

RICHMOND VALLEY COUNCIL

Minutes

Extraordinary Meeting

Tuesday, 5 May 2009

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MINUTES OF THE EXTRAORDINARY MEETING OF RICHMOND VALLEY COUNCIL, HELD IN THE COUNCIL CHAMBERS, CNR WALKER STREET AND GRAHAM PLACE, CASINO, ON TUESDAY, 5 MAY 2009 AT 2.00 P.M.

PRESENT

Crs. C.J. Sullivan (Mayor), C.J. Cox, O. Crawford, S.A. George, B.J. Jeffery, D.A. Kinnish, S.E. Morrissey, R.A. Mustow and S.N. Wheatley.

The General Manager, Director Corporate Services, Director Works, Director Environmental Development Services, Manager Finance and Executive Assistant (Roslyn Townsend) were also in attendance.

1 APOLOGIES

Nil.

2 DECLARATION OF INTERESTS

Nil.

3 REPORTS

3.1 DRAFT MANAGEMENT PLAN 2009/2012 AND DRAFT BUDGET ESTIMATES 2009/2010

Reference: Corporate Management - Planning; Financial Management - Budgeting

Prepared by: Manager Finance

Background

Each year, Council is required by Section 402 of the Local Government Act 1993 to prepare a Draft Management Plan that outlines Council's activities for the next three years and the Revenue Policy for the next year. Section 403 and 404 of the Local Government Act 1993 stipulate the contents of the Draft Management Plan and Draft Revenue Policy and it is upon this basis that a Draft Management Plan for the period 2009/2012 has been prepared along with a Draft 2009/2010 Revenue Policy for Council's consideration. The Draft 2009/2010 Revenue Policy is subject to an additional report to this Extraordinary Council Meeting.

Report

Issues

Circulated with the business paper is the Draft Management Plan for the period 2009 to 2012 incorporating the Budget Estimates. The Plan has been prepared on the current Council organisation structure of the three directorates of Council; Corporate Services, Environmental Development Services and Works along with the programs in the various responsibility areas of each of the directorates. Each program has listed the goals to be achieved by each program, the statement of means to achieve those goals, the target as to when the goals will be carried out and the performance measurement of those goals. In relation to the 2009 to 2012 Draft Management Plan and 2009/2010 budget estimates in particular, the following matters require consideration.

Financial Implications

The draft budget estimates for the 2009/2010 financial year have been compiled and reviewed by senior management. At this point in time the budget estimates are detailed as follows:

Item	Estimated 2009/2010 \$
Operating Revenue	46,348,800
Operating Expenditure	52,966,300
Operating Result - Surplus/(Deficit)	(6,617,500)
Add: Capital Revenue	9,046,500
Change in Net Assets	2,429,000
Add: Non-Cash Expenses	11,237,000
Add: Non-Operating Funds Employed	18,688,000
Subtract: Funds Deployed for Non-Operating Purposes	40,095,200
Cash Surplus/(Deficit)	(7,741,200)
Restricted Funds - Increase/(Decrease)	(7,258,900)
Working Funds - Increase/(Decrease)	(482,300)

The budget result has been derived from the assessment of current service levels and additional requirements plus it has been based on the following parameters:

- General rate peg increase 3.50%
- Consumer Price Index (CPI) - Inflation 2.50%
- Expected wages growth 3.20%
- Expected electricity cost increases 20.00%
- Expected insurance cost increases 5.00%
- Additional superannuation contributions increase from 2008/2009 45.75%
- Interest on investments 3.75%

The proposed estimated budget result for 2009/2010 is showing a balanced result for both Sewerage and Water whereas General Fund currently has a budget deficit of \$482,300.

