

SHOALHAVEN CITY COUNCIL
ORDINARY MEETING

To be held on Tuesday, 24th March, 2009
Commencing at 4.00 pm

18th March, 2009

Councillors,

NOTICE OF MEETING

You are hereby requested to attend the Ordinary Meeting of the Council of the City of Shoalhaven, **to be held in the Council Chambers, City Administrative Centre, Bridge Road, Nowra on Tuesday, 24th March, 2009 commencing at 4.00 pm** for consideration of the following business.

R D Pigg
General Manager

Membership
All Councillors

BUSINESS OF MEETING

PRAYER: Major Garry Craig – Nowra Salvation Army

1. **Australian National Anthem**
2. **Apologies**
3. **Confirmation of Minutes**
Ordinary Meeting – 10th March, 2009
4. **Presentation of Petitions**
5. **Mayoral Minute**
6. **Deputations**
7. **Report of the General Manager**
Report of the Special Development Committee – 17th March, 2009
Report of the Shoalhaven Water Operations & Strategic Review Committee – 17th March, 2009
Report of the Works & Finance Committee – 17th March, 2009
Report of the Shoalhaven Arts Board – 11th March, 2009
8. **Report of the Shoalhaven Traffic Committee – 17th March, 2009**
9. **Report of the General Manager**
Finance & Corporate Services
City Services & Operations
Strategic Planning & Infrastructure
10. **Notices of Motion**
11. **Addendum Reports**

Note: The attention of Councillors is drawn to Section 451 of the Local Government Act and Regulations and Code of Conduct regarding the requirements to declare pecuniary and non-pecuniary Interest in matters before Council.

Cell Phones:

Council's Code of Meeting Practice states that "All cell phones are to be turned off for the duration of the meeting".

LOCAL GOVERNMENT ACT 1993

Chapter 3

Section 8(1) - The Council's Charter

(1) The council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- to exercise community leadership
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism
- to promote and to provide and plan for the needs of children
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
- to keep the local community and the State government (and through it, the wider community) informed about its activities
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected
- to be a responsible employer.

Australian National Anthem

"Advance Australia Fair"

Australians all let us rejoice
For we are young and free
We've golden soil and wealth for toil,
Our home is girt by sea:
Our land abounds in nature's gifts
Of beauty rich and rare,
In history's page let every stage
Advance Australia fair,
In joyful strains then let us sing
Advance Australia fair.

Beneath our radiant Southern Cross,
We'll toil with hearts and hands,
To make this Commonwealth of ours
Renowned of all the lands,
For those who've come across the seas
We've boundless plains to share,
With courage let us all combine
To Advance Australia fair.
In joyful strains then let us sing,
Advance Australia fair.

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MAYORAL MINUTE
ORDINARY MEETING
TUESDAY, 24TH MARCH, 2009

1. Australian Coastal Councils Conference

File 3444

- # The National Sea Change Taskforce Executive Officer, Mr Alan Stokes has provided a full report on this conference – see attachments.

The summary in his report states –

“The Australian Coastal Councils Conference was convened by the National Sea Change Taskforce and the City of Mandurah to provide an update on key issues affecting coastal councils. It was held at the Mandurah Performing Arts Centre, in Western Australian, on 3rd and 4th March, 2009.

Australia’s coastal councils face significant challenges in dealing with the impact of rapid population growth and the potential impact of climate change. The conference provided coastal planners, managers and decision makers with insights into the key issues facing the nation’s coastal communities and explored policy initiatives and strategies to address the environmental, social and economic impact of the sea change phenomenon.

The conference was organised by the National Sea Change Taskforce with major input from the Australian Department of Climate Change, the Australian Department of Infrastructure, Transport, Regional Development and Local Government and the West Australian Department for Planning and Infrastructure. The event featured the launch of the initial phase of the Australian Coastal Alliance, which is being established as an interface between coastal planners and managers and members of the research community with a focus on coastal research. The conference also provided an opportunity to identify coastal research priorities and the key issues to be included in a submission to a House of Representatives Standing Committee Inquiry on the effects of the global financial crisis on regional communities. Key presenters at the conference included –

- *The Hon Gary Gray AO MP, Parliamentary Secretary for Regional Development and Northern Australia.*
- *Andrew Beatty – partner and environmental lawyer, Baker & McKenzie*
- *Lalage Cherry – Assistant Director, Coastal Adaptation, Australian Government Department of Climate Change*
- *Andrew Howe – Senior Demographer, Australian Bureau of Statistics*
- *Eric Lumsden, Director General, West Australian Department for Planning and Infrastructure*
- *Dr Kathy McInnes – CSIRO’s Climate Adaptation Flagship*
- *Mark Newman – CEO, City of Mandurah*
- *Paul Rosair – Director Major Regional Projects, WA Department of Local Government and Regional Development.”*

There are many key issues that our Council delegates have taken away from the conference.

The sessions about Climate Change were particularly relevant for our Natural Resources & Floodplain Management Committees and the Climate Change Working Group.

Sessions about population and demographic changes and the impact of the global financial crisis on coastal Councils are particularly relevant for the IDAC and our land use planning needs, as determined in the City Growth Management Strategy and the LEP.

The conference was extremely beneficial and highlighted the challenges all coastal councils are facing across the nation.

Councils have a legal responsibility to consider impacts of climate change when considering planning matters and development applications and, in doing so, it is absolutely necessary to keep abreast of this issue as new research findings and government policy directions are disclosed.

It was also a pleasure to meet with the General Manager of the Mandurah Performing Arts Centre and to get an insight into their management structure and business planning. This centre is in an enviable location on the waterfront and it was interesting to find out that the Western Australian State Government built the centre and then transferred it to the local Mandurah City Council to own and operate.

I thank Council for the opportunity to attend this conference and recommend it to other Councillors when the next conference is convened.

RECOMMENDED that the Mayoral Minute on the Australian Coastal Councils Conference held in Mandurah on 3rd and 4th March, 2009, be received for information.

2. Ulladulla Leisure Centre - 50 metre Outdoor Pool File 7830-03

I have received a petition signed by 1,535 signatories which I will present to Council.

This petition is seeking Council consideration to include in its next Budget the solar heating of the 50 metre outdoor pool at the Ulladulla Leisure Centre. The petitioners state "that solar heating the pool will significantly extend the effective swimming season to the wonderful but currently under-utilized facility and heating the pool will bring the southern Shoalhaven into line with the northern Shoalhaven community which has had the benefit of a heating outdoor 50 metre pool at Bomaderry for some years".

RECOMMENDED that the General Manager (Director, City Services & Operations) report to a future meeting of the Crown Reserves & Operations Committee on all costs involved in solar heating the 50 metre outdoor pool at the Ulladulla Leisure Centre.

3. Shoalhaven Kokoda Experience - 2009

File 39265

Following the success of the Shoalhaven Kokoda experience, 2008 co-ordinated by the Shoalhaven Area Consultative Committee, it is proposed that twenty young people from the Shoalhaven, together with ten local mentors, will travel to Papua New Guinea for 10 days to walk the Kokoda Track and visit the high school at Sogeri. The group will leave the Shoalhaven on 3rd October, 2009 and the excursion will take place in the school holidays.

Shoalhaven City Council is acting as the major co-ordinating body for the 2009 project with a Steering Committee that includes representatives from HMAS Albatross, Rural Fire Service, Caresouth, Student workplace Learning Program, Nowra and Ulladulla High Schools. As co-ordinators of the project Council will accept and distribute sponsorship funds, provide public liability cover for project activities in Australia and organise a final celebration by participants, families and sponsors, with the Mayor presenting Certificates of Achievement.

The group will consist of a mix of youth leaders, students and Indigenous young people. They will be accompanied in PNG by experienced bush walkers, local carriers and Shoalhaven community leaders. Some of these support personnel will come from the education sector and the Defence Force, and it is planned that they should include a paramedic, a pharmacist or a doctor.

I have been invited to participate in the Shoalhaven Kokoda Experience as one of 10 mentors and it is my wish to join this group in what I believe will be a very challenging experience and one that can only enhance leadership skills and teamwork ability. My experience in working with Shoalhaven youth and my nursing background is considered to be beneficial to the mentoring programme. The group will have a satellite phone to report back daily to local media on their trek progress.

Interested Councillors are invited to apply to become a mentor on the Shoalhaven Kokoda experience.

RECOMMENDED that

- i) **Council authorise the Mayor to participate as a member of the Shoalhaven Kokoda Experience, 2009, as representative of the City, meeting all his personal travel costs.**
- ii) **Interested Councillors wishing to participate and accepted as a mentor on the Shoalhaven Kokoda experience, to meet own personal travel expenses.**

4. **Shoalhaven Cancer Care Centre (LINAC)**

File 27900

The fundraising efforts of the Shoalhaven City and Shoalhaven Lions Linear Accelerator and Cancer Treatment Fundraising Committee has reached a total of \$800,000 and at the last meeting of the Committee held on 19th March, 2009 it was resolved that the Committee would continue in its efforts to build a Shoalhaven Cancer Care Centre which would be held in trust for the community.

The actual running of the Centre, be it public or private would be an issue for the future but the Committee is keen that a site be established, a concept plan drawn up and a detailed business plan prepared.

Council has been extremely supportive of the need for a Cancer Care Centre in Shoalhaven and on 21st October, 2008 reaffirmed its commitment to securing a Cancer Care Centre and Linear Accelerator and pledged its continuing financial and in-kind support as appropriate.

RECOMMENDED that the General Manager (Director Strategic Planning Group) take all necessary action to identify appropriate sites in the near vicinity of the Shoalhaven District Memorial Hospital for the establishment of Shoalhaven Cancer Care Centre.

A handwritten signature in blue ink, appearing to read 'Paul Green', with a long horizontal flourish extending to the right.

Paul Green
Mayor

SECOND MAYORAL MINUTE

ORDINARY MEETING

TUESDAY, 24TH MARCH, 2009

1. Local Government Superannuation Scheme

File 1984

Councillors may be aware that the Local Government Superannuation Scheme (LGSS) has recently advised Councils in NSW that due to continuing poor performance of the share market and worldwide credit markets, the contribution made by Council's to the Defined Benefits Scheme administered by LGSS will need to dramatically increase to cover a projected shortfall in the Scheme as calculated by the schemes actuary. The shortfall has been calculated at \$500 million, and the Board of LGSS has decided to recoup this shortfall over a period of 5 years.

The effect of this decision on Shoalhaven City Council is dramatic as although the Defined Benefits Scheme was discontinued in 1993, Council still has 215 employees who are members of this scheme. The additional contributions required by LGSS are calculated to be \$2.7 million per annum for Shoalhaven City Council which will of course mean a tremendous strain on Council's budget over the next 5 years.

What makes this increase puzzling is the fact that between 1999 and 2005 the LGSS gave Councils in NSW a "superannuation holiday" due to the fact that they had calculated that the contributions previously made by NSW Councils were far in excess of what was needed to cover the projected liabilities of the scheme. During this period Shoalhaven City Council were not required to pay over \$10 million in superannuation contributions for members of the Defined Benefits Scheme, funds which were spent by Council during this period on infrastructure projects.

I believe that Council needs to make the strongest possible representations to the Board of the Local Government Superannuation Scheme and the Minister for Local Government in regard to this issue in an attempt to mitigate the massive increase in superannuation contributions which I understand that Council statutorily is obliged to make on behalf of its employees.

RECOMMENDED that

- a) The General Manager make urgent strong representations to both the Board of the Local Government Superannuation Scheme and the Minister for Local Government in regard to the massive increase in superannuation contributions to be levied on NSW Councils**
- b) The General Manager investigate possible strategies that could be pursued to reduce the burden on Council of paying these increases**
- c) The matter of increased superannuation contributions is further considered by Council as part of the 2009/10 Draft Management Plan deliberations.**

A handwritten signature in blue ink, appearing to read 'Paul Green', with a long horizontal flourish extending to the right.

Paul Green,
Mayor

REPORT OF GENERAL MANAGER

ORDINARY MEETING

TUESDAY, 24TH MARCH 2009

GENERAL MANAGER COMMITTEES

SPECIAL DEVELOPMENT COMMITTEE – TUESDAY 17TH MARCH 2009

Development and Environmental Services

1. Section 82A Review of Refusal to allow the Shoalhaven Heads Hotel to operate a weekly local fresh produce fair – 51 River Road, Shoalhaven Heads – Lot 11 DP 532057. Applicant: Cowman Stoddart on behalf of The Heads Hotel/Motel Pty Ltd. Owner: The Heads Hotel/Motel Pty Ltd File RD09/1000, DS08/1561 & DA06/2915

RECOMMENDED that the confidential report of the General Manager (Development & Environmental Services) regarding Section 82A Review of Refusal to allow the Shoalhaven Heads Hotel to operate a weekly local fresh produce fair be received for information.

2. Section 82A review of refusal to allow the Shoalhaven Heads Hotel to operate a weekly local fresh produce fair - 51 River Road, Shoalhaven Heads - Lot 11 DP 532057. Applicant: Cowman Stoddart on behalf of The Heads Hotel/Motel Pty Ltd. Owner: The Heads Hotel/Motel Pty Ltd. File RD09/1000, DS08/1561, DA06/2915 (PDR)

RECOMMENDED that in respect to S82A Review Application RD09/1000 Council;

- a) Adopt the general approach outlined in Option 4 in the Report of the General Manager (Development and Environmental Services) and invite the applicant to amend their S82A application such that Condition 3 of the subject consent be amended to seek an additional 5 year approval period.
- b) The subsequent Section 82A application be determined under delegated authority.

Strategic Planning and Infrastructure

3. Heritage Estates - Environment Protection & Biodiversity Conservation Act Decision - EPBC 2007/3448 File 1446-10

RECOMMENDED that:

- a) Council acknowledge the refusal of the Heritage Estates rezoning proposal under the EPBC Act by the Federal Minister for the Environment on 13th March 2009.
- b) Council urgently seek discussions with the Commonwealth Director of National Parks and the NSW Department of Environment and Climate Change (DECC) to discuss the option of Government acquisition of the Heritage Estates.

General Business

4. Additional Item – Quorum and Membership File 1753

RECOMMENDED that Council

- a) Adjust the Development Committee's Quorum to five (5) members, and
- b) The General Manager be added as a member.

SHOALHAVEN WATER OPERATIONS AND STRATEGIC REVIEW COMMITTEE – TUESDAY 17TH MARCH 2009

Shoalhaven Water

5. Payment of Dividend from Shoalhaven Water File 32701

RECOMMENDED that Council determines that "substantial compliance" of the criteria in the Best Practice Management Guidelines has been achieved and a dividend will be paid from the Sewer Fund to the General Fund for the 2007/2008 budget year.

6. Currarong Sewerage Scheme Tender - On Property Design and Installation of a Pressure Sewer System File 38379

RECOMMENDED that:

- a) Council accept the tender from McNamee Constructions Pty Ltd for the assessed tender amount of \$1,185,400 (including GST)
- b) Council resolve to complete the tender contract documents under the Seal of Council, otherwise authorise the General Manager to sign all documents necessary
- c) Council authorise the General Manager (Shoalhaven Water) to adjust the contract for variations for components under the contract.

7. New South Wales Triple Bottom Line (TBL) Performance Comparisons Water Supply and Sewerage File 28864-03

RECOMMENDED that the report of the General Manager (Shoalhaven Water) regarding New South Wales Triple Bottom Line (TBL) Performance Comparisons Water Supply and Sewerage be received for information.

8. Milton/Ulladulla Sewerage Augmentation Stage 1b Tender - Upgrade of Sewage Pumping Stations File 32230-02

RECOMMENDED that Council:

- a) Accept the tender from McNamee Constructions Pty Ltd for the assessed tender amount of \$2,052,475.00 (including GST)

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- b) Resolve to complete the tender contract documents under the Seal of Council, otherwise authorise the General Manager to sign all documents necessary
 - c) Authorise the General Manager (Shoalhaven Water) to adjust the contract for variations for components under the contract.

9. Review of Shoalhaven Water Group Policies - Water and Sewerage Headworks Charges - Section 64 Contributions for Industrial Development File 12039, 27448

RECOMMENDED that Council

- a) Rescind the Water and Sewerage Headworks Charges – Section 64 Charges for Industrial Development policy,
- b) Refer the matter of promotion of small to medium enterprises in the City area to the Industrial Development Advisory Committee (IDAC).

10. Storage and Equipment Facility - Tender Recommendation File 35004

Clr Bennett declared his pecuniary interest in the matter being his business tendered for this development and left the room and did not take part in discussion or vote on this matter.

RECOMMENDED that Council:

- a) Accept the tender from Ablock Builders Pty Ltd for the adjusted tender amount of \$922,611.00 (excluding GST).
- b) Resolve to complete the tender contract documents under the Seal of Council, if necessary, otherwise authorise the General Manager to sign all documents necessary.
- c) Authorise the General Manager (Shoalhaven Water) to adjust the contract for variations for components under the contract.

11. Local Approvals Policy - Water Hydrant Standpipe Extraction File 17457

RECOMMENDED that:

- a) The Local Approvals Policy for “Water Hydrant Standpipe Extraction” be publicly exhibited in accordance with Section 160 of the Local Government Act.
- b) Should Council receive no submissions in relation to the public exhibition, the Policy be adopted as exhibited.
- c) Should Council receive submissions of a significant nature in relation to the public exhibition, a further report be placed before Council.

General Business

12. Additional Item – Notice of Inspection of Septic Tanks File

RECOMMENDED that if it is possible the General Manager (Shoalhaven Water) not proceed with inspections of septic tanks in Currarong area.

WORKS AND FINANCE COMMITTEE – TUESDAY 17TH MARCH 2009

Finance and Corporate Services

13. Establishment of a Tourism Information Facility, Sussex Inlet File 38946

RECOMMENDED that Shoalhaven City Council continue the arrangement with the Sussex Tackle Shop with the running of a Supplementary Visitors Centre within the premises, to the benefit of both parties.

14. Review of Finance and Corporate Services Group Policies File 27448-03

RECOMMENDED that Council adopt the following policies with proposed minor amendments as detailed in the report:

- a) Sick Leave - Payment of Untaken Sick Leave to Council Staff (File 3781)
- b) Mayors Relief Fund Rules (File 3926.03)
- c) Council Meetings - Staff Pecuniary Interests – Reports to Council (File 4063-02)
- d) Staff Gratuities Policy (File 30999)

City Services and Operations

15. 15th Biennial NSW Weeds Conference, Narrabri, 15 to 17 September 2009
File 8252, 1927-03

RECOMMENDED that interested Councillors be authorised to attend the 15th Biennial NSW Weeds Conference which will be regarded as business of Council.

16. Review of Waste Services Section Policies File 2828-03 & 9794-02

RECOMMENDED that Council reaffirm the following policies without changes:

- a) No Charge Tipping of Storm Damaged Materials at Waste Depots
- b) No Charge Tipping Vouchers.

Strategic Planning and Infrastructure

17. Crown Land to be Dedicated as Road and Transferred to Council at Conjola Park File 7438-03

RECOMMENDED that Council agree to transfer of Lot 492 DP1091958, following dedication as road, to Council under Section 151 of the Roads Act 1993.

18. RTA Funding – Lake Tabourie Cycleway File 3611

RECOMMENDED that: Council accept the grant offer from the RTA of \$152,530.50 for the Lake Tabourie Cycleway

19. Fishermans Paradise - Community Meeting Space File 9155

RECOMMENDED that:

- a) Council agree in principle that there is a need for a public meeting space at Fishermans Paradise and that construction of a room adjacent to the Fishermans Paradise Fire Brigade Hall be the preferred option.
- b) Council endorse an application being submitted for a grant of \$50,000 from the NSW Governments Community Hall Renewal Fund
- c) If Council's grant application is successful, consideration be given to the provision of matching funds up to \$25,000.

20. Acquisition of Easement for Drainage of Water over Lot 2 DP23970, 26 Thomas Street, Milton File 38593

RECOMMENDED that:

- a) Council resolve to acquire an easement for drainage of water 2.44m wide over Lot 2 DP23970 shown on the sketch plan for the sum of \$3,000 plus GST if applicable.
- b) The compensation payable and acquisition costs including all survey, valuation and legal costs in accordance with the Land Acquisition (Just Terms Compensation) Act, 1991 to be funded from Job No. 86507.
- c) The Common Seal of the Council of the City of Shoalhaven is affixed to any documents required to be sealed and that otherwise the General Manager is authorised to sign any documentation necessary to give effect to this resolution.

21. Smoke Free Bus Shelters File 27813, 25442

RECOMMENDED that:

- a) Council place standard (non enforceable) non-smoking stickers on all bus and taxi shelters throughout the City at a cost of approximately \$1,000
- b) The cost of stickers be funded from existing operating budgets

-
- c) The Shoalhaven Transport Working Group provide regular feedback on the effectiveness of these measures
 - d) The General Manager (Strategic Planning & Infrastructure) submit a report on the feasibility of prohibiting smoking on Council beaches and playgrounds

Development and Environmental Services

22. Development Application Fees Staged Development Applications - Application for reconsideration of percentage of fees for concept stage application - Lot 621 DP 804355. Applicant: Mollymook Golf Club. File DA09/1097 PDR
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Clr Watson declared his non-pecuniary interest in the matter being that he is an honorary member of the Mollymook Golf Club.

RECOMMENDED that Council accede to the request from the Mollymook Golf Club and reduce the fees for the concept application to 25% and defer recovery of the remainder of the fees (75%) to future applications to build stages of the development.

Strategic Planning and Infrastructure / Finance and Corporate Services

23. NSW Environmental Trust Restoration and Rehabilitation Grant - Successful Application File 17261, 21763-03
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RECOMMENDED that

- a) The report on expenditure of the Environmental Trust Grant be received for information;
- b) Council support the allocation of \$25,000 of the \$97,000 grant funds to the EEC Mapping project for 2009/2010 financial year (Job # 15828); and
- c) Council allocate \$25,000 in 2009/2010 budget for EEC Mapping to match the grant allocation of \$25,000.

Strategic Planning and Infrastructure / City Services and Operations

24. Baseball field in the Northern Shoalhaven File 38917
-

RECOMMENDED that

- a) Council endorse that the sport of baseball be catered for in the detailed design of the extension to the South Nowra Soccer Ground, Ison Park, to satisfy the short and medium term needs of the sport; and
- b) In the longer term, the need for additional baseball facilities be incorporated into the future Lyrebird Sports Park masterplan.

25. Stormwater Management at Harry Sawkins Park

File 19244 & 3528-03

RECOMMENDED that:

- a) Council accept a grant from the Southern Rivers Catchment Management Authority (SCRMA) to the value of \$36,000 to fund the installation of urban stormwater quality devices (Floating Islands), at Harry Sawkins Park and authorise the General Manager to sign the funding contract between SRCMA and Council;
- b) That the grant be managed by the Natural Resources and Floodplain Unit under the existing Strategic Stormwater Catchment Analysis Program (Job No 75612); and
- c) That appropriate monitoring of the "Floating Islands" stormwater management method be undertaken to look at the future feasibility of implementation in other locations.

26. NSW Maritime Infrastructure Program

File 12624-03, 37168

RECOMMENDED that:

- a) The grant offer of \$100,000 from the 2008/09 Maritime Infrastructure Program for the construction of the Greenwell Point Boat launching ramp, pontoon and carpark be accepted and expenditure voted and authorised.
- b) Matching funds of \$100,000 be provided from strategic reserves.
- c) Council write to the Minister for Ports and Waterways Joe Tripodi and thank him for the grant offer.

Strategic Planning and Infrastructure / Shoalhaven Water

27. Acquisition of Easement for Water Supply over Lot 2 DP850551 at Nowra Hill

File 38668

RECOMMENDED that:

- a) Council resolve to acquire an Easement for Water Supply 8 metres wide over Lot 2 DP850551, 382 BTU Road, Nowra Hill over the route shown on the sketch plan for the sum of \$2,500 plus GST if applicable.
- b) The compensation payable and acquisition costs including all survey, valuation and legal costs in accordance with the Land Acquisition (Just Terms Compensation) Act, 1991 be funded from Shoalhaven Water's – Water Supply Operations Fund 78227.16650.
- c) The Common Seal of the Council of the City of Shoalhaven is affixed to any documents required to be sealed and that otherwise the General Manager is authorised to sign any documentation necessary to give effect to this resolution.

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28. Acquisition of Easement for Sewer Rising Main over Lot 26 DP841287 Tartarian Crescent, Bomaderry File 38996

RECOMMENDED that

- a) Council resolve to acquire an Easement for Sewer Rising Main 4 metres wide over Lot 26 DP841287 Tartarian Crescent, Bomaderry shown hatched on the attached plan for the sum of \$1,350, plus GST (if applicable).
- b) The compensation payable and acquisition costs including all survey, valuation and legal costs in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 be funded from Shoalhaven Water's Waste Water Operation Fund (Job No.79322.16650).
- c) The Common Seal of the Council of the City of Shoalhaven is affixed to any documents required to be sealed and that otherwise the General Manager is authorised to sign any documentation necessary to give effect to this resolution.

29. Additional Item – Shoalhaven Entertainment Centre Conference Promotion File 39172

RECOMMENDED that

- a) A submission be made to the NSW Local Government Association to hold the 2011 Local Government Conference at the Shoalhaven Entertainment Centre.
- b) Seek to host the Seachange Taskforce Annual Convention at the Shoalhaven Entertainment Centre.
- c) A sub committee be formed consisting of Clr Ward – Chairperson, Clr Green, Clr Proudfoot, Clr Bennett, Clr Fergusson, Tourism Manager and Shoalhaven Entertainment Centre Manager to progress action to secure these events.

30. Additional Item - Quorum and Membership - Works and Finance Committee File 1753

RECOMMENDED that

- a) The Quorum for the Works and Finance Committee be five (5) and
- b) The General Manager be a member

SHOALHAVEN ARTS BOARD – WEDNESDAY 11TH MARCH 2009

City Services and Operations

31. Arts Cultural Foundations File 38139

RECOMMENDED that;

- a) A report be presented to the SAB looking at an appropriate model for achieving gift recipient status,

-
- b) This report is to take into account the SAB's wish to achieve receipt of gifts, bequests and donations in a tax deductible manner,
 - c) This report be provided with a view to benefit and foster the arts in the Shoalhaven

32. Strategic Plan for the Arts in Shoalhaven File 29691

RECOMMENDED that:

- a) The Shoalhaven Arts Board include an additional line item of \$33,000 in its 2009/2010 budget towards the Strategic Plan for the Arts,
- b) A 'Strategic Arts Plan' Steering Committee be formed with the delegated task of preparing a brief and engaging a consultant to commence the planning process. The Steering Committee be coordinated by the Arts and Events Manager and to include both Arts Board members and selected Shoalhaven City Council staff (with knowledge of correlating 'City' business plans and visioning),
- c) Two Shoalhaven Arts Board committee members with experience in strategic planning be selected at the next Shoalhaven Arts Board meeting to represent the Shoalhaven Arts Board on the steering committee.

33. Public Meeting File 29691

RECOMMENDED that the Shoalhaven Arts Board hold the public forum required by the Shoalhaven Arts Board Guidelines as part of the Arts Strategic Plan consultation process with the date to be confirmed following appointment of the consultant.

34. Arts Awards File 38976

RECOMMENDED that the report of the General Manager (City Services and Operations) concerning 2008/2009 Arts Awards be:

- a) That the Shoalhaven Arts Board Arts Award be held early 2010 and be a standing event similar to option 3 of the report,
- b) An Arts Award sub-committee be formed to determine the style of the event, ticket price and select the award criteria,
- c) The Committee consist of Clr Brumerskyj, Clr Soames, Ms Dickerson and Mr Windsor with options to co-opt other members as required,
- d) A further report be presented back to the Shoalhaven Arts Board in June on the options,
- e) The 2008/2009 funding of \$5,150 (Job Number 21580/10722) be carried over into 2009/2010 Arts Board budget.

35. Vacant Position - Community Member File 2123-16

RECOMMENDED that:

- a) Jill Farrar and Les Crosby be accepted on to the Shoalhaven Arts Board as Community Members,

-
- b) Unsuccessful applicants be advised and thanked for their commitment to the arts in the Shoalhaven,
 - c) An induction date for the new members be set by the Arts and Events Manager, prior to the next Shoalhaven Arts Board Meeting.

36. Additional Item - Shoalhaven City Concert Band File 2968-02

RECOMMENDED that Council investigate the installation of ceiling fans into the Annex Building of the Nowra School of Arts and the report be presented back to the Works and Finance Committee.

37. Art Collection Policy File 18106-02

RECOMMENDED that the Shoalhaven Arts Board consider the revised Art Collection Policy and forward suggestions and recommended amendments to the Arts and Events Manager by the end of March prior to submissions to Council.

38. Friends of the Entertainment Centre File 35525

RECOMMENDED that the Shoalhaven Arts Board present information on the benefits and costs of establishing and maintaining a 'friends' committee to the Shoalhaven Entertainment Centre Advisory Committee for their consideration.

39. Emerging Artist Focus Group File 39360

RECOMMENDED that

- a) Council calls for nominations from interested Community members to form a Shoalhaven Performing Arts Development focus group,
- b) A subcommittee consisting of Director of City Services and Operations Bill Paterson, Clr Brumerskyj, Arts and Events Manager Rachael French and community Member Libby Ryder be formed to consider the applications for positions on the focus group;
- c) A report from the subcommittee be submitted to the Board for approval

40. Shoalhaven Arts Board Budget File 2123-16

RECOMMENDED that the 2009/2010 Shoalhaven Arts Board Budget be amended as follows:

- a) Line item 4, 8 and 9 be relocated to the Art Centres operational budget
- b) Arts Purchases - Line item 5 for 2008/2009 roll over for 2009/2010
- c) Arts Awards - Line item 1 for 2008/2009 roll over for 2009/2010
- d) An additional line item is requested of \$33,000 for the purpose of undertaking the Arts Strategic Plan,
- e) A further report be presented to the Shoalhaven Arts Board on 2008/2009 unexpended / uncommitted funds.

General Business

41. Additional Item - Community Television Working Party File 39394, 2123-16

RECOMMENDED that

- a) Shoalhaven Arts Board accepts a Community TV Working Party as a Sub Committee,
- b) The Sub Committee/Working Party founding members consist of Clr Watson, Clr Green, John Anderson, Garry Norsworthy, Ben Moore, Michelle Knapp, Michael Wayne.
- c) Council seek expressions of interest from the community who are independent of Council, to further the membership and strength of the sub committee/working party in addition to the founding members

42. Additional Item – Shoalhaven Arts Board Awards TAFE Illawarra File 2123-16

RECOMMENDED that

- a) The Shoalhaven Arts Board allocate funds from the Arts Support fund to provide two Shoalhaven Arts Board awards to TAFE Illawarra, to the amount of \$200,
- b) A report to be provided to the Shoalhaven Arts Board on the successful students.

R.D Pigg
GENERAL MANAGER

SHOALHAVEN TRAFFIC COMMITTEE - TUESDAY 17TH MARCH 2009

ORDINARY MEETING

TUESDAY, 24TH MARCH 2009

REPORT OF THE CONVENOR

ITEMS FOR APPROVAL UNDER DELEGATED AUTHORITY

43. Temporary Road Closure - Princes Highway, Ulladulla - Ulladulla Blessing of the Fleet Festival (PN 594) File 1639-02
-

RECOMMENDED that the General Manager (Director Strategic Planning and Infrastructure) be requested to advise the Milton-Ulladulla Rotary Club that there is no objection to the proposal to conduct the Ulladulla Blessing of the Fleet Parade and associated temporary road closures Easter Sunday (12th April 2009) subject to the following conditions:

- a) Police Department consent and conditions. This consent to be obtained directly from the Police Department by the applicant a minimum of six (6) weeks prior to the event.
- b) As the proposed event is to be held on a State Highway, the applicant must obtain a Road Occupancy Licence (ROL) from the Roads & Traffic Authority and must comply with all conditions of the ROL. A Road Occupancy Licence can be obtained from the Roads & Traffic Authority (Southern Region) – contact the Traffic Operations Unit on ph. (02) 4221 2460.
- c) All residents/shopkeepers who may be affected by the activity being personally notified by the organisers. The organisers shall address any concern expressed with respect of the proposed closure/traffic disruption in the first instance.
- d) All bus operators, taxi companies and emergency service providers (including ambulance and fire fighting services) that may be affected by the activity being personally notified by the organisers.
- e) Submission of a Traffic Management Plan (including Traffic Control Plan and Pedestrian Management Control Plan) to Council for approval. All traffic/pedestrian control measures contained in the plan(s) are to be in accordance with Australian Standard AS1742.3 and current RTA Traffic Control at Worksites Manual. The plans must be prepared by a person that has undertaken the appropriate RTA training in preparation of the submitted Traffic Control Plans and the plan must show clearly the details of the person authorising the plan (with copy of RTA certification clearly showing the certificate number and details of the person ie photograph and expiry date to be attached). The Traffic management plans (*including traffic and pedestrian control plans) are to be submitted to Council a minimum of three (3) weeks prior to the date of commencement of works.

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- f) All traffic control including the placement and removal of barricades and/or regulation of traffic is to be carried out by either Police or Traffic Controllers appropriately trained in accordance with the requirements of AS1742.3.
 - g) Access for residences and businesses contained within the affected area (including reasonable vehicular / pedestrian access), is to be maintained at all times during the event.
 - h) Advertisement of the temporary road closure and/or traffic disruption together with associated traffic management proposals is to appear in the local area printed media a minimum of ten (10) days prior to the date of the event. NOTE – All media advertisements of road closures, traffic disruptions and events, are the responsibility of the applicant.
 - i) A Public Liability Insurance Policy to the amount of \$10 million shall be endorsed to indemnify Shoalhaven City Council against any claim arising out of the activity, a copy of which is to be directed to Council's Insurance Office a minimum of three (3) weeks prior to the event.
 - j) The applicant is to forward a letter to Council accepting the above conditions.
 - k) Compliance with the above conditions should not be misconstrued as providing development consent under the Environmental Planning and Assessment Act 1979. The organisers should contact Council's Development Services Division to ascertain if such consent is required and, if so, to make arrangements for the formal lodgement of such application.
 - l) If the proposed event is to be held on public land, a permit will be sought from Shoalhaven City Council.

44. Linemarking Narrawallee Inlet car-park (end of seal Matron Porter Drive) (PN 2441) File 25442

RECOMMENDED that the General Manager (Director Strategic Planning & Infrastructure) be advised that the Shoalhaven Traffic Committee has no objection to the implementation of traffic flow and parking scheme as shown on TRAF2009/05 subject to items of a technical nature.

45. ANZAC Day Marches - 2009 Temporary Road Closures (PN 2451) File 8601-02

RECOMMENDED that permission be granted to all RSL Sub-Branches located within the city of Shoalhaven for the holding of their annual ANZAC Day marches on Saturday, 25th April 2009 subject to:

- a) Police Department consent and conditions. This consent to be obtained directly from the Police Department by the applicant a minimum of six (6) weeks prior to the event. For events involving racing of vehicles (including bicycles) a Permit under Part 3, Division 1 Section 40 of the Road Transport (Safety and Traffic Management) Act 1999 No. 20 is also required.
- b) If the proposed event is to be held on or will impact upon a State Highway or Classified Road (see attached list), or is within 100 metres of a Classified Road or any traffic signals, the applicant must obtain a Road Occupancy Licence (ROL)

from the Roads & Traffic Authority and must comply with all conditions of the ROL (including submission of a Traffic Management Plan - The plan must be prepared by a person that has undertaken the appropriate RTA training in the preparation of Traffic Control Plans and the plan must clearly show the details of the person authorising the plan - with copy of RTA certification clearly showing the certificate number and details of the person ie photograph and expiry date to be attached). A Road Occupancy Licence can be obtained from the Roads & Traffic Authority (Southern Region) – contact the Traffic Operations Unit on ph. (02) 4221 2460.

- c) All residents/shopkeepers who may be affected by the activity being personally notified by the organisers. The organisers shall address any concern expressed with respect of the proposed closure/traffic disruption in the first instance.
- d) All bus operators, taxi companies and emergency service providers (including ambulance and fire fighting services) that may be affected by the activity being personally notified by the organisers.
- e) Submission of a Traffic Management Plan (including Traffic Control Plan and Pedestrian Management Control Plan) to Council. All traffic/pedestrian control measures contained in the plan(s) are to be in accordance with Australian Standard AS1742.3 and current RTA Traffic Control at Worksites Manual. The plans must be prepared by a person that has undertaken the appropriate RTA training in the preparation of Traffic Control Plans and the plan must clearly show the details of the person authorising the plan (with copy of RTA certification clearly showing the certificate number and details of the person ie photograph and expiry date to be attached). The Traffic management plans (*including traffic and pedestrian control plans) are to be submitted to Council a minimum of three (3) weeks prior to the date of commencement of works.
- f) All traffic control including the placement and removal of barricades and/or regulation of traffic is to be carried out by either Police or Traffic Controllers appropriately trained in accordance with the requirements of AS1742.3.
- g) Access for residences and businesses contained within the affected area (including reasonable vehicular / pedestrian access), is to be maintained at all times during the event.
- h) Advertisement of the temporary road closure and/or traffic disruption together with associated traffic management proposals is to appear in the local area printed media a minimum of ten (10) days prior to the date of the event. NOTE – All media advertisements of road closures, traffic disruptions and events, are the responsibility of the applicant.
- i) A Public Liability Insurance Policy to the amount of \$10 million shall be endorsed to indemnify Shoalhaven City Council, Roads & Traffic Authority and NSW Police (as interested parties) against any claim arising out of the activity, a copy of which is to be directed to Council's Insurance Office a minimum of three (3) weeks prior to the event.
- j) The applicant is to forward a letter to Council accepting the above conditions.
- k) Compliance with the above conditions should not be misconstrued as providing development consent under the Environmental Planning and Assessment Act 1979. The organisers should contact Council's Development Services Division to

ascertain if such consent is required and, if so, to make arrangements for the formal lodgement of such application.

- l) If the proposed event is to be held on public land, a permit will be sought from Shoalhaven City Council.

46. White Sands Easter Carnival - 2009 - Road Closure (PN 2453)

File 1639-02

RECOMMENDED that the White Sands Festival Committee be advised that permission is granted to temporarily close Currumbene Street from Morton Street to Owen Street and Owen Street from Sydney Street to the roundabout at White Sands Park on Saturday 14 April 2001 from 12 noon to 2.00 pm for the purpose of conducting a parade in conjunction with the annual White Sands Festival subject to the following conditions:

- a) Police Department consent and conditions. This consent to be obtained directly from the Police Department by the applicant a minimum of six (6) weeks prior to the event.
- b) If the proposed event is to be held on or will impact upon a State Highway or Classified Road (see attached list), or is within 100 metres of a Classified Road or any traffic signals, the applicant must obtain a Road Occupancy Licence (ROL) from the Roads & Traffic Authority and must comply with all conditions of the ROL. A Road Occupancy Licence can be obtained from the Roads & Traffic Authority (Southern Region) – contact the Traffic Operations Unit on ph. (02) 4221 2460.
- c) All residents/shopkeepers who may be affected by the activity being personally notified by the organisers. The organisers shall address any concern expressed with respect of the proposed closure/traffic disruption in the first instance.
- d) All bus operators, taxi companies and emergency service providers (including ambulance and fire fighting services) that may be affected by the activity being personally notified by the organisers.
- e) Submission of a Traffic Management Plan (including Traffic Control Plan and Pedestrian Management Control Plan) to Council for approval. All traffic/pedestrian control measures contained in the plan(s) are to be in accordance with Australian Standard AS1742.3 and current RTA Traffic Control at Worksites Manual. The plans must be prepared by a person that has undertaken the appropriate RTA training in preparation of the submitted Traffic Control Plans and the plan must show clearly the details of the person authorising the plan (with copy of RTA certification clearly showing the certificate number and details of the person ie photograph and expiry date to be attached). The Traffic management plans (*including traffic and pedestrian control plans) are to be submitted to Council a minimum of three (3) weeks prior to the date of commencement of works.
- f) All traffic control including the placement and removal of barricades and/or regulation of traffic is to be carried out by either Police or Traffic Controllers appropriately trained in accordance with the requirements of AS1742.3.
- g) Access for residences and businesses contained within the affected area (including reasonable vehicular / pedestrian access), is to be maintained at all times during the event.

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- h) Advertisement of the temporary road closure and/or traffic disruption together with associated traffic management proposals is to appear in the local area printed media a minimum of ten (10) days prior to the date of the event. NOTE – All media advertisements of road closures, traffic disruptions and events, are the responsibility of the applicant.
 - i) A Public Liability Insurance Policy to the amount of \$10 million shall be endorsed to indemnify Shoalhaven City Council against any claim arising out of the activity, a copy of which is to be directed to Council's Insurance Office a minimum of three (3) weeks prior to the event.
 - j) The applicant is to forward a letter to Council accepting the above conditions.
 - k) Compliance with the above conditions should not be misconstrued as providing development consent under the Environmental Planning and Assessment Act 1979. The organisers should contact Council's Development Services Division to ascertain if such consent is required and, if so, to make arrangements for the formal lodgement of such application.
 - l) If the proposed event is to be held on public land, a permit will be sought from Shoalhaven City Council.

47. Stop Sign and Associated Hold Linemarking - SCC Admin Centre Car park - Nowra (PN 2454) File 1707-01

RECOMMENDED that the General Manager (Director Strategic Planning & Infrastructure) be requested to:

- a) Arrange for the following signage changes to be implemented in the road network servicing the southern entrance/car park for the Nowra Administrative Centre:
 - i. Replace the existing 'Give Way' sign and associated linemarking (TB) with a 'Stop' sign and associated (TF/TB) linemarking,
 - ii. Install a 'Stop' sign and associated hold linemarking (TF/TB) at the southern most intersection within the car park (ie where the east/west roadway intersects with the north/south roadway access to the western entrance to the building, (ie motorists travelling west, will need to stop for motorist heading north and south,
 - iii. Replace the existing 'Stop' sign at the entry/egress to Graham Street with a 'Give Way' sign and associated hold Linemarking (TB) due to improved sight distance at this location,
- b) Investigate possible changes to the current traffic flow arrangements at the southern entrance/car park and provision for motor cycle parking.

Martin Uptis
CONVENOR/CHAIRMAN

REPORT OF GENERAL MANAGER

ORDINARY MEETING - TUESDAY, 24TH MARCH, 2009

GENERAL MANAGER

48. Code of Conduct Complaints - Status Report

File 31148

Purpose of the Report:

This report is submitted in accordance with Clause 12.33 of the Code of Conduct which requires that *"the General Manager must report annually to Council on Code of Conduct complaints ..."*

RECOMMENDED that the report of the General Manager concerning complaints made under the Code of Conduct for the period 1st January, 2008 to 31st December, 2008, be received for information.

Details/Issue:

A total of 9 complaints were received in respect of Councillors under the previous Code of Conduct for the period 1st January, 2008 to 22nd July, 2008. Details are provided below -

Nature of Complaint	Outcome
Alleged non declaration of pecuniary interest	Councillor reminded of responsibilities in respect of declaration of non-pecuniary interest
Comments made at Committee meeting	Councillor required to provide an apology
Inappropriate comments made at Committee meeting in regard to staff member	Councillor counselled on correct procedures to be followed
Comments made during radio interview	Recommendation to Council for censure under S440G
Chairing of Committee meeting	Counselling of Councillor
Comments made at public meeting	Councillor reminded that when in attendance at meetings/functions, it will always be perceived that they are acting as a Councillor
Comments made at public meeting	Dealt with by Anti-Discrimination Board and public apology issued
Alleged non declaration of significant non-pecuniary interest	Request to Dept Local Govt for legislation to be amended
Alleged non-declaration of pecuniary interest	Remind Councillor of responsibilities under the Code

A total of 9 complaints were received in respect of Councillors for the period 23rd July, 2008 to 31st December, 2008, and were dealt with under the current Code of Conduct and details are provided below -

Nature of Complaint	Outcome
Alleged non-declaration of conflict of interest	Determined by GM – no conflict of interest
Comments made in media release	Determined by GM – Discussions held & Councillor reminded of responsibilities under Code of Conduct
Issue of media release	Determined by GM – trivial and no prima facie breach of Code of Conduct
Comments made on radio	Determined by GM – no prima facie breach of Code – informal discussions held with Councillor
Comments made on radio	Determined by GM – complaint not serious – informal discussions with Councillor to reinforce the provisions of the Code of Conduct
Public Statements made by Councillor	Determined by GM – complaint not serious – informal discussions with Councillor to reinforce the provisions of the Code of Conduct
Comments on Radio	Determined by GM – informal discussions with Councillor to reinforce provisions of Code
Comments on radio	Determined by GM – no clear evidence of prima facie breach of Code
Comments on radio	Determined by GM – no clear evidence of prima facie breach of Code

Since the 1st January, 2009, one matter has been referred to the Conduct Review Committee to determine and this matter is pending.

Economic, Social & Environmental (ESD) Consideration:

N/A

Financial Considerations:

No costs were incurred during 2008.

Purpose of the Report:

For Council to consider a request from Mr Patrick Pang for a change to the Deed of Variation to the Contract in relation to the option to purchase the property back from the Shaolin Temple Foundation (Australia) Limited.

RECOMMENDED that Council accede to the request from Mr Patrick Pang to change the Deed of Variation to the Contract by adding the word “substantially” in front of the word “constructed” in part (a)(ii) of Council’s resolution (Minute No. 308) of the 10th March, 2009.

Options:

1. That Council accede to Mr Patrick Pang’s request for a change to the Deed of Variation to the Contract.
2. That Council not accede to Mr Pang’s request.

Details/Issue:

Council, at its meeting held on the 10th March, 2009, resolved –

“That Council –

“(a) Sign the Deed of Variation of Contract which will provide Council the opportunity to purchase the property as follows –

(i) If the Shaolin Temple Foundation (Australia) Limited, at any time, wishes to sell the property, it must offer the property for sale to the Council on the same terms for which the property eventually sells. (Right of Pre-emption/First Right of Refusal);

(ii) The Shaolin Temple Foundation (Australia) Limited gives to Council an option to purchase the property back from the Foundation for \$5,000,000.00. This option can only be used by Council if at the end of five (5) years from the purchase of the property by the Foundation, a development consent for construction of the temple complex has not issued, and the foundations for that complex have not been constructed (Grant of Option).

“(b) Sign the Mortgage in accordance with the Contract dated 11 June, 2006.”

The relevant legal documents were prepared by Council’s solicitor and delivered to Mr Pang to arrange signatures and completion. These were provided to Mr Pang on Friday, 13th March, 2009. The Mortgage Deed has been taken back to Beijing and arrangements

made for completion and signature by the Abbot, whilst the other documents may be signed by the Directors of the Shaolin Temple Foundation (Australia) Limited.

Mr Pang has written to Council requesting a variation to the wording of the Council resolution, to avoid any misunderstanding in the future and wishes to add the word “substantially” in front of the word “constructed” in part (a)(ii) of the resolution of the 10th March, 2009.

Mr Pang further advises that *“the spirit is to start work as soon as possible to create jobs and help in the economy of Nowra”*, and further advises *“I have triggered off the various studies for the DGRs and most of it will be completed within 6 months”*.

It is considered that in view of the success of Council being able to negotiate a favourable variation to the contract to allow Council to purchase the property back under certain conditions, the change requested by Mr Pang will still leave Council in a sound position.

Economic, Social & Environmental (ESD) Consideration:

Addressed in previous reports to Council.

Financial Considerations:

The requested variation to the Deed will not have an adverse financial impact and is reasonable, if Council wishes to maintain its negotiated position to have these variations completed.

RD PIGG
GENERAL MANAGER

REPORT OF GENERAL MANAGER

ORDINARY MEETING

TUESDAY, 24TH MARCH 2009

FINANCE AND CORPORATE SERVICES

50. Council Members - Payment of Expenses and Provision of Facilities Policy

File 5141-03

Purpose of the Report:

This report seeks the approval of Council to the adoption of the Council Members – Payment of Expenses and Provision of Facilities Policy with some amendments following public consultation and advice from the Promoting Better Practice report (PBP Report) issued by the Department of Local Government.

RECOMMENDED that:

- a) **That Council adopt the Council Members – Payment of Expenses and Provision of Facilities Policy as detailed in the Council Report of 24 March 2009 with the following amendments:**
 - **The sustenance allowance in Clause 3.3 (d) ii be reduced to \$250 per day.**
 - **Clause 3.3 (d) iii be amended to allow a limit for motor vehicle hire as follows: “When a Councillor is on business outside of the city an annual limit for car hire use of \$1,000 shall apply.**
 - **Replace the following words in clause 3.6 “Call costs up to a maximum of \$800.00 per month” with “Councillors shall be provided with an allowance for telephone use to a yearly limit of \$3,000.”**
 - **At the end of Clause 3.6 Communication Expenses include –“Councillors shall provide a monthly declaration of Private use of Telephone and Facsimile use and other use of Council equipment.”**
 - **Clause 3.12 Legal Advice – to include “Administrative Appeals Tribunal or other similar body.”**
- b) **That those who presented submission be advised of Councils decision**

Options:

- i) **That Council adopt the Council Members – Draft Payment of Expenses and Provision of Facilities Policy as detailed in the Council Report of 16 December 2008 and those who made submissions be advised of Councils decision.**

-
- ii) a) That Council adopt the Council Members – Payment of Expenses and Provision of Facilities Policy as detailed in the Council Report of 24 March 2009 with the following amendments:
- The sustenance allowance in Clause 3.3 (d) ii be reduced to \$250 per day.
 - Clause 3.3 iii be amended to allow a limit for motor vehicle hire as follows: “When a Councillor is on business outside of the city an annual limit for car hire use of \$1,000 shall apply.”
 - Replace the following words in clause 3.6 “Call costs up to a maximum of \$800.00 per month” with “Councillors shall be provided with an allowance for telephone use to a yearly limit of \$3,000.”
 - At the end of Clause 3.6 Communication Expenses include –“Councillors shall provide a monthly declaration of Private use of Telephone and Facsimile use and other use of Council equipment.”
 - Clause 3.12 Legal Advice – to include “Administrative Appeals Tribunal or other similar body.”
- b) That those who made submissions be advised of Councils decision.

Details/Issue:

Council at its meeting on 17 December 2008 considered a report on this matter which proposed a number of amendments to the Council Members – Payment of Expenses and Provision of Facilities Policy. A copy of that report is provided in the Councillors Information Folder.

Council resolved to adopt the proposed amendments to the policy as set out in the draft document which were detailed in the attachment.

In accordance with Section 253 of the Local Government Act, Council provided public notice of its intention to adopt the proposed amendments to the policy, allowing for submissions to be made to the proposed amendments.

At the closing time, there were three submissions received that raised a number of issues being one private submission and two from the Council appointed Community Consultative Bodies.

Two submissions expressed concern with the increase of the sustenance allowance in clause 3.3 (d) (ii) from \$200 to \$300 per day, which is considered excessive.

Comment: The Department of Premier and Cabinet provides guidance in this area. Daily travelling allowance rates provided by the Department are designed to cover the cost of meals and incidental expenses which includes laundry and dry cleaning, taxi fares (other than for official business), newspapers and magazines, private telephone calls and gratuities. It recommends a range of \$230 to \$400 per day.

The draft policy includes incidental expenses up to \$150.00 per day in addition to the proposed \$300 sustenance allowance, which places it beyond the range recommended by the Department of Premier and Cabinet. It is submitted that consideration should be given to reducing the sustenance allowance to \$200 or \$250 per day and retaining the incidental expenses which in effect results in a total daily limit of \$350 or \$400.

Part of one submission also expressed concern about the millage allowance proposed. It was pointed out that these amounts were based on the figures for Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006 and as a result, this concern was overcome.

The proposed increase in telephone call allowance in clause 3.6 from \$500 to \$800 per month with the removal of the annual cap was also considered excessive in a submission.

Comment: Previously an annual cap of \$3,000 was provided in the policy. This concern was based on the facts that Telecommunication Service Providers are vying with each other in order to gain custom. This concern may warrant further consideration of Council and is further considered under the recommendations from the PBP Report. Consideration should be given to delete the monthly limitations and retain the annual cap at \$3,000.

The policy also includes an amendment that allows Council to enter into any capped plan that may be considered cost effective.

One further submission deals with the limits imposed within Section 3.12 relating to legal advice. It suggests that it is too specific as there are some bodies, such as the Administrative Appeals Tribunal which is not included.

The clause in its present form provides as follows:

This section does not relate to circumstances of legal fees being paid when a Councillor takes action against another person as plaintiff.

Councillors shall be entitled to legal advice, subject to the concurrence of the General Manager, on Council related personal matters.

Legal advice includes seeking opinion on personal pecuniary interest matters or the like as approved by the General Manager.

In the event of any inquiry, investigation or hearing by any of the following –

- *Independent Commission Against Corruption*
- *Office of the Ombudsman*
- *Department of Local Government*
- *Police Service*
- *Director of Public Prosecutions*
- *Local Government Pecuniary Interest Discipline Tribunal into the conduct of a Councillor;*

in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor, Council shall reimburse such Councillor, after the conclusion of the inquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED –

- a) *the amount of such reimbursement shall be reduced by the amount of any moneys that may be or are recouped by the Councillor on any basis; and*

-
- b) *the inquiry, investigation, hearing or proceeding results in a finding substantially favourable to the Councillor, despite an identification of a minor technical breach.*

It is submitted that the words “or when legal proceedings being taken against a Councillor arising out of or in connection with the Councillors’ performance of his or her civic duties”, appears to cover the point made in the submission. In order to overcome the potential for any concern, an additional dot point may be included to include the words “Administrative Appeals Tribunal or other body”.

One submission strongly supported the proposal and applauded the Council in including the total expenses paid to each Councillor in the Annual Report.

The Department of Local Government in its Promoting better Practice Review provided the following comment:

While Council's policy provides appropriately for most expense and facility categories and includes appropriate approval processes and limits for most of these, the Department encourages Council to continue to conduct ongoing reviews of this policy, including improving a number of shortfalls identified in a Departmental audit.”

The review provides the following recommendations in respect to this policy:

- a) the need for the policy to specifically exclude general allowances
- b) the need for the policy to include detail on reconciliation of expenses for private use of facilities
- c) the need for the policy to provide for training and development for Councillors
- d) the need for the policy to include limits on expenditure for all categories of expenses and facilities.

The proposed policy does not include General Allowances as indicated in the PBP Recommendation (a) above. A general allowance is referred to in the Guidelines for Payment of Expenses and Provision of Facilities provided by the DLG to mean expenses unrelated to actual expenses incurred or designed to supplement councillors’ annual fees. The policy refers to incidental expenses which are those related to actual expenses while on Council business and includes items such as tolls, parking fees, taxi fares and related expenses, and is not a general expense.

In respect to PBP recommendation (b) it is proposed to include the following addition to clause 3.6 of the draft policy:

Councillors shall provide a monthly declaration of Private use of Telephone and Facsimile use and other use of Council equipment.

In this respect it is proposed to amend the monthly telephone declarations to include an area where voluntary disclosures for private use may be made. This may include private use of printer cartridges or other type of consumable equipment.

The draft policy provides a section on Training and Development of Councillors in accordance with PBP Recommendation (c) above.

In respect to sections of the policy that does not include limits highlighted by the PBP Recommendation (d), one section that does not impose a limit is clause 3.6 - in respect to annual telephone expense. The proposed policy provides a monthly limit of \$800 with no annual limit. It could be considered that the annual limit by default is \$9600.

The DLG Guidelines provide the following in respect to limits: *'The guidelines do not specify particular monetary limits for the payment of various expenses to councillors. Rather it is the responsibility of individual councils to establish what they would consider **a reasonable level of provision** by determining their own monetary limits and/or rates for the payment of expenses and other benefits to their councillors. **These limits are to be clearly stated in the policy.***

***Identifying and publishing monetary limits** allows members of the public to know the expected cost of providing services to councillors and to make comment during the public consultation phase of making or amending the policy.*

Although there has only been one submission to the proposed expense, it would be difficult to consider that the limit proposed is reasonable.

Council in the current policy provides a monthly maximum of \$500.00 with a yearly limit of \$3,000. Previous experience has shown that these limits are rarely exceeded. With this in mind, it is submitted that consideration be given to the re-introduction of these limits to the policy, or preferably delete the monthly cap and further that staff also investigate the use of capped plans.

The other section of the draft policy – clause 3.3 (d) iii that does not include limits is in respect to the cost of a hire car. It is suggested that consideration be given to a yearly limit of \$1,000, when Councillors are on business outside of the City.

Economic, Social & Environmental (ESD) Considerations:

ESD considerations in regard to this matter include the use of vehicles in respect to Councillors performing their function. Council resolved at its meeting on 24 February to provide two suitable bikes to be utilized by staff/Councillors on a pool system when travelling to and from appropriate appointments.

Financial Considerations:

There will be additional costs to Council as a result of the proposed amendments to this policy. At this stage, it appears likely that the additional costs should be met from within existing votes, although this can be reviewed each quarter.

Purpose of the Report:

Under Section 625 of the Local Government Act 1993, and Clause 212 of the Local Government (General) Regulation it is a requirement to provide a written report to Council on a monthly basis setting out details of all money that Council has invested.

RECOMMENDED that the Report of the General Manager (Finance & Corporate Services Group) on the Statement of Record of Investments for the period of 28th February 2009 be received for information.

Details/Issue:

Council's investment performance reflected the current market, posting a weighted average return of 3.77% (annualised) compared to the benchmark return of 3.15% (annualised 90 day Bank Bill Rate as published in the Financial Review).

While some components of Council's Managed Fund Portfolio (which has exposure to shares and other growth assets) declined, it is noted that these investments were purchased as a long term growth product with expectations of short to medium term volatility and above benchmark performance over the longer term horizon of 5 to 7 years.

It is also noted that Council's direct investment portfolio has posted a weighted average of 5.12%, 197 basis points above the benchmark.

During February, the RBA announced a reduction of the cash rate by a further 100 basis points to 3.25 per cent to give further support to demand, effective 4 February 2009. It has subsequently been announced in March that it will remain at 3.25 per cent for the time being.

RECORD OF INVESTMENTS

as at 28th February 2009

TOTAL CASH AND INVESTMENTS

TOTAL CASH	3,593,762
TOTAL INVESTMENTS	106,763,224
	<u>110,356,987</u>

LESS CASH & INVESTMENTS HELD IN RELATION TO RESTRICTED ASSETS

LEAVE ENTITLEMENTS	5,459,603
WASTE DISPOSAL	4,789,959
STRATEGIC PROJECTS GENERAL	13,447,887
OTHER INTERNAL RESERVES	12,162,745
SECTION 94	18,389,953
SECTION 94 LIABILITY RESERVE	3,851,509
TRUST	70,650
NORTH NOWRA LINK ROAD	10,790,462
WORKCOVER GUARANTEE	3,986,000
SECTION 64 WASTE WATER	1,723,389
SEWER COMPENSATION	6,568
SEWER CONSTRUCTION WORKS	800,771
SECTION 64 WATER	3,852,977
WATER CONSTRUCTION WORKS	24,778,085
TOTAL RESTRICTED	<u>104,110,558</u>

UNRESTRICTED CASH AND INVESTMENTS

GENERAL	4,246,429
WATER	1,000,000
WASTE WATER	1,000,000
TOTAL UNRESTRICTED	<u>6,246,429</u>

Note: The Cash balances of reserves do not reflect the uncommitted balance. The cash balance reflects uncommitted funds, the unspent portion of allocated funds and income received to date which may be less than budgeted for the entire year.

SHOALHAVEN CITY COUNCIL							
STATEMENT OF INVESTMENTS							
28 February 2009							
DIRECT INVESTMENTS:							
Institution	Rating	Inv Type	Principal	Terms	Interest Rate	Date Matured	SCC Inv No
Adelaide Bank	A2	FRN	2,000,000.00	88	3.2900%	22/05/2009	30563
AMF Yield Fund	AAA	CA	2,003,131.51	At Call	5.2500%		3002
ANZ	A1+	FRN	2,000,000.00	90	4.8600%	22/04/2009	303002
Australian Central Credit Union	NR	TD	2,500,000.00	181	7.8800%	4/03/2009	3023
Australian Central Credit Union	NR	TD	1,000,000.00	91	5.7000%	25/03/2009	3041
Bankwest	A1+	TD	1,000,000.00	183	7.8000%	3/03/2009	3053
Bankwest	A1+	TD	2,000,000.00	62	4.6000%	18/03/2009	3062
Bendigo Bank	A2	FRN	2,000,000.00	90	5.4467%	21/03/2009	301001
Bendigo Bank	A2	FRN	3,000,000.00	90	3.4633%	26/05/2009	29892
Bendigo Bank	A2	TD	1,500,000.00	55	4.7500%	2/04/2009	3072
Bendigo Bank (Sanctuary Point)	A2	TD	2,000,000.00	56	4.7500%	1/04/2009	3071
CBA	A1+	OS	188,302.57	181	4.2700%	28/05/2009	2732
Credit Union Australia	NR	TD	2,000,000.00	93	6.7500%	5/03/2009	3063
Credit Union Australia	NR	TD	2,500,000.00	91	5.8000%	8/04/2009	3059
Credit Union Australia	NR	TD	1,000,000.00	91	5.5500%	23/04/2009	3066
Horizon	NR	TD	1,000,000.00	91	4.1000%	28/05/2009	3082
IMB	A2	TD	1,500,000.00	92	5.7000%	11/03/2009	3044
IMB	A2	TD	1,000,000.00	92	5.0000%	26/03/2009	3051
IMB	A2	TD	3,000,000.00	62	3.9000%	15/04/2009	3075
Macquarie Bank	A1	TD	1,000,000.00	93	6.0000%	12/03/2009	3065
Macquarie Bank	A1	TD	2,000,000.00	240	8.8800%	3/04/2009	3048
Macquarie Bank	A1	TD	1,000,000.00	91	4.4000%	20/05/2009	3076
Macquarie Bank	A1	TD	2,500,000.00	91	4.4000%	28/05/2009	3081
National Australia Bank	A1+	MATD	75,444.89	365	8.4000%	30/06/2009	3040
National Australia Bank	A1+	TD	1,500,000.00	90	5.4000%	4/03/2009	3043
National Australia Bank	A1+	TD	1,830,000.00	92	5.4000%	5/03/2009	3042
National Australia Bank	A1+	TD	1,000,000.00	120	5.5000%	22/04/2009	3032
National Australia Bank	A1+	TD	1,500,000.00	154	4.0000%	27/07/2009	3080
Newcastle Permanent	A2	TD	1,500,000.00	87	4.0600%	30/04/2009	3069
Police Credit Union Ltd (SA)	NR	TD	1,000,000.00	92	5.2700%	9/04/2009	2999
Qld Police Credit Union	NR	TD	3,000,000.00	28	4.5100%	19/03/2009	3078
Qld Police Credit Union	NR	TD	2,000,000.00	57	4.8900%	26/03/2009	3064
Railways Credit Union	NR	TD	5,000,000.00	94	4.1800%	21/05/2009	3077
Savings and Loans Credit Union	NR	TD	1,000,000.00	90	5.0000%	29/04/2009	2993
Savings and Loans Credit Union	NR	TD	2,000,000.00	91	5.0000%	30/04/2009	3058
SGE Credit Union	NR	TD	2,500,000.00	92	5.4800%	12/03/2009	3018
St George Bank	A1+	CA	2,500,000.00	At Call	4.1000%		3068
Suncorp Metway Ltd	A1	TD	2,000,000.00	90	4.3500%	13/05/2009	3074
Trade Corp	A1+	TD	6,000,000.00	364	6.3000%	2/10/2009	2842
Westpac	A1+	TD	1,000,000.00	91	4.8000%	23/04/2009	3067
Westpac	A1+	TD	1,000,000.00	91	4.8000%	6/05/2009	3070
Westpac	A1+	TD	1,039,343.84	93	4.2000%	13/05/2009	3073
Westpac	A1+	TD	2,500,000.00	96	4.2000%	27/05/2009	3079
Westpac	A1+	TD	1,000,000.00	365	7.6000%	29/08/2009	3052
TOTAL DIRECT INVESTMENTS			80,636,222.81				
MANAGED FUNDS	Rating	Purchase Price	Carrying Value	Monthly Return	Annualised Return	Purchase Date	Inv Type
LEHMAN BROTHERS (2)		15,940,000.00	15,940,000.00	0.35%	4.17%	Various	IMP
Merrill Lynch Diversified Credit Fund (Class D) (1)	A	2,317,622.86	1,704,453.62	-1.78%	-21.31%	29/06/2007	MF
Aberdeen Cash Plus	Af	2,000,000.00	2,120,619.54	-0.54%	-6.43%	18/08/2005	MF
Aberdeen Cash Plus	Af	2,000,000.00	2,120,619.55	-0.54%	-6.43%	1/09/2005	MF
MACQUARIE Y PLUS	Af	1,000,000.00	1,134,138.64	-0.13%	-1.61%	1/09/2005	MF
PERPETUAL CR Y FUND	Af	3,000,000.00	3,107,170.12	-0.33%	-3.94%	29/09/2005	MF
TOTAL MANAGED FUNDS			26,127,001.47				
TOTAL INVESTMENTS			106,763,224.28				
(1) Merrill Lynch Original Investment 29/6/07		4,000,000.00		(2) Due to the nature of the status of the Lehman Brothers Investments, it is not possible to determine an exact value at this stage in time.			
Redemption October 2008		-1,075,671.66					
Redemption December 2008		-606,705.48					
Net Purchase Price		2,317,622.86					
Note: BB Bank Bill OS Offset Loan MF Managed Fund TD Term Deposit FRN Floating Rate Note IMP Individually Managed Portfolio CRI Committed Rolling Investment MATD Mayors Appeal Term Deposit							
It is noted that these have been made in accordance with the Act, Regulations and the Council's Investment Policies.							
P.J. Dun Director, Finance & Corporate Services Group							

Purpose of the Report:

A meeting of the Aboriginal Advisory Committee (AAC) has not been convened since March 2006 and the membership of the Committee requires reassessing. As the guidelines state in regard to appointment to the AAC, that "Community Representatives shall be appointed for a term of two years", previous membership is shown to have lapsed.

RECOMMENDED that:

- a) **Council support the increase in the number of community members on the Aboriginal Advisory Committee from 6 to 18 and update the Guidelines accordingly;**
- b) **Council appoint the following community representatives as members of the Aboriginal Advisory Committee:**

**Melissa Wellington
Richard Luland
Sue-anne Cutmore
Edward Braddick
Jason Davison
Paul McLeod
Elaine Sturgeon
Doug Longbottom
Adell Hyslop
Kate Smith
Leslie Halls
Cindy Holmes
Noel Butler
Marilyn Brown
Shane Brown
Lena Bloxsome
Lou Davis
David Bloxsome**

- c) **The Quorum for the Committee be set at 5 members;**
- d) **The General Manager (Finance and Corporate Services) write to the outgoing members of the Aboriginal Advisory Committee thanking them for their contributions.**

Options:**Option 1**

Increase the membership to 18 and appoint all the community representatives that

expressed an interest in membership on the Aboriginal Advisory Committee. The Guidelines for the Aboriginal Advisory Committee will need to be updated accordingly.

Option2

Select and appoint 6 of the 18 community members that expressed an interest in membership on the Aboriginal Advisory Committee.

Details/Issue:

The number of community members has fluctuated between 6 and 15 over the years. At Council's Ordinary Meeting of 30 September 2008 it was resolved that the membership of the Aboriginal Advisory Committee comprise of:

- The Mayor
- Four nominated Councillors
- General Manager or nominee
- Six listed community members

In January 2008 correspondence was forwarded to the previous six members of the AAC requesting confirmation of their wish to continue as members with only three replies being received affirming interest.

An Advertisement was placed in the South Coast Register and the Ulladulla Times in December 2008 and correspondence sent to various Aboriginal Organisations requesting nominations for membership to the AAC. At the close of nominations, on 30 December 2008, 18 nominations were received from the following community representatives, three of which were previous members:

Name	Specific knowledge area
Melissa Wellington	Womens Health
Richard Luland	Youth
Sue-anne Cutmore	Family
Edward Braddick *	Children
Jason Davison	Community
Paul McLeod	Environment and Heritage
Elaine Sturgeon *	Community-Elder
Doug Longbottom	Community-Elder
Adell Hyslop *	Environment and Heritage
Kate Smith	Age and Disability
Leslie Halls	Community-Elder
Cindy Holmes	Employment
Noel Butler	Community-Elder
Marilyn Brown	Housing
Shane Brown	Community
Lena Bloxsome	Community-Elder
Lou Davis	Community-Elder
David Bloxsome	Health

* Previous members

It is important to ensure that membership encompasses the diversity of opinions and issues within Aboriginal communities. Aboriginal communities do not elect representatives in the same way as councils. There needs to be flexibility for different Aboriginal people to attend meetings. This will often be determined by what is on the agenda. The above 18 people are representative from different areas of the Aboriginal community; with specific knowledge within the community.

Economic, Social & Environmental (ESD) Consideration:

There are no economic or environmental issues to consider and the social considerations involve the need to develop understanding, mutual respect and cooperation between Aboriginal people and non-Aboriginal people within the Shoalhaven and to promote equality of access to all community members, as stated in the Mission Statement from the Guidelines for the AAC.

Financial Considerations:

There are no financial considerations involved.

P.J. Dun
DIRECTOR, FINANCE & CORPORATE SERVICES

R.D. Pigg
GENERAL MANAGER

REPORT OF GENERAL MANAGER

ORDINARY MEETING

TUESDAY, 24 MARCH, 2009

CITY SERVICES AND OPERATIONS

53. Park Road Netball Courts Tender

File 39086

Purpose of the Report:

The purpose of this report is to provide Council with the result of the Tender for construction of new netball courts at Park Road, Nowra.

RECOMMENDED that:

- a) Council accept the Schedule of Rates Tender by Wellco Developments for the construction of four new netball courts in an amount of \$250,510 (Specification MO1208/04).
- b) The Contract between Council and Wellco Developments be executed under the Seal of Council.
- c) The General Manager, (City Services & Operations Director) be authorised to extend the Schedule of Rates contract to provide additional courts if funds remain available.

Options:

Option 1: Council accept the Schedule of Rates Tender by Wellco Developments for the construction of four new netball courts in an amount of \$250,510 (Specification MO1208/04) and the General Manager, (City Services & Operations Director) be authorised to extend the Schedule of Rates contract to provide additional courts if funds remain available.

Option 2: Council accept the Schedule of Rates Tender by Wellco Developments for the construction of four new netball courts in an amount of \$250,510 (Specification MO1208/04) and any extra funds to be returned to Section 94.

Detail:

The Tender for construction work on the park road netball courts closed on 5 February 2009. Council received fourteen tenders however, only twelve are available to be considered.

The apparent order of pricing based on the extended lump sum prices as shown, from lowest price to highest:

No.	Tenderers	Initial for Two Courts	Total for Four Courts	Total for Six Courts
1	Wellco Development Pty Ltd*	\$150,065.00	\$250,510.00	\$350,925.00
2	JBG Contractor Pty Ltd	\$168,645.00	\$281,720.00	\$394,795.00
3	K & J. Lynch Pty Ltd	\$184,375.00	\$304,775.00	\$425,175.00
4	Carve Earthworks Pty Ltd	\$186,676.00	\$296,830.00	\$406,984.00
5	R.J. & P.S. Smith Pty Ltd	\$210,129.00	330,393.00	\$450,657.00
6	Digging Around Pty Ltd	\$211,086.54	\$333,346.34	\$455,606.14
7	Dynamics Sport Pty Ltd	\$211,485.60	\$347,070.00	\$482,655.60
8	G.C. Civil Pty Ltd	\$218,856.96	\$361,628.16	\$504,399.36
9	Kingston Civil Pty Ltd	\$225,540.00	\$358,140.00	\$490,740.00
10	Roadworx Pty Ltd	\$237,330.00	\$384,462.00	\$531,594.00
11	Court Craft Pty Ltd	\$249,065.00	\$399,425.00	\$549,785.00
12	Haines Bros Pty Ltd	\$292,199.50	\$480,879.50	\$669,559.50

* Prices confirmed by Tender Clarification

The scope of work in the tender provides for construction of a minimum of two new courts with drainage and relocation of floodlight poles. The tender also called for schedule of rate amount to include construction of another two, or more courts depending on the rates and the funding available. The electrical light poles and drainage work value will not change with the increased number of courts, however the value of the tender varies by the amount of courts to be constructed, the second and third columns show the total value if four or six courts are delivered respectfully. Electrical connection and supply works is not included in the Tender and will be undertaken separately by a specialist provider.

The lowest cost Tender submitted is by Wellco Development. Wellco's tender was based on a Synthetic Court Surfacing product supplied by Kangaroo Courts Australia Pty Ltd.

However, the Netball Association subsequently advised their preferred product is Plexipave supplied by Court Craft Pty Ltd. The Tenderer was asked to clarify the lump sum applicable to meet the preferred product. The cost adjustment is an additional \$10,450 for two courts which provides a tendered lump sum of \$150,065 for two courts and \$250,510 for four courts. The clarified offer to include the specified product confirmed by Wellco Development does not change the order of the tenders received with respect to tendered prices. The prices received from the second lowest Tenderer included the Plexipave product.

Wellco Development is small local company which has undertaken previous civil work for Council including Nowra Skatepark and is currently undertaking Huskisson Sports Field expansion. The company has nominated Wollongong based company Roadworx Pty Ltd as its subcontractor which specialise in road construction to undertake the work for the court preparation and asphalt components of the contract. Wellco is suitably staffed with experience personnel for this level of work with appropriate plant and equipment and

established OH&S Management systems, and are considered suitable to undertake the work.

Economic, Social and Environmental (ESD) Considerations

The Review of Environmental Factors has considered the public benefit and the change in the landscape for this development. Public benefit will outweigh any minor conservation loss, and the funds for the project are available from Section 94 & Special Rates Revenue

Financial Considerations:

An amount of \$400,000 was provided in the 2008/09 Capital Works program with \$387,000 remaining available to construct the work. The available funds are sufficient to allow the full construction of four new netball courts, electrical supply and connection and other project costs. There is potential for sufficient funds to remain to allow substantial commencement on Courts 5 and/or 6. These additional works could commence by application of schedule of rates provided in the contract and subject to an acceptable level of finish being able to be achieved. The decision to proceed with additional works could not be made until the works are well advanced and actual construction costs are known with greater certainty.

W P Paterson
DIRECTOR CITY SERVICES & OPERATIONS

R.D Pigg
GENERAL MANAGER

REPORT OF GENERAL MANAGER

ORDINARY MEETING

TUESDAY, 24 MARCH 2009

STRATEGIC PLANNING AND INFRASTRUCTURE

54. Proposed Lease of Bomaderry Community Preschool to Sydney Anglican Schools Limited (Nowra Anglican College) - Birriley Street, Bomaderry File 3478-02

Purpose of the Report:

This report is to advise Council of submissions received from the public in response to advertisements notifying Council's intention to lease the former Bomaderry Community Preschool at Birriley Street, Bomaderry to Nowra Anglican College. Following consideration of the submissions Council can resolve whether to proceed with the granting of the lease.

RECOMMENDED that the Council of the City of Shoalhaven leases to Sydney Anglican Schools Limited the Bomaderry Community Preschool at 5 Birriley Street, Bomaderry for a term of five years at a rental of \$1 per annum.

Options:

1. Council can resolve not to proceed with the lease on the basis that the submissions received raise issues which would cause Council not to proceed with a lease to Nowra Anglican College (NAC). In this case Council might consider seeking expressions of interest from potential tenants and thereafter reconsider leasing the building.
2. Council can resolve to grant the lease on the basis that issues raised by the submissions have been fully considered and do not preclude Council from proceeding with the lease.

Details/Issue:

Under the Local Government Act Council cannot lease community land for a period of up to five years unless it has first publicly advertised the lease proposal. This advertising has now been completed and under S.47A of the Act Council must consider all submissions received before resolving whether or not to grant the proposed lease.

Seven submissions have been received from members of the public in response to Council advertisements notifying the lease proposal. The letters are contained in the Councillor Information Folder. One of these submissions is from the Principal of Shoalhaven Heads Public School writing on behalf of the Shellharbour Primary Principal's Association. All submitters have raised objections to the grant of the lease which are summarised below. No submissions were received objecting to the proposed use of the facility as a preschool.

Economic, Social & Environmental (ESD) Consideration:

A summary of the main points of the submissions follows:

1. While the organisation (NAC) is non profit it has a commercial interest in the preschool which would act as a feeder centre, guaranteeing enrolments into the college. Statements by the college in its November newsletter suggest that the preschool will eventually be for the exclusive use of its students to enable it to operate as a preschool to Year 12 school.
2. The transfer to the college has not been done by way of a public tender process. If the lease is approved a public asset open to all residents and paid for through taxes on all residents will be transferred into private ownership without adequate opportunity for public comment.
3. If the lease is granted parents in the Bomaderry area will no longer have the opportunity to send their children to a community-based, secular and inclusive preschool which caters for a broad spectrum of families including those from a disadvantaged socio-economic background.
4. Nowra Anglican College is not fully representative of the local community and should be charged full commercial rental, not a peppercorn community rate.
5. The preschool is a community asset to which many parents in the local community have donated time and money, attending working bees and participating in fundraising. Parents who did this believed they were supporting a community asset that would remain in the community. If the lease is granted the college will receive an unwarranted benefit at minimal cost and the community will lose a valuable asset.

Financial Considerations:

Nil identified as the previous lease was for \$1 and proceeding with the resolution would not alter this position.

NAC have advised that they intend spending \$100,00 to improve the preschool.

Commentary

One common theme of many of the submissions is the suggestion that Council is transferring or somehow giving assets of a public nature to the private sector without going to tender or through some other public process. By way of comment it should be noted that Council owns the land and building which was leased to the former tenant, Bomaderry Preschool. The operation of the preschool was undertaken by Bomaderry Preschool who engaged staff and owned other assets used in the day to day operations. It is understood that Bomaderry Preschool called for Expressions of Interest and considered proposals from a number of organisations which were interested in taking over the management of the preschool. The Preschool selected N.A.C as the preferred applicant, following a meeting of parents which provided further opportunity for consideration of opposing views, and transferred its assets to NAC.

No assets of Council have been transferred to NAC and Council is only considering a request of NAC to lease the building.

The submissions also question the manner in which Nowra Anglican College became the “successor” to Bomaderry Preschool. However, as noted above, Council was not a part of this process and was not aware of the proposal for the Bomaderry Preschool to cease operations. Once Council received a formal request from NAC Council then publicly advertised its intention to consider leasing the preschool to the college and called for public submissions in accordance with the obligations upon Council. Because the proposed lease is to a non profit organisation there is no obligation under the Local Government Act for Council to call for public tenders.

In response to the submission that NAC will use the preschool as a ‘feeder’ school and operate an exclusionary enrolment policy NAC have advised that ‘the College has met the conditions of DOCs funding requiring an open enrolment policy and the inclusion of families of lower socio-economic status’.

In relation to the suggestion that NAC is a commercial enterprise NAC have provided documentation to confirm that they are a not for profit organisation. Accordingly the proposed Lease fee of \$1 per annum is in alignment with other premises leased by Council’s to community groups leased for the purpose of a preschool.

55. NSW Government - Draft Sea Level Rise Policy Statement

File 8596-03

Purpose of the Report:

To inform Council about the release of a Draft Sea Level Rise Policy Statement by the NSW State Government. Submissions on the draft Policy Statement close on 3 April 2009.

RECOMMENDED that Council make a submission on the Draft Sea Level Rise Policy Statement, consistent with the comments contained in the report and Attachment “B”.

Options:

- # 1. Make a submission on the Draft Sea Level Rise Policy Statement, consistent with the comments contained in the report and Attachment “B”.
- 2. Choose not to make a submission at this stage.

Details/Issue:

The State Government through the Department of Environment and Climate Change (DECC) released a draft Policy on Sea Level Rise on 21 February 2009. The draft Policy is now out for comment until 3 April 2009.

- # The draft Policy Statement is provided as Attachment “A”.

The draft Policy Statement includes sea level planning benchmarks which have been developed by the State Government to support consistent consideration of sea level rise in land-use planning and coastal investment decision-making. The adopted benchmarks are for a rise relative to 1990 mean sea levels of 40 cm by 2050 and 90 cm by 2100. These benchmarks represent the Government's guidance on sea level rise projections for use in decision-making and are not at this point regulatory standards.

A Technical Note has also been prepared and released which explains how these benchmarks were derived from Intergovernmental Panel on Climate Change and CSIRO reports. It is noted that most other states have developed sea level rise benchmarks. Victoria has recently adopted a benchmark of 80 cm by 2100 and South Australia has adopted 30 cm by 2050 and 100 cm by 2100 - the minor differences between these benchmarks are due to regional variations in sea levels.

This draft policy essentially seeks to deliver five key outcomes:

1. Promote an adaptive risk-based approach to managing sea level rise impacts;
2. Provide guidance to local councils to support their sea level rise adaptation planning;
3. Encourage appropriate development on land projected to be at risk from sea level rise;
4. Continue to provide emergency management support to coastal communities during times of floods and storms;
5. Continue to provide updated information to the public about sea level rise and its impacts.

At the end of the consultation period, the Government will consider all submissions and then finalise the Policy Statement. It is understood that the Policy Statement will possibly then be backed up by legislation on the subject.

The Minister for Planning indicated in her media release on the draft Statement that the Government will prepare guidelines on how sea level rise should be considered in broad land use strategies and local environment plans, as well as for individual development applications. It was also indicated that considerations which may need to be taken into account include:

- Predicted flood risks and coastal hazards;
- Potential impacts on coastal and estuarine habitats;
- Public assets in low-lying coastal areas; and
- Appropriate land use and development type in coastal areas.

The supporting Technical Note is also provided in the Councillors Information folder for today's meeting.

Comment

The following comment is offered on the draft Policy Statement:

- The State Government's attempt to provide a benchmark and assist decision making in regard to this issue is welcomed. However, the draft Policy Statement is only five pages long and lacks the detail necessary to make a considered decision regarding its long term effect.

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- Much of the detail required to enable meaningful comment has not yet been provided. For example, the Department of Planning is preparing guidelines on how sea level rise should be considered in land use planning and development approval decisions. No timeframe is given for when these guidelines will be available.
 - There is no certainty that the State Government will take a consistent approach on this issue.
 - The proposed sea level rise benchmarks are more extreme than Council has used in its coastal hazard mapping to set development set backs. Should these benchmarks be adopted Council will need to reconsider its 2007 coastal hazard mapping studies that have been adopted and included in the Draft LEP 2009.
 - The current draft LEP 2009 uses information from the Coastal Hazard Mapping Studies and also the recent Floodplain Management Plans to establish planning controls. This information may need to be revisited and the controls revised to take account of the benchmark set by the State Government.
 - The draft Policy Statement only addresses sea level rise. Climate change will also affect rainfall intensities which will also impact on flood risks. The NSW Government should release similar advice for changes in rainfall intensity due to climate change.
 - The Draft Policy commits DECC to providing emergency response funding only. Therefore, clarification on the future of the technical assistance and funding availability to Local Government under the Coastal Management Program is needed and should be requested.

Economic, Social & Environmental (ESD) Consideration:

In a broad sense sea level rise may have significant economic, social and environmental impacts, the level of which, will be affected by the way the State Government and Council chooses to respond to this issue. It will be necessary to assess and determine what private and public land, assets and infrastructure could be affected by the adopted sea level benchmarks including implications of flooding and storm surge. This could have serious social and economic implications for the most affected land.

Financial Considerations:

Due to the lack of detailed information it is difficult to estimate the potential cost to Council at this stage. However, as an example of potential costs, funding could be required to update coastal hazard studies when the new benchmark figures are finally released. An audit of affected areas and Council infrastructure will be necessary for property strategic planning.

Council will need to address the final guidelines and benchmarks in a strategic manner otherwise Council's risk of liability for future claims could increase. Legislation and Case law has already established that Councils must consider the impacts of climate change when making planning decisions and determining development applications.

56. Lake Conjola Entrance Management Policy Implementation File 1438-02 & 2235-02

Purpose of the Report: To provide Council with further information on the monitoring of the possible entrance closure of Lake Conjola, the status of preparation for entrance intervention and seeks Council endorsement of a preferred option.

RECOMMENDED that in regard to the Lake Conjola entrance:

- a) **Council endorse the preparation of environmental assessments, licence and grant funding applications to undertake selective wash-over removal;**
- b) **Council endeavour to allocate \$50,000 funding from the next quarterly budget review to undertake the works.**
- c) **Council proceed with selective wash over removal (Option 3) should funds become available; and**
- d) **Council make representations to the Minister for Environment and Climate Change expressing the urgent need for the State Government to adequately resource the implementation of their Estuary Entrance Management Policy position.**

Options:

The options reported to Council in January 2009 have been discussed with Geomax consultants, Manly Hydraulic Laboratory (MHL) and Department of Environment and Climate Change (DECC) staff during recent project and site inspections and are discussed below and illustrated in Figure 1:

- Option 1: Entrance Plan full dimension dredging (shown as ' ' in Figure 1)
This option is cost prohibitive (estimated cost \$800,000) and not considered proportional to the current level of shoaling. This option also carries a high risk of failure from continued low rainfall regimes and corresponding major ocean storm seasons. In addition, it involves high costs associated with spoil disposal and stabilisation. Potential delays could be expected before works could be carried out due to the scale of environmental impact assessments and approvals. Therefore option 1 is not recommended.

- Option 2: Pilot Channel preparation (shown as '.....' in Figure 1)
This option proposes a new channel (30% full dredging with dimensions approximately 15m width by 2m depth) be prepared across the spit taking advantage of the upstream and downstream depth differences to create a shorter, steeper channel that may scour more effectively. The estimated cost is \$200,000, with reduced channel preparation, spoil disposal and stabilisation costs and environmental impacts compared to option 1. However, this option would require the lake to close further before the new channel can be introduced and would present a high risk of failure due to increased exposure to storm wash over and natural channel migration. This option also impacts on the shorebird nesting precinct and may make approvals difficult to negotiate. Therefore option 2 is not recommended.

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- Option 3: Selective Wash Over removal (shown as ‘’ in Figure 1)

Recent site inspections and survey confirm that the dominant area of channel constriction is at the north western tip of the dune spit. Selective removal of sand from this area is affordable, flexible, minimises impacts and is achievable at an estimated cost of approximately \$50,000. Therefore, option 3 is the preferred option if works are endorsed by Council. If this option is preferred it will be necessary to reallocate funds from another program and forgo another project/s e.g. roads.

- Option 4: Do nothing

Although the entrance is predicted to be trending towards closure, autumn and winter may bring adequate rainfall to maintain the channels operating as is. Intense rainfall may also occur and scour the entrance. The current situation is allowing reasonable tidal exchange and is arguably a socially preferred condition with the channels presenting a magnificent natural, visual and recreational asset. It is to be noted that the entrance could close under extreme storm wash over conditions regardless of the chosen option. However option 4 is not in line with the adopted Lake Conjola Entrance Management Plan which recommends that works be undertaken. This option is, however, in-line with management of all other lake entrances in the Shoalhaven Local Government Area.

Details/Issue:

The following new information is provided:

- Council and DECC staff have inspected the entrance and note that the current ebb channel alignment is operating efficiently considering the major quantities of dune sand that have again been deposited there by a December 2008 storm;
- MHL has completed a data analysis for the estuary entrance and have reassessed the Decision Support System (DSS) for Lake Conjola. The Decision Support system is available at <http://www.mhl.nsw.gov.au/www/lconj.htmlx>. The preliminary advice is that recalibration would lower the trigger levels and the current “possible closure” trigger is more likely to be the “activate plan” trigger (levels to be confirmed);
- A full ground and hydrosurvey of the entrance precinct has been completed and has confirmed the dominant area of storm wash over and channel constriction is at the north-western tip of the dune spit. Upstream of this point the channel is wide, shallow and even, while downstream (to the north) it is well-positioned against the naturally rock lined northern bank and is operating efficiently before releasing south across the beach face; and
- DECC have confirmed that there is no available emergency funding under any of their Coastal, Estuary or Flood Programs to support the intervention works. Therefore, any works initiated within the next year will need to be funded entirely by Council or deferred until an application under the Estuary Management Program is considered on merit. If successful, this may be available in early 2010.

Economic, Social & Environmental (ESD) Consideration:

As detailed in the Options section of this report.

Financial Considerations:

There are no existing funds available from Council or State Government to undertake intervention works. DECC has advised that technical support will continue to be provided to assist Council in determining an intervention strategy and grant funding support would be considered in the 2009-2010 Estuary Management Program. Consequently, the works at Lake Conjola can only proceed if funds are re-directed from other jobs as part of a current budget review. This situation highlights the importance of on-going contingency or unallocated funding, as agreed by Council in MIN08.1638 for future operations.

57. Proposed Lease to the Shoalhaven Division of General Practice - 16 Berry Street, Nowra **File 37062**

Purpose of the Report:

To seek Council approval to lease 16 Berry Street, Nowra to the Shoalhaven Division of General Practice (SDGP) following an earlier resolution of Council to agree to the request from the Bomaderry Bowling Club to surrender its lease of 16 Berry Street and to permit Workfit to continue operating on site rent free pending the outcome of the current grant funding application.

RECOMMENDED that:

- a) **The Council of the City of Shoalhaven leases to the Shoalhaven Division of General Practice part of the building at 16 Berry Street, Nowra for the operation of a Workfit facility rent free for a term expiring on 30 June 2009;**
- b) **The Common Seal of the Council of the City of Shoalhaven is affixed to any documents required to be sealed and that otherwise the General Manager is authorised to sign any documentation necessary to give effect to this resolution.**

Options:

- 1. Approve the application from SDGP and grant a lease on the terms requested.
- 2. Approve the application from SDGP and grant a lease at a rental to be determined.
- 3. Decline the application and list the building with agents on the basis that the building is to be leased to a commercial tenant at market rental.

Details/Issue:

Council's last resolution on this matter was (MIN09.80)

"that Council agree to the request from Bomaderry Bowling Club to surrender its lease of 16 Berry Street as at 28th February 2009 and permit Workfit to continue operating the gym and its other activities on site rent-free pending the outcome of the current grant funding application when the viability of the project would be re-evaluated."

This resolution followed a request from the Bomaderry Bowling Club to surrender its lease of 16 Berry Street due to lack of funding assistance and verbal advice that the club was in discussions with other organisations which had expressed interest in taking over the Workfit operation. The club has now advised that it has transferred all the assets of Workfit Shoalhaven to SDGP.

SDGP has requested by way of letter dated 12 March 2009 that Council grant a new lease to SDGP to enable it to re-open the Workfit operation at 16 Berry Street pending the outcome of an application to Commonwealth funding to continue the operations of Workfit. SDGP has requested that Council grant a lease rent-free expiring on 30 June 2009 by which date the outcome of the grant funding application by SDGP will be known. This funding is being sought to enable the club and SDGP to relocate the Workfit operation to new premises as part of a Wellness Centre.

Economic, Social & Environmental (ESD) Consideration:

SDGP has advised that the centre is not a gym competing with other similar facilities in the area and it does not want to take business away from private enterprise. Its brief is to care for the health of community members regardless of status, ethnicity or religious belief. The facility will be used for:

- a) preventative medicine, that is exercise physiology to prevent the onset of chronic disease
- b) chronic disease management, that is exercise physiology for the management of disease such as diabetes, heart disease etc for a better quality of life for those with chronic disease.
- c) Department of Veterans Affairs patients to support their needs
- d) Injury rehabilitation through worker's compensation and CTP claims

In all these activities the current exercise equipment will be used by exercise physiologists.

SDGP has also advised that the centre will be available to all community members who fall into the above categories and will not be a private concern as it is a not-for-profit organisation. The majority of income of the centre will be paid by the division programmes on behalf of the patients who are referred by a GP, Specialist or Allied Health Professional. Any additional funds raised will be returned to the community via new divisional health programmes. Future proposals include an exercise physiology centre for high school children with obesity issues.

Financial Considerations:

The recommendation will delay Council placing the property on the rental market, consequently there will be the potential loss of a commercial return from the building during the period of a rent free lease.

E J Royston

DIRECTOR, STRATEGIC PLANNING & INFRASTRUCTURE

R D Pigg

GENERAL MANAGER

NOTICES OF MOTION

ORDINARY MEETING

TUESDAY, 24TH MARCH 2009

**58. Contract of Sale of 'Comberton Grange' to Shaolin Temple Foundation (Australia)
Ltd by Shoalhaven City Council File 18583-03**

The following Notice of Motion of which due notice has been given, is submitted for Council's consideration:

RECOMMENDED that Council;

- a) Conduct an Independent Probity Review carried out on the negotiations, preparation and subsequent conduct by the elected Council, Councillors and Senior Staff in relation to the subject Contract of Sale and related activities, as a matter of urgency.**
- b) On completion of the Probity Review, a report to Council, with any recommendations that may arise from such Probity Review for consideration and determination by Council.**

Background

It has been brought to the attention of Council in recent times in regard to this sensitive Contract of Sale and particularly the Mortgage option included in the COS that a potential Conflict of Interest or perceived Conflict of Interest by Council Staff or Councillors may have arisen.

The conduct of Shoalhaven City Council must be beyond reproach in these matters and the only available remedy in the circumstances is to have the Contract and all related negotiations and contact between the Purchasers and Council, Councillors and Staff subject to a Probity Review.

This process is consistent with the recommendations of the DLG's recent 'Better Practice Review' report provided to SCC and ICAC guidelines.

Signed
Clr J Fergusson
Clr A Guile
Clr G Ward

The following Notice of Motion of which due notice has been given, is submitted for Council's consideration:

Any plan to close Sanctuary Point Library in the future, irrespective of the 'Stockland development' at Vincentia, be set aside and not acted on.

Signed
Clr B Proudfoot