



COUNCIL REPORT CARD – 12 MONTHS ON SINCE SEPTEMBER 2012 ELECTION

WEBCAST CUT OFF– DECEMBER 2012 –

Our Website carries quite a few stories on this issue. [HERE](#)

The latest excuse given was that they (the 7 Councillors in the Mayor's voting bloc) would consider this again when the Constitutional Question about Local Government is put to the Referendum which was to be held in conjunction with the next Federal election. This of course did not happen so this is still in abeyance. However, for many meetings, we have had members of the TRRA Committee in attendance to actually view what happens, record the voting and what was said in the Council Chamber. For those attending, this has not usually been a particularly enjoyable experience for the reasons that follow in this report card.

SECTION 94

This is funding put into a trust by developers to be put aside for use in the area where the development took place. In Port Stephens, the whole pool of funding is being spread right across the Shire, regardless of the amount of development. For example, Nelson Bay had a huge development boom 5-6 years ago and the most visible payback is our Nelson Bay foreshore re-development. What happened to the rest?

The TRRA website has additional information on this type of funding. [HERE](#)

In December, seven 7 Councillors submitted a notice of motion to fund a list of projects worth \$300,000 for funding under repealed Section 94. [HERE](#) The remaining 3 Councillors (Nell, Dingle & Kafer) were not included in any discussions



relating to this available funding. The projects were not in most cases drawn from the current Resource Strategy or Forward Works Plans for Council and some were identified as funding for community groups or churches.

When we sent a letter of complaint, the Department of Local Government standard response was received – if you have a complaint about the General Manager, refer it to the Mayor. If the complaint is about the Mayor, refer it to the General Manager. We understand that when one Councillor attempted to gather further information from the NSW Department Planning and Council staff, a Code of conduct complaint was lodged by other Councillors.

The 3 Councillors left out in December did however in February compile their Section 94 list from the current project lists awaiting priority funding and this was approved by all Councillors.

The raid on Section 94 continued when the Birubi Surf Club funding model was passed at Council's meeting in April. \$1.2M was the figure shown as a "loan" from Section 94 funding sources with no indication of how and when this will be paid back.

We then heard at a more recent meeting that another list of Councillor favourite projects is being compiled to use up the last of the Section 94 bucket. We await the details of this list.

We just have to ask what happened to the funding for the critical projects which were of much higher priority to all the ratepayers of Port Stephens such as roads, drains, public amenities, cycleways and the huge civil assets backlog we keep hearing about.

COUNCIL OWNED SAND MINING LAND – TENDERING PROCESS FOR LEASING ARRANGEMENT

We had major concerns about the process used for acceptance of a tender for the lease on the Council owned land at Cabbage Tree Road in February this year. Mackas Sand withdrew their tender on the afternoon of the first Council meeting to consider these tenders and Cr Mackenzie continued to be fully involved in all future discussions relating to this. TRRA did lodge a code of conduct complaint relating to pecuniary interest for Cr Mackenzie to the General Manager and this was required to be sent to the Division of Local Government. At least this is now on the public record even though we understand that no action is to be taken.



Despite the advice of Council staff that several tenders were not compliant with tendering conditions, a compliant tender was recommended. Councillors voted for a deferral on acceptance of this tender and requested an evaluation of all tenders. Subsequently the tender from Castle Quarry was approved at a meeting of Council. The following is the report from the Examiner:-

Extract from the Examiner 19.2.13

"The Examiner understands some councillors in the meeting pushed for Castle Quarry (CQ), a subsidiary company of the Nathan Tinkler-owned Buildev, to be granted the tender.

This came despite the council's staff report stating CQ's application had not satisfied the requirements of the tender.

The Examiner understands that although CQ's application offered more in royalties, it also placed conditions on the tender which could have required the council to fund large parts of the initial site assessment."

The positive is that hopefully this will bring between \$10M to \$12M into Council's coffers over the next 10-12 years.

DEVELOPMENT APPLICATIONS CONSIDERED AT COUNCIL MEETINGS SINCE SEPTEMBER 2012 ELECTION

The majority of Development Applications are processed and approved or refused by Council officers. That is good local government practice. Only major developments or those "called up" for decision by Councillors are considered at Council meetings. The table below demonstrates the number of development applications called up since this Council was elected in September 2012. Many have been refused or deferred by the previous Council and have "resurfaced" since the September 2012 election.

Our main concerns relate to the potential for expensive litigation in the future at great cost to the ratepayers of Port Stephens and to the precedents being set which could very well "open the flood gates" to similar applications being pressured to be approved.

MEETING DATE	DA DETAILS	BOUGHT TO COUNCIL BY	STAFF	COUNCIL
23 rd Oct 2012	Development Application For Digital Television Tower At 41 Fishermans Bay Road Fishermans Bay	Requested by Mayor MacKenzie	Refuse	Approved
27 th Nov 2012	Development Application For Seven (7) Lot Subdivision At No.8-10 Rees James Road Raymond Terrace. (Brought before previous Council and deferred or refused)	Requested by Mayor MacKenzie	Refuse	Approved
11 th Dec 2012 12 th Feb 2013	Development Application For The Completion Of A Partly Constructed Rural Shed And Ongoing Use At 2209 Pacific Highway Heatherbrae (Brought before previous Council and deferred or refused)	Cr Jordan originally	Refuse	Approved
12 th Feb 2013	Section 96 Modification Involving The Deletion And Modification Of Bushfire Construction Requirements For Proposed Dwelling At No. 144 Rocky Point Road Fingal Bay (Brought before previous Council and deferred or refused)	Requested by Mayor MacKenzie	Refuse	Approved
12 th Feb 2013	Modification Of The Rural Fire Service Construction Requirement Conditions For Proposed Dwelling At No. 14 Rutile Road, Oyster Cove (Brought before previous council and deferred or refused)	requested by Mayor MacKenzie	Refuse	Approved
26 th Feb 2013	Development Application For Dog Boarding Kennels At No. 383 Butterwick Road, Butterwick – Lot 12 Dp 243350 (Note: This was the first time the Mayor did not vote with the other 6 Councillors. on the night, Crs Dingle & Nell spoke against this DA based on noise and traffic concerns as expressed by a large public gallery)	Requested by Cr Jordan	Approve	Rejected
26 th March 2013 23 rd April conditions	Development Application For Change Of Use From Industrial Workshop To Vehicle Smash Repairs At No. 8 William Bailey Street, Raymond Terrace	Cr Nell, supported by Crs Dingle and Kafer.	Approve	Approve subject to conditions
28 th May	S96 Modification Of Development Application For A Single Storey Dwelling	called to Council	Refuse	Approved

MEETING DATE	DA DETAILS	BOUGHT TO COUNCIL BY	STAFF	COUNCIL
2013	At No. Lot 3 Dp:1076322 11 Moxey Close, Raymond Terrace. Builder on Cr Le Mottee's ticket. Completed without conditions met, no occupation certificate.	by Cr Le Mottee		
14 th May 2013 & 28.5.13 (Rescission Motion)	Development Application For Fifty Three (53) Lot Residential Subdivision At No. 2 Halloran Way, 153 Richardson Road, Raymond Terrace (Defence Flight Path issue which received press coverage at the time) Crs who voted for this were Crs Dover & Morello, LeMotte, Tucker & Mayor MacKenzie. (Crs Doohan and Jordan were absent) A Rescission motion was immediately moved by Cr Dingle & Nell and at the next meeting on 28.5.13 was defeated with Crs Dover, Morello, Le Motte, Tucker, Jordan, Doohan & MacKenzie all voting against the Rescission.	Requested by Mayor MacKenzie Rescission requested by Crs Dingle & Nell	Refuse Refuse	Approve Approved
11 th June 2013	Development Application For Use Of Storage Shed At No. 77 Kindlebark Drive Medowie (Cr Le Motte absent from vote – pecuniary interest declared)	requested by Cr Dingle	Approve	Approve
23 rd April 2013 11 th June 2013	Development Application For Two (2) Lot Subdivision – Torrens Title At No. 121 Navala Avenue Nelson Bay RFS issues	Mayor and Councillor Nell.	Refuse	Deferred
11 th June 2013 25 th June	Development Application For Crusher, Screen And Relocation Of Machinery Shed/Office At No. 176 Winston Rd Eagleton DA refused but operations continued - no injunction arranged	Requested by Mayor MacKenzie	Refuse	More legal info requested. Refused re
13 th Aug 2013	Development Application For Change Of Use To Brothel At No. 1/336 Soldiers Point Road, Salamander Bay	Requested by Cr Dover	Approve	Refuse
10 th Sept 2013	Development Application For Five (5) Lot Subdivision And Boundary Realignment At No. 20 Albert St Taylors Beach (Brought before previous Council and deferred or refused – entry road flooding & sea level issues)	Requested by Cr Nell Cr Nell not in	Refuse	Approve

MEETING DATE	DA DETAILS	BOUGHT TO COUNCIL BY	STAFF	COUNCIL
		attendance		
10 th Sept 2013	Section 96 Modification Involving Design Increase In Roof Construction Floor Area And Building Line Setbacks For Proposed Two (2) Storey Dwelling At 227 Foreshore Drive Corlette (Brought before previous Council and deferred or refused)	Requested by Mayor MacKenzie	Refuse	Approve
24 th Sept 2013	Development Application For Proposed Dwelling At No. 14 Rutile Road, Oyster Cove (Brought before previous Council and deferred or refused – RFS issues)	requested by Mayor MacKenzie	Refuse	Approve

Note: The yellow indicates DAs brought forward by the Mayor.

The red are comments gathered from Council business papers or from TRRA members attending the meetings.