Overall there is estimated to be a cash deficit for 2009/2010 of \$7,741,200 which has been derived from the following fund results:

Fund	Estimated 2009/2010 Cash Result \$	Surplus, Balanced or Deficit
General	818,100	Deficit
Sewerage	5,728,500	Deficit
Water	1,194,600	Deficit
Total	7,741,200	Deficit

Whilst the proposed budget estimates for 2009/2010 are currently \$482,300 in deficit, Council is proposing to utilise reserves to the value of \$7,258,900 in 2009/2010 to partly fund the estimated cash deficits. The estimated reserve utilisation for 2009/2010 is as follows:

Reserve Type	Estimated 2009/2010 Utilisation \$
General – External	69,600
General – Internal	266,200
Sewerage	5,728,500
Water	1,194,600
Total	7,258,900

This is exactly what reserves funds are used for but in saying this, Council cannot continue to sustain this expenditure trend in future years in terms of reserve utilisation. An analysis of the draft estimates illustrates Council continually does not generate enough general revenue to recover recurrent expenditure plus provide any funding for the requested value of capital works estimated to be nearly \$33.2million for 2009/2010. Whilst predominately the reserve utilisation for 2009/2010 is for Sewerage and Water, it is the longer term funding inadequacies that exist in the General Fund.

Council previously has had reserves in the General Fund to draw upon but those reserves are continuing to decrease and these historical funding sources mainly for capital works are disappearing. Work is still being done on developing/updating a long term financial plan for the General Fund over the next ten years but indications are simply Council does not generate sufficient general fund revenue to do the following:

- Provide for normal recurrent operating expenditure at current service levels.
- Provide no general fund revenue for capital works. The only capital works in the general fund are those funded from sources external to Council except the self funding general fund operations. Council has no general fund money to allocate to roads, bridges, footpaths, parks, sporting grounds, swimming pools etc.

This is further emphasised that there is a current projected General Fund budget deficit of \$482,300 proposed for 2009/2010. This deficit is at a level where decisions need to be made about current levels of service. Essentially Council is now in the situation it can no longer afford the funding levels provided to each program on a recurrent basis. To address this which must be done now is either by two options:

- Additional revenue through general rate increases or from other sources.
- Reduction in expenditure by reviewing Council operated programs which in turn will mean reduced service levels over those currently provided.

The whole issue of the funding problems associated with the General Fund are not new and have been consistently reported to Council over a number of years. The situation would obviously be far worse now had the rate increases undertaken in 2004/2005, 2007/2008 and 2008/2009 not been pursued and secured. Those decisions whilst difficult at the time have at least left Council in a better situation than otherwise would exist now even though the circumstances now is concerning.

If it is Council's desire to maintain programs at current recurrent levels and provide at least some general fund revenue towards capital work, Council will have to pursue further general rate increases over and above the rate peg announcements. This course of action will not be really a matter of choice but a necessity. As an indication, the current projected deficit for 2009/2010 would require a 6.2% rate increase on top of the 3.5% rate peg announcement. Therefore to maintain the status quo, Council would need a 9.7% rate increase and still have no funds for general fund related capital works aside from self financing activities.

Alternatively if Council does not want to pursue future rate increases, programs will have to be reduced and service levels decreased. In real terms Council is continuing to fall behind each year with cost increases that are outstripping increases in revenue. Council as a business like any other business is also being affected by the current economic circumstances globally with items such as declining interest revenues from the double whammy of lower interest rates and less reserves to invest.

Regardless of the proposed budget for 2009/2010, as indicated in this same report last financial year, it is clearly apparent that Council is purely a maintenance operation in the General Fund but is facing a need to provide infrastructure for future growth and for 2009/2010 for the first time unable to fund the maintenance/recurrent operation considering the proposed budget deficit. The proposed budget deficit is at a point where from a staff perspective, any further reduction of the deficit unless there is other revenue available, requires a cut in the level of service provided by Council programs. If there are to be cuts in service level further to programs, this requires Council input/decision.

It is suggested that Council must make decisions as to what it believes are its core services and appropriate service levels and focus on that direction. Any funds freed up as a result of such decision should then be directed to redress the anticipated unacceptable budget deficit for 2009/2010 initially and unfortunately this matter cannot be deferred.

Council needs to consolidate its financial position whilst juggling the community desire for better services/infrastructure and finding the right balance of how the desire for better services/infrastructure is financed. This is not an easy task to achieve but must be addressed now and not ignored.

Strategic Links

The Draft Management Plan is a significant strategic document for Council as it outlines the proposed goals and objectives Council is to achieve over the next three years in this case 2009/2010 to 2011/2012. It sets the direction and overall financing of Council's programs and services for that period.

Statutory/Policy Implications & Consultation

Section 405 of the Local Government Act 1993 requires Council to place its Draft Management Plan and Draft Revenue Policy on exhibition inviting submissions from the public for a period of twenty eight days. To meet this requirement, it is proposed that Council's Draft Management Plan 2009 to 2012 incorporating budget estimates and the Draft 2009/2010 Revenue Policy be advertised from 9 May 2009 and conclude on 9 June 2009.

After conclusion of the public exhibition period, Council must in accordance with Section 406 of the Local Government Act 1993 adopt the Draft Management Plan for 2009 to 2012 and Draft 2009/2010 Revenue Policy prior to the end of the current financial year i.e. 30 June 2009. It is expected this will be done at Council's Ordinary Meeting to be held on 16 June 2009. Section 406 of the Local Government Act 1993 also requires Council to consider any submissions received from the public prior to the adoption of the Draft Management Plan 2009 to 2012 and Draft 2009/2010 Revenue Policy.

Conclusion

As has been indicated in this report, Council needs to consolidate itself financially for the future. To that end it must undertake the following:

- Redress the anticipated 2009/2010 Budget deficit of \$482,300 in the immediate short term. During the public exhibition period, Council staff will also look at the possibility of any further savings.
- Determine what are the core priorities in respect of services/infrastructure and focus financial resources to those priorities within the limitations of the financial capacity of Council and ensuring ongoing financial sustainability of the Council. This will be facilitated with the Integrated Planning and Reporting Process that has commenced. This process needs to be embraced and seen as a significant opportunity.
- Make decisions to reflect the core priorities and that be the directional focus.
- Update subsequent financial years post 2009/2010 to ensure funding in the Draft General Fund Financial Plan.

Adoption of the proposed Draft 2009/2012 Draft Management Plan and Budget Estimates will allow Council then to advertise this document for the Community to consider and provide submissions upon if they so desire during the exhibition period of twenty eight days. Council will then need to consider any submissions before formally adopting the 2009/2012 Draft Management Plan and Budget Estimates at its Ordinary Meeting to be held on 16 June 2009.

Information from Works Directorate - Oak Street Toilet, Evans Head:

At the April 2009 Meeting, Council resolved that staff prepare a report for consideration in conjunction with the Draft Estimates in relation to additional toilets in Oak Street, Evans Head. The resolution was based on the cost of leasing, cleaning and associated costs being no more than one other toilet at Evans Head.

An amount of \$4,000 has been provided in the Draft Estimates for the Oak Street Facility; however, unless there is a change in previous lease arrangements, it is unlikely that this will be sufficient to cover the costs for annual lease and associated costs. Further information on this matter will be provided prior to or at the Meeting.

General Manager's Comments:

The preparation of the Draft Management Plan (and associated documents) has proven a very difficult task. In that respect, there are a range of external factors/influences that have impacted significantly on the information included in the draft Management Plan/Budget/Revenue Policy, e.g. the global financial crisis impacting on investment income, superannuation contributions, State Government requirements regarding the landfill levy, the need to introduce a trade waste charge structure.

In addition, internal factors such as the low revenue base/general rate yield and the need to address significant future capital works for sewerage and water infrastructure have also played a part. As can be seen in the draft documents (and report from the Manager Finance) this is clearly an unsustainable position and Council needs to formulate and commit to an approach to address its future direction and financial sustainability.

As Council is aware, there have been previous attempts to put in place a strategy to increase rate revenue. However, this did not get approval from the Department of Local Government (or the community). It is clear that the position of Council's revenue base, program expenditure levels and level of services need to be comprehensively reviewed and strategies/policies to address same, put in place.

The opportunity to undertake such a process is available via and in conjunction with the Integrated Planning and Reporting (IPR) Project/Processes that has been introduced to Council in recent months. As has been indicated by the IPR Facilitator, this needs to be done in conjunction with the community and in a "non political"/totally supported approach by Councillors. As indicated above, this

needs to address revenue, resource, expenditure and service level issues across all Council programs.

The projected deficit of \$482,300 shown in the draft Management Plan/Budget is a totally unsatisfactory situation. However, from a staff perspective the decisions that need to be made in order to reduce that deficit will need to be made on the basis of what future direction Council wants to take in respect of various program areas, i.e. reduce service levels/resources, pursue additional revenue. Those decisions are best not made in an ad hoc manner but as part of an overall approach that can be undertaken in conjunction with and as part of, the IPR process.

It is proposed that staff will continue to try to identify operational savings both prior to and following adoption of the current Management Plan.

In addition, it is proposed that any staff positions that are subject to resignations, retirements, etc, will not be replaced until there has been an analysis/determination of the need to replace same.

Some recommendations reflecting the above, have been included below.

RECOMMENDATION

Recommended that:

1. The Draft Management Plan and Budget Estimates for the three year period 2009 to 2012 be considered and any adjustments incorporated prior to public exhibition in accordance with Section 405 of the Local Government Act 1993.
2. During the public exhibition period, the 2010/2011 and 2011/2012 budget estimates be further reviewed with the aim to achieve a balanced budget result for these years and the Draft General Fund Forward Financial Plan be updated to align expenditure with available expected funding.
3. Council commit to establishing a process linked to the Integrated Planning and Reporting Project that will involve a comprehensive review of revenue, resource, expenditure and service level issues across all Council programs.
4. Staff positions that are subject to resignations, retirements, etc. not be replaced until there has been an analysis/determination of the need to replace same.

050509/ 1 RESOLVED (Cr. Kinnish/Cr. Morrissey)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

3.2 DRAFT REVENUE POLICY 2009/2010

Reference: Corporate Management – Planning; Financial Management - Budgeting, Fees and Charges

Prepared by: Manager Finance

Background

Each year, Council is required by Section 402 of the Local Government Act 1993 to prepare a Revenue Policy for the next year. Section 404 of the Local Government Act 1993 stipulates the contents of the Draft Revenue Policy and it is upon this basis that a Draft Revenue Policy for 2009/2010 has been prepared for Council's consideration.

Report

Issues

Circulated with the Business Paper as part of the Draft Management Plan for the period 2009 to 2012 incorporating the Budget Estimates, is also the Draft 2009/2010 Revenue Policy. This document outlines the proposed rates, fees and other charges that Council should implement for goods and services. Specifically, in respect of the Draft 2009/2010 Revenue Policy the following matters require consideration.

Financial Implications

Proposals contained in the Draft 2009/2010 Revenue Policy will financially impact upon ratepayers as follows:

- In respect of general land rates, Council will apply the allowed rate peg increase approved by the NSW Minister for Local Government of 3.5% for 2009/2010. In terms of rate income, this equates to approximately an additional \$261,000. Total general rate revenue yield is estimated to be \$7.735million or around 16.6% of Council's proposed 2009/2010 Operating Revenue. Council will also be applying new land valuations provided by the Valuer General for the purposes of calculating general rates for 2009/2010. Whilst the overall rateable land value of the Council area has increased by \$510.5million, Council's rate income has only increased by the rate peg and growth in new rate assessments. Accordingly the general rating structure has been adjusted where the ad valorem rates are considerably less than those applied for 2008/209 except in the Business Rate Category for the previous category of Business B (Other Centres of Population). Council has previously resolved to merge the Business rate category for the 2009/2010 financial year and a partial phase in of this occurred in the 2008/2009 financial year. The previous general rating categories of Business A (Casino) and Business B (Other Centres of Population) have been abolished and replaced with a single rating category called Business. All Business ratepayers are proposed to be levied the same ad valorem rate and base

amount regardless of locality in the Council area with the only differing variable that impacts on the total general rates levied being land value.

- Continuation of water and sewerage pricing structures to comply with NSW Department of Water and Energy 'Best Practice Guidelines'. It should be noted it is proposed to increase the sewerage charge for residential ratepayers from \$775.00 to \$810.00 to assist financing the ongoing sewerage financial plan (recently revised) over the next thirty years. This represents a 4.52% increase over the charge applicable for the 2008/2009 financial year. Commercial sewerage charges will continue to be based on a user pays basis measuring water consumption and discharge. The sewerage usage charge for commercial users will increase from \$1.55 per kilolitre to \$1.62 per kilolitre for 2009/2010. However the sewerage access charges will be the same as the relevant water access charges. Sewerage charges raised in advance for ratepayers at Broadwater under Section 501 of the Local Government Act 1993 will continue to assist with funding of the upcoming construction of the Broadwater Sewerage Scheme. The sewerage charge applicable will be the residential equivalent sewerage charge and this will also apply to commercial premises in Broadwater as well. User pays sewerage which normally would be applicable cannot be charged because there is no existing service. Council will also be raising the sewerage charge for residential multiple occupancy premises from \$775.00 to \$810.00 per unit within the rateable assessment. This is continuing the instruction given to Council by the NSW Department of Water and Energy to standardise the charge and eliminate the cross subsidy between residential multiple occupancy premises and other residential premises.
- Water consumption charges are proposed to increase for 2009/2010 after the recent review of the water financial plan for the next thirty years and the absorption of the ongoing bulk water charge increases proposed by Rous Water (15% increase for 2009/2010). Consumption charges are proposed to be \$1.53 per kilolitre for the first 200 kilolitres used (\$1.20 for 2008/2009). Water consumption greater than 200 kilolitres is proposed to be \$2.03 per kilolitre (\$1.60 in 2008/2009). The NSW Department of Water and Energy 'Best Practice Guidelines' for water pricing requires 75% of all water revenue from residential consumers to be derived from consumption. At the proposed charges, Council is expected to meet this target. Also for 2009/2010 water availability or access charges are proposed to reduce compared to those charged for 2008/2009 as follows:

Meter Size	Access Charge Proposed 2009/2010	Access Charge 2008/2009
20mm	\$100.00	\$120.00
25mm	\$156.00	\$188.00
32mm	\$256.00	\$307.00
40mm	\$400.00	\$480.00
50mm	\$625.00	\$750.00
80mm	\$1,600.00	\$1,920.00
100mm	\$2,500.00	\$3,000.00
150mm	\$5,625.00	\$6,750.00
200mm	\$10,000.00	\$12,000.00

The proposed water charges will continue give consumers more ability to control their water accounts with the emphasis of the charges based on consumption and not availability or access.

Those consumers deemed to be food producers are now at the stage where the phase in of water consumption charges concluded at the end of the 2007/2008 financial year. Given the NSW State Government is in the process of determining the Inquiry into the service delivery of water and sewerage in rural New South Wales, water consumption charges for food producers will increase from \$0.57 per kilolitre to \$0.59 per kilolitre for 2009/2010.

- Increase in domestic waste annual charges by 32.93% from \$252.00 to \$335.00 per service. This increase has been brought about by Council proposing to implement a kerb side recycling service and the new requirement to contribute a land fill levy on a per tonnage basis to the NSW State Government. It also provides for an organics collection service to be introduced in 2010/2011. Non-domestic waste charges are proposed to increase by 27.86% from \$260.00 to \$335.00 per service for the same reasons as the domestic waste service. Additionally the introduction of an additional domestic/non domestic waste charge under Section 502 of the Local Government Act 1993 with respect to properties in the Evans Head and surrounding area to cater for extra garbage collections over the Christmas/New Year holiday period will continue. This charge will only be levied by those whom wish to receive the additional garbage service(s). It is also proposed to increase the Waste Levy charge from \$5.00 to \$120.00. This charge is applied to all properties that could be serviced by a garbage collection but are not. It is seen as encouragement by the introduction of this charge to obtain more services within the current routes of the garbage collection service.
- The Local Government (General) Amendment (Stormwater) Regulation 2006 commenced on the 13 April 2006. This legislation now allows Councils to charge for stormwater management services outside the parameters of rate pegging. Details of this charge have been disclosed on pages 11 to 13 of Council's Draft 2009/2010 Revenue Policy. The charge will provide Council with an estimated \$199,300 to fund stormwater drainage works/programs in accordance with the guidelines issued by the Department of Local Government on 26 July 2006 as per Circular 06-47.

The revenue policy also proposes the following major variations for user fees and charges:

- Further review of the charges for products available at Council's quarries. Given Council has now determined quarry product prices are commercial in confidence, these product prices are no longer disclosed publicly and are therefore not included in the 2009/2010 Draft Revenue Policy that will be placed on public exhibition seeking submissions.

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- Amendment to fees proposed for Liquid Trade Waste to represent a phase in of these charges.
 - Substantial increases in landfill fees to assist financing the landfill levy imposed by the State Government and financing works required by the landfill levy.
 - Revision of fees associated with Aerodromes, Casino Showground and Public Cemeteries and property connections to Water Supply.
 - Fees generally increased by the Consumer Price Index (currently 2.5%) for the purposes of preparing the Draft 2009/2010 Revenue Policy in some areas where applicable.
 - A review of the applicability of Goods and Services Tax (GST) to Council rates, fees and charges based on the latest determination by the Federal Treasurer under Section 81-5 of a New Tax System (GST) Act 1999.

Included in the front of the document is the policy by which Council determines fees and charges.

Council for 2009/2010 will need to borrow \$14.9million to complete works associated with further augmentation of the sewerage system. These loan funds are proposed to be utilised as follows:

- Woodburn Pump Station Augmentation \$3,8million
- Broadwater Sewerage Construction \$3.7million
- Evans Head Dry Weather Reuse Construction \$7.4million.

Loan borrowings of this size are the largest single borrowing in Council's history but are essential to fund the above projects. This loan borrowing has been factored into and its subsequent repayments of principal and interest in the forward sewerage financial plan recently reviewed for the next 30 years. At this stage it is estimated Council will need to borrow a total of \$62.25million for sewerage and water over the next ten years including the proposed borrowing for 2009/2010.

Statutory/Policy Implications and Consultation

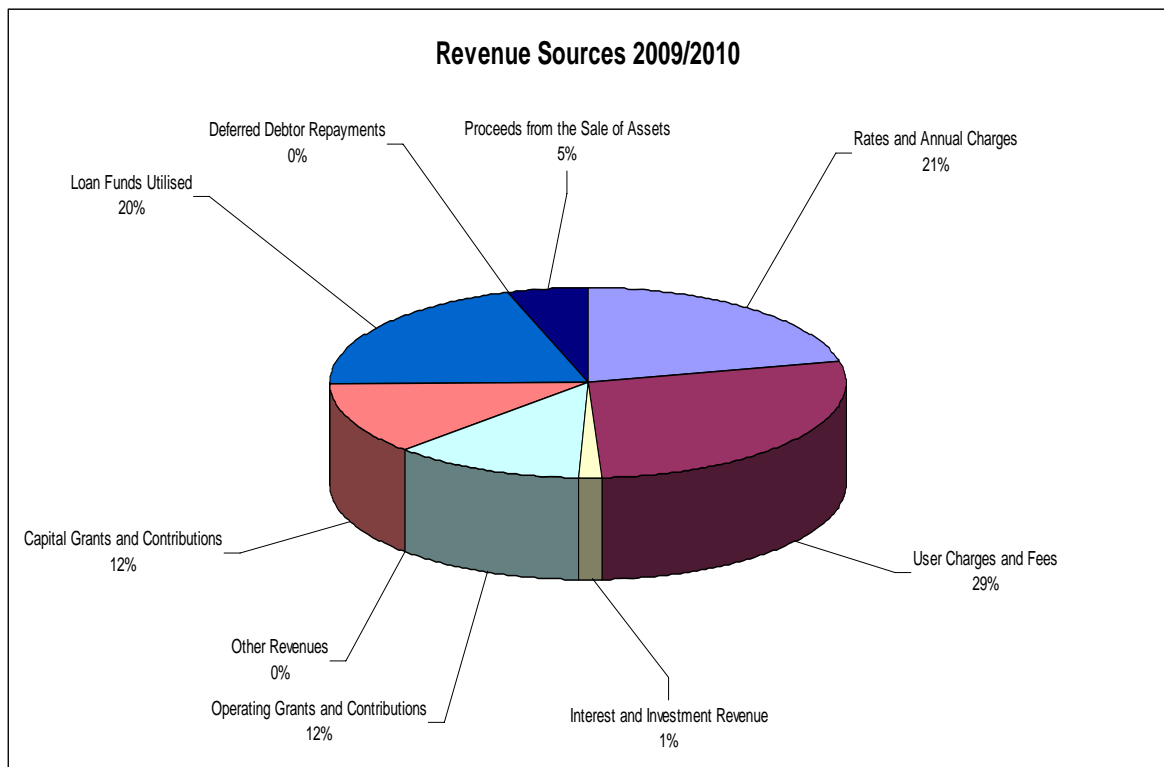
Section 405 of the Local Government Act 1993 requires Council to place its Draft Management Plan and Draft Revenue Policy on exhibition inviting submissions from the Community for a period of twenty eight days. To meet this requirement, it is proposed that Council's Draft Management Plan 2009 to 2012 incorporating budget estimates and the Draft 2009/2010 Revenue Policy be advertised from 9 May 2009 and conclude on 9 June 2009.

After conclusion of the public exhibition period, Council must in accordance with Section 406 of the Local Government Act 1993 adopt the Draft Management Plan for 2009 to 2012 and Draft Revenue Policy for 2009/2010 prior to the end of the current financial year i.e. 30 June 2009. It is expected this will be done at Council's Ordinary Meeting to be held on 16 June 2009. Section 406 of the

Local Government Act 1993 also requires Council to consider any submissions received from the public prior to the adoption of the Draft Management Plan 2009 to 2012 and 2009/2010 Draft Revenue Policy.

Conclusion

The 2009/2010 Draft Revenue Policy provides the basis for Council to raise and collect revenue required for the 2009/2010 financial year. It is estimated that Council's total yield from general rates, user charges relating to water/sewerage and annual charges will be \$20.955million in 2009/2010. It is also assumed the proposed 2009/2010 Draft Revenue Policy will produce Council's revenue sources for 2009/2010 as follows:



Adoption of the proposed Draft 2009/2010 Revenue Policy will allow Council then to advertise this document for the Community to consider and provide submissions upon if they so desire during the exhibition period of twenty eight days. Council will then need to consider any submissions before formally adopting the 2009/2010 Revenue Policy at its Ordinary Meeting to be held on 16 June 2009.

RECOMMENDATION

Recommended that:

1. The Draft 2009/2010 Revenue Policy be considered and any adjustments incorporated prior to public exhibition in accordance with Section 405 of the Local Government Act 1993.

2. The Draft 2009/2010 Revenue Policy be adopted and advertised in accordance with Section 405 of the Local Government Act 1993 seeking submissions from the community on its contents.

050509/ 2 RESOLVED (Cr. Morrissey/Cr. Wheatley)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

The General Manager advised that the Draft Revenue Policy required amendment to indicate that the interest rate that would apply to outstanding rates and charges would be 9% per annum (not 10%).

3.3 INTEGRATED PLANNING AND REPORTING - WORKSHOP

Reference: Corporate Management - Performance Management, Planning; Environmental Management - Programs; Land Use and Planning - Planning

Prepared by: General Manager

Background

Council has engaged the University of Technology Sydney (Centre for Local Government) to facilitate the implementation of Integrated Planning and Reporting (IPR) processes at Richmond Valley Council. That program commenced with an initial visit to Council in early April 2009 (in conjunction with the April Council Information Session).

Report

Issues

It is proposed that the process be continued in early July 2009 with a one day workshop involving Councillors considering items associated with the Community Strategic Plan component of Integrated Planning and Reporting requirements. Council has an Information Session scheduled for 7 July 2009; accordingly, the IPR Workshop is proposed for the following day, i.e. Wednesday, 8 July 2009. Alternatively, the 7 July Information Day could be substituted by the IPR Workshop.

Conclusion

This report provides for progression of the Integrated Planning and Reporting Program.

RECOMMENDATION

Recommended that Council endorse Wednesday, 8 July 2009 as the date for an Integrated Planning and Reporting Workshop.

050509/ 3 RESOLVED (Cr. Kinnish/Cr. George)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

3.4 DRAFT RICHMOND RIVER LOCAL ENVIRONMENTAL PLAN 1992 (AMENDMENT NO. 31) - EVANS HEAD MEMORIAL AERODROME REZONING

Reference: Land Use and Planning - Planning, Zoning; Traffic and Transport - Service Provision; P1001228

Prepared by: Director Environmental Development Services

Background

A review of the report provided to Council at its Meeting on 21 April 2009 has revealed that an administrative error was made during the preparation of the report relating to the subject draft LEP Amendment; this has resulted in three (3) submissions received not being specifically recognised or addressed as part of the discussion of the report submitted to Council's Ordinary Meeting held on 21 April 2009 (Item 12.24). These submissions were objecting to the Draft LEP amendment which will facilitate the rezoning of part of the Evans Head Memorial Aerodrome for a Future Retirement Village (FRV) facility.

At its Ordinary Meeting held on 21 April 2009, Council resolved that:

- "1. Draft Richmond River Local Environmental Plan 1992 (Amendment No 31), as published in this report, be adopted for creation as a local environmental plan, subject to any amendments required by the Department of Planning as a result of item 2 below;*
- 2. the Draft Plan be forwarded to the Department of Planning for opinions from the LEP Review Panel and Parliamentary Counsel; and*
- 3. the Draft Plan be submitted to the Minister to be made a Plan."*

Draft Richmond River Local Environmental Plan 1992 (Amendment No 31) proposes to amend Richmond River Local Environmental Plan 1992 by rezoning part of Lot 141, DP1067639, being approximately 4.8 hectares of land located within the south-eastern corner of the Evans Head Memorial Aerodrome, as Zone No 2(v) - Village.

The draft Plan proposes to rezone the subject land from:

- *Zone No 1(b1) – Rural (Secondary Agricultural Land)* — 1.3 hectares; and
- *Zone No 4(a) – Industrial* — 3.5 hectares.

As Council would be aware, the aim of the draft Plan is to appropriately zone the land so that it, along with another 4.7 hectares of adjoining 2(v) Zoned land (fronting Currajong Street, Evans Head) (total area for development 9.5 hectares) can be developed for the purposes of a FRV.

The purpose of this report is to document the three (3) omitted submissions received during the public consultation process and obtain a further resolution of Council to ensure statutory requirements and due process is followed.

Report

Issues

Three (3) submissions were not specifically addressed in the Council Report (Item 12.24); the submissions were from Mr. Frank D'Alterio, Mr. Anthony Coleiro and Mr. Peter Lynch.

The *Environmental Planning & Assessment Act and Regulation* does not require a report to Council to detail and provide commentary on each submission received as a result of an exhibition period. However, legislation requires Council to consider submissions and report the issues raised as a result of an exhibition period. Section 68(3) of the *Environmental Planning & Assessment Act 1979 (as amended)* states: "The council shall consider the submission and the report furnished pursuant to subsection (2) and may make any alterations it considers are necessary to the draft local environmental plan arising from its consideration of submissions or matters raised at any public hearing".

The issues raised in the three (3) omitted submissions were the same/similar to those raised in the thirteen (13) submissions addressed in the Council Report. No additional issues were raised in the three (3) omitted submissions and as such, Council has 'technically' satisfied legislative requirements in that all issues have been considered.

In addition to the abovementioned submissions reference has been made in the Media and at the Council Public Access Session on 21 April 2009, that a submission on the rezoning matter had been provided to Council by Mr. Dick Smith. Correspondence was received (addressed to the Mayor) on 9 February 2009 (between the exhibition periods) from Mr Smith. The correspondence does not reference the rezoning issue but encourages Council's careful consideration of the future of the Evans Head Memorial Aerodrome. The correspondence was therefore not regarded as a submission on the rezoning. A copy of that correspondence has been circulated separately to each Councillor.

Legal

Legal advice was sought which resulted in confirmation that the existing resolution is valid despite the omission of three (3) submissions. However, it is considered prudent to report the subject submissions to Council and obtain an additional resolution to proceed with the subject rezoning and make the Plan.

Consultation**Section 62 Consultation**

The Section 62 consultation phase engaged the Department of Planning; NSW Department of Primary Industries; NSW Heritage Office; State Emergency Services; Department of Natural Resources; NSW Rural Fire Service; Department of Environment and Conservation; Roads and Traffic Authority; New South Wales Aboriginal Land Council; and Department of Infrastