$65,000
Audit Committee attendance fees	\$982
Sundry expenses (meeting costs, etc)	0
TOTAL	\$109,103

Engagement with external auditors

The Audit Committee undertakes a general oversight role of the external auditor's audit scope, approach and reliance on internal audit activity. The committee also monitors management's implementation of recommendations identified within the external auditor's management letters.

The Committee also has a role in the oversight of Council's financial statements. During the year the Committee considered Council's 2014-2015 financial statements and external audit focus areas.

Risk management

A key role of the committee is to review and monitor the effectiveness of the key controls in place to manage and mitigate the risks encountered by Council. These matters include operational, strategic, financial and fraud control environments, as well as ensuring adequate insurance coverage and business continuity planning.

ITEM 7 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2014-2015.

During 2014-2015, the committee considered the high priority risks facing the organisation and monitored risk treatment plans established by management to reduce or mitigate those risk exposures.

Current high priority risks include:

Asset: Ability to adequately maintain assets, both physical and built environments
Compliance: Records management compliance with State legislation
Financial: Effective project management
People: Health and safety systems ensuring a safe work environment
Reputation: Effective leadership management and use of social media

Legal matters

By nature of its legislative compliance role, Council has a history of various legal actions over time. Legal matters can have a significant impact on the financial and resource capacity of the organisation. Management considers the merits of all legal action and seeks to mediate and settle matters where appropriate. The committee has an oversight role on key litigation and compliance matters before the Council.

During 2014-2015 the committee considered the following legal matters:

- Lawrence Waterhouse Pty Ltd (in liquidation) – Council seeking to recover significant legal costs awarded by the Courts.
- Moresload, Gilson & Gilson – Land & Environment Court – Council seeking Court declarations as to whether the original development consent granted was valid or had lapsed.
- Batten – Land & Environment Court – Appeal against orders issued by Council.
- Telstra – Land & Environment Court – Appeal against refusal to grant development consent issued by Council.
- Shoal Bay Developments & Snoogal – Land & Environment Court – Appeal against refusal to grant consent to section 96 modification issued by Council.
- Denshire – Appeal against order served by Council in relation to development without consent.
- South Tomaree Community Action Group v Landcom and JRPP – Appeal against decision of JRPP to grant consent to Fishermans Bay subdivision.
- R v Kwarren Homes Pty Ltd – Court elected Penalty Infringement Notices, Development not in accord with consent and Pollute Waters.

Internal audit

The Audit Committee has identified 11 auditable areas across Council for the period of the Internal Audit plan 2014-2015.

The table below lists internal audit reports examined by the Audit Committee at the four meetings held since 1 July 2014:

Report	Risk Rating	Area/s of Council where applicable
Building Security	High/medium/low	Property Services/Public Domain & Services/Community Services
<p>The audit identified that there are a number of areas for improvement for Council in the management of building security. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • CCTV equipment for the administration building is inadequate; • Key registers are not consistently used; • Multiple staff use the same code for the security systems; • Lock-up procedures are not documented and in use for all locations; and • There is insufficient control over boom gate codes at Holiday Parks. 		
Section 355 Committees	High/medium/low/efficiency	Financial Services/Community Services
<p>The audit identified that there are a number of areas for improvement for Council in the management of Committees. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Appropriate levels of insurance coverage for patrons, contractors, and volunteers; • Declarations of conflicts of interest; and • Documentation of key governance and safety requirements including meeting minutes, WHS training and code of conduct statements. 		
Asbestos Management	Medium/low	Organisation Development/Strategy & Environment/Development Assessment & Compliance
<p>The audit identified that there are a number of areas for improvement for Council in asbestos management processes. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Additional training may be required in asbestos awareness and asbestos handling for Council staff; • Asbestos warning information is not currently distributed with Section 149 planning certificates; and • The Council is unclear as to its financial responsibilities in relation to the NSW Government Asbestos Blueprint. 		
WHS Compliance	Low	Organisation Development/Section Managers
<p>The audit identified that there are a number of areas for improvement for Council in WHS Management processes. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Completion of employee inductions within three months of commencement; and • Ensuring all employees onsite sign as having attended and understood the Daily Toolbox Meeting. 		
Working with Children	Medium/low	Organisation Development/Community Services

Report	Risk Rating	Area/s of Council where applicable
<p>The audit identified that there are a number of areas for improvement for Council in the management of Working with Children. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • There is no record of a check for the Council's Senior Community Development and Engagement Officer; • The Council's Child Protection Policy is outdated and requires updating to comply with current Council practices and legislative requirements; • The maintenance of information on family day care providers requires improvement; and • The Council needs to ensure that all staff requiring checks in the future have been adequately identified, and that checks are recorded appropriately. 		
Contract Management	Medium/low	Financial Services
<p>The audit identified a number of areas for improvement for the Council in the management of contracts. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Ensuring that all relevant policy and procedure documentation is in place and up to date; • Ensuring that certificates of currency of insurance are stored consistently and centrally, and expiry dates are monitored; • Completing review procedures for all significant contracts; • Performing appraisals prior to rollover of existing contracts and recognising where re-tendering may be more beneficial; • Monitoring spend with suppliers to identify when contracts may be required; and • Ensuring that details per the contract register are consistent with the details of the actual contract. 		
Vehicle and Plant Maintenance	Medium/low	Public Domain & Services
<p>The audit identified a number of areas for improvement for the Council in the management of vehicle and plant maintenance. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Ensuring that all required maintenance has been scheduled and is carried out in a timely manner; • Consulting maintenance records when preparing the replacement schedule to ensure useful lives of assets remain accurate; • Ensuring that all information required to be completed on work order is present and that work orders and other documentation are appropriately signed; and • Formalising the policies and procedures regarding the maintenance of plant and vehicle assets. 		
Long Term Financial Plan		Financial Services
<ul style="list-style-type: none"> • The Long Term Financial Plan was audited as part of the Fit for the Future assessment. 		
Insurance Claims	High/moderate	Organisation Development

Report	Risk Rating	Area/s of Council where applicable
<p>The audit identified three areas for improvement for the Council in the management of insurance claims. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Completion of investigation reports on a timely basis and in accordance with Council policy; • Consideration of improvements to the IT environment, including system capability in relation to database capacity and integration; and • Maintenance and review of user access levels to the systems involved in the insurance claims IT environment. 		
Stores	Medium	Public Domain & Services
<p>The audit identified four areas for improvement for the Council in the management of its stores. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Development of over-arching stores-specific policy; • Consideration of definitions and responsibilities as they relate to stocktaking, and slow moving stock; • Consideration of review processes, and segregation in place with regards to delegation levels in the purchasing process; and • Consideration of system limitations in the reconciliation of fuel stock. 		
Special Events	Medium/low	Community Services/Strategy & Environment
<p>The audit identified five areas for improvement for the Council in the management of special events. A summary of the key areas for improvement are outlined below:</p> <ul style="list-style-type: none"> • Council may consider developing a definition of a gala day as referred to in the Sporting Facility User Agreement and User Fees and Charges; • Council may consider producing a Special Events Toolkit, targeting volunteer organisations to assist with the completion and compilation of applications; • Consideration of mandating site visits for medium and high impact events; • As it relates to facility use, Council may consider enhancing internal communication within Council, as it relates to facility use, through development of a checklist; and • Council may consider requiring EventPro to be used as the primary booking tool of facilities by authorised Council officers. 		

Action plans to address the Internal Audit findings have been established by management and are maintained by the Committee.

The 2015-2016 audit schedule will involve an assessment of the extreme and high priority corporate risks and completion of the activities scheduled below.

Area of activity	Timing for completion
IT Governance review (including security)	October 2015
Development application compliance	February 2016
Complaints Handling	February 2016
Code of Conduct	February 2016
Customer request management	February 2016
Private swimming pool compliance	May 2016
Business Continuity	May 2016
Records and data management	May 2016
Environmental management	July 2016
Section 94	July 2016
Flexi-time	July 2016
Purchasing and procurement (including accounts payable)	July 2016

General activities of the Audit Committee

The following represents a summary against the Audit Committee Charter of matters discussed at the Committee meetings held during 2014-2015:

TASK	24/07/2014	23/10/2014	26/02/2015	28/05/2015
Receive presentations and reports from auditors				
Internal	√	√	√	√
External			√	√
Review implementation of internal and external audit recommendations	√	√	√	√
Review risk register actions and implementation	√	√	√	√
Review Fraud and corruption prevention plan			√	
Review Risk management framework			√	
Approve annual internal audit program			√	
Determine Audit Committee meeting schedule		√		√
Review Audit Committee's performance		√		

ITEM 7 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2014-2015.

TASK	24/07/2014	23/10/2014	26/02/2015	28/05/2015
Review Audit Committee Charter	√			
Review and approve the Audit Committee's annual report to Council		√		
Review annual financial statements		√		

Conclusion

The Committee looks forward to the opportunity to continue to provide input to Council's governance and audit processes over the coming year.

Recommendations:

- 1) Accept the Audit Committee 2014-2015 Annual Report as presented.

David Wheeler
CHAIR – AUDIT COMMITTEE

Communication method

- ✓ Post on myPort
 - ✓ Post on PSC website
 - Memo to section managers
 - Presentation to SLT
 - Snapshot article
 - All staff memo from General Manager
 - 2 way conversation with Councillors
 - Councillors weekly PS newsletter
 - ✓ Report to Council
 - Media release
 - Other
-

ITEM NO. 8

**FILE NO: PSC2015-01000V2/150
TRIM REF NO: PSC2015-03571**

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the *Local Government Act 1993* from the respective Mayor and Ward Funds to the following:-
 - a. Mayoral Funds – Nelson Bay Diggers Euchre Club – Donation for cards and supplies - \$250.
 - b. West Ward Funds – Rotary Club of Raymond Terrace – Donations towards costs of road closure training for volunteers - \$1860.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Morello Councillor Sally Dover</p> <p>That the recommendation be adopted.</p>
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**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

391	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the <i>Local Government Act 1993</i> from the respective Mayor and Ward Funds to the following:-</p> <ol style="list-style-type: none">a. Mayoral Funds – Nelson Bay Diggers Euchre Club – Donation for cards and supplies - \$250.b. West Ward Funds – Rotary Club of Raymond Terrace – Donations towards costs of road closure training for volunteers - \$1860.
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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

MINUTES ORDINARY COUNCIL - 8 DECEMBER 2015

funding. The Financial Assistance Policy gives Councillors a wide discretion either to grant or to refuse any requests.

The new Financial Assistance Policy provides the community and Councillors with a number of options when seeking financial assistance from Council. Those options being:

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

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the *Local Government Act 1993*. This would mean that the financial assistance would need to be included in the Management Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

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

WEST WARD – Councillors Jordan, Kafer & Le Mottee

Rotary Club of Raymond Terrace	Donations towards costs of road closure training for volunteers.	\$1860
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MAYORAL FUNDS – Mayor MacKenzie

Nelson Bay Diggers Euchre Club	Donation for cards and supplies.	\$250
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COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2014-2019
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

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	2,110	Within existing budget.
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	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor
- 2) Councillors
- 3) Port Stephens Community

OPTIONS

- 1) Accept 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. 9

**FILE NO: PSC2015-01000V2/143
TRIM REF NO: PSC2015-00381**

INFORMATION PAPERS

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT THAT COUNCIL:

RECEIVES AND NOTES THE INFORMATION PAPERS LISTED BELOW BEING PRESENTED TO COUNCIL ON 8 DECEMBER 2015.

NO:	REPORT TITLE	PAGE:
1	PETITION - REQUEST FOR THE SEALING OF EXISTING UNSEALED WESTERN SECTION OF CASWELL CRESCENT, TANILBA BAY	112
2	COASTAL CONFERENCE 2015 - FEEDBACK REPORT	115
3	LGNSW ANNUAL CONFERENCE 2015 FEEDBACK	117

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Morello Councillor Sally Dover That the recommendation be adopted.
392	Councillor Steve Tucker Councillor John Nell It was resolved that Council move out of Committee of the Whole.

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

393	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 8 December 2015.</p> <hr/> <p>No: Report Title</p> <p>1 PETITION - REQUEST FOR THE SEALING OF EXISTING UNSEALED WESTERN SECTION OF CASWELL CRESCENT, TANILBA BAY</p> <p>2 COASTAL CONFERENCE 2015 - FEEDBACK REPORT</p> <p>3 LGNSW ANNUAL CONFERENCE 2015 FEEDBACK</p>
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INFORMATION PAPERS

ITEM NO. 1

**FILE NO: PSC2015-01000V2/074
TRIM REF NO: PSC2015-03017**

PETITION - REQUEST FOR THE SEALING OF EXISTING UNSEALED WESTERN SECTION OF CASWELL CRESCENT, TANILBA BAY

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

BACKGROUND

The purpose of this information paper is to inform the Council that a request has been made via a petition with 30 signatures to seal the existing car park/western end of Caswell Crescent adjacent to Sunset Park, Tanilba Bay. Location shown in **(ATTACHMENT 1)**.

Council has a 10 year works program that prioritises future works including the sealing of gravel roads and car parks. These projects are prioritised based on criteria such as condition of the road, traffic counts, bus routes, but also the availability of grants. At the moment there are many worthy community projects and unfortunately the sealing of this car park does not rank high, hence is not programed in the foreseeable future. Until such time that this car park is sealed, Council will continue to regrade and maintain the unsealed car park to maintain road user safety.

The main contact for the petition will be contacted once this information paper has been presented to Council.

ATTACHMENTS

- 1) Petition and Location Map

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

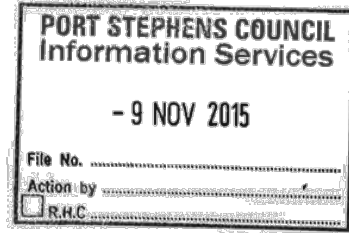
Nil.

9 Caswell Crescent
TANILBA BAY 2319

26th October, 2015

The General Manager
Port Stephens Council
P.O. Box 42
RAYMOND TERRACE 2324

Mayor Bruce McKenzie



Dear Sir, *Mayor McKenzie*

We the under-signed residents of the western sector of Caswell Crescent and the western sector of Admiralty Avenue, Tanilba Bay, humbly request Council to consider the sealing of the existing unsealed western section of Caswell Crescent adjacent to Sunset Park.

This request is predicated on the following observations/events during the past few years:

- The regular (but seasonal) westerly winds generate a significant and unacceptable dust flow for residents adjacent/nearby to the unsealed area.
- The regular "hoons" who use the area to test their vehicles thereby exacerbating the dust problem and creating a safety problem with their uninhibited practices.
- The growing popularity of the area as local residents improve the appearance of the reserve (two field days this year). In particular, we notice the popularity of the area for picnickers and fishers.
- The use of the area for funerals (two in the past 18 months) and weddings – trust we are not dobbing!!!!
- The use of the foreshore by kayakers and canoeists because of the ease of launching the vessels.
- The wonderful open and safe spaces which is a bonus for families with young children.
- The historical significance of the area (with its kilns) which attracts another demographic of visitors.
- The availability of water.

We acknowledge the work of Council in mowing the reserve and regularly clearing the refuse bin but the unsealed area is an eyesore and distracts from the beauty of a wonderful resource in our area and Port Stephens in general. We would believe that the installation of speed humps in the location would also be an advantage.

Name

Address



ITEM NO. 2

FILE NO: PSC2015-01000V2/057
TRIM REF NO: PSC2015-02692

COASTAL CONFERENCE 2015 - FEEDBACK REPORT

REPORT OF: JOHN NELL - COUNCILLOR
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to provide Council with feedback on the Coastal Conference 2015, held on 11 -13 November 2015 at Forster, which was attended by Cr John Nell.

The Conference, which attracts over 220 delegates each year, has been held for the past 23 years and has grown to become one of the most successful coastal industry events in Australia. The Conference provides for an exchange of ideas and experiences in Coastal Management, to assist local councils to find the most appropriate solution for Foreshore Protection. The Conference Organisers and Participants look forward to holding the 2017 Coastal Conference in Port Stephens.

The Bathymetry (the measurement of the depth of bodies of water) within the eastern parts of Port Stephens was discussed (see Attachment 1). The Outer Harbour is dominated by an extensive flood delta, stretching from the ocean entrance, westward to Corlette and Corrie Island. The delta is slowly migrating westward and changes the shape as well as the depth of outer harbour. A comparison of bathymetric surveys form 1969 and 2007, showed contrary to public opinion and casual observations that the flood delta is getting deeper allowing for increased erosion, caused by the impact of higher waves and swell on the Foreshore in Port Stephens, during storms.

The combination of a deepening outer harbour, combined with increasing storm activity may increase the future cost of foreshore rehabilitation and maintenance in the Bay. Thus, it is just as well, that Port Stephens and Great Lakes Councils are "Fit for the Future".

ATTACHMENTS

- 1) Exert from - Wainwright, D, Lord, D., Crawley, B. (2015). 40 years of change. Recent evolution of the Port Stephens Flood Delta. NSW Coastal Conference 2015, Program and Abstract Book, p. 97.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 EXERT FROM - WAINWRIGHT, D, LORD, D., CRAWLEY, B. (2015). 40 YEARS OF CHANGE. RECENT EVOLUTION OF THE PORT STEPHENS FLOOD DELTA. NSW COASTAL CONFERENCE 2015, PROGRAM AND ABSTRACT BOOK, P. 97.

40 years of change. Recent evolution of the Port Stephens Flood Tide Delta

D Wainwright¹, D Lord², B Crawley¹

¹Whitehead & Associates, Cardiff, NSW

²Coastal Environment, Newcastle, NSW

Bathymetry within the eastern parts of Port Stephens is dominated by an extensive flood tide delta, stretching from the ocean entrance, westward to Corlette and Corrie Island. The delta is slowly migrating westward and this slow, but incessant change to the form of the Port presents a series of ongoing and fluid challenges relating to managing the foreshore both to the north and south of the waterway.

This paper presents a comparison between two historical bathymetric surveys, from 1969 and 2007. The methods used have required consideration of the likely accuracy and resolution of the available survey information. Our comparison reveals a number of both broad scale and more localised trends of evolution that have relevance to locations around the foreshore that present contemporary challenges to the managing authorities.

The paper discusses the evolutionary mechanisms with particular reference to the findings of previous research. Recent management actions, the mechanisms leading to the challenges being addressed and a discussion of potential medium term future issues arising from the ongoing evolution are discussed within the paper.

ITEM NO. 3

**FILE NO: PSC2015-01000/835
TRIM REF NO: PSC2014-01404**

LGNSW ANNUAL CONFERENCE 2015 FEEDBACK

REPORT OF: PAUL LE MOTTEE - COUNCILLOR
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to provide feedback from the General Manager and Councillors that recently attended the Local Government NSW Annual Conference 2015, held on 11-13 October 2015 at Rosehill Gardens Racecourse, Rosehill.

The LGNSW Conference is an incredibly important conference as there are currently 152 Councils across New South Wales and the State Government could not reasonably be expected to consider individual submissions about changes to the Local Government Act or other legislation that impact upon the day to day running of a Council. Accordingly, it is paramount that Councils present a united front in terms of what they want changed and what they require funding to implement or maintain.

The format of the conference is similar to that of a Council meeting insofar as a business paper is prepared containing around 108 motions (in this instance). Each motion is put to the conference with many being supported without discussion but with many inciting lengthy and passionate debate. All but six of the motions were dealt with in the time available. Motions that aren't considered are subsequently dealt with by the board.

The business of the conference is broken into segments and each segment is separated by a key note speaker or a panel session or something similar. In this instance, the speakers included the Premier, Mr Mike Baird, and the Minister for Local Government as well as a panel session comprising Mr Shoebridge, the leader of the NSW Greens and the shadow minister for Local Government, Mr Peter Primrose.

Normally, it would be pertinent to summarise the business debated and pass on any wisdom gained by the speakers. However, as you would imagine, this particular LGNSW conference was dominated by talk of amalgamations and this had the effect of making all other business and topics pale into relative insignificance.

In terms of the primary topic of conversation, there is not much I can add other than to say it was clear to me that the NSW Governments is absolutely determined to reduce the number of Councils across NSW and I truly believe that an independent observer at the LGNSW conference would totally agree with the Government once they'd heard the carry on from many delegates. At times the debate became utterly farcical.

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On a positive note, I find this particular annual conference invaluable (most years) in terms of providing a united front to the NSW Government, meeting and learning from Councillors from adjoining Councils and other areas of the state and in terms of learning and being inspired by key note speakers.

Awards are given out at this conference to Councillors who have done things of note or for serving great lengths of time. When you hear of the level of service or length of service some Councillors have given to their community you can't help but to be inspired and I would feel honoured to feel that I had half the level of respect the award recipients command. I have no input into the awards; they are handled by a subcommittee of the main committee. However, I would like to take this opportunity to name a few of the Councillors from our sphere of operations that consistently impress me with not just their attendance at these conferences but their input into them and the genuine sense of caring that you get when you hear them speak.

These Councillors, in no particular order, include:

Bob Pynsent	Mayor of Cessnock
Chad Griffith	Lake Macquarie
Peter Blackmore	Mayor Maitland
Len Roberts	Great Lakes

Those Councillors together with our own Mayor, Bruce Mackenzie, and Steve Tucker who are both stalwarts at the LGNSW are an eclectic mix of differing political allegiances and different vocations that share that singularly most important trait of really caring about their communities and tend to get on with the job of helping rather than scoring political points. I realise of course that there are hundreds and hundreds of other Councillors across the state that also fit that description but those named above have stood out to me and I thank them for the caring, their sharing of knowledge and their mentoring.

I urge all current and future Councillors to attend the LGNSW conference in future. If you attend no other, you will still have done the institution of Local Government a huge favour by attending.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

CONFIDENTIAL ITEMS

In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 8 DECEMBER 2015 MOTION

394	Councillor Ken Jordan Councillor Steve Tucker It was resolved that Council Move into confidential session.
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CONFIDENTIAL

ITEM NO. 1

**FILE NO: PSC2015-00378/178
TRIM REF NO: PSC2015-03385**

PURCHASE OF 15 HORACE STREET, SHOAL BAY

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

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

395	<p>Mayor Bruce MacKenzie Councillor Sally Dover</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Approves the purchase of Lot 9 Section F Deposited Plan 9686, 15 Horace Street, Shoal Bay as detailed in the report.2) Authorises the Mayor and General Manager to sign and affix the Seal of Council to all relevant documents.3) Upon acquisition, resolves to classify Lot 9 Section F Deposited Plan 9686 as Operational Land in accordance with the Local Government Act 1993 No. 30, Section 31, subsection (2).
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CONFIDENTIAL

ITEM NO. 2

**FILE NO: PSC2015-00378/182
TRIM REF NO: PSC2015-03410**

PROPOSED ACQUISITION OF EASEMENT - 653 MEDOWIE ROAD, MEDOWIE

**REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES**

**ORDINARY COUNCIL MEETING - 8 DECEMBER 2015
MOTION**

	This item was withdrawn from the agenda.
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**ORDINARY COUNCIL MEETING – 8 DECEMBER 2015
MOTION**

396	Councillor Ken Jordan Councillor Steve Tucker It was resolved that Council Move out of confidential session.
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Councillor Paul Le Mottee returned to the Open Council meeting at 7.03pm, prior to the confidential session.

There being no further business the meeting closed at 7.05pm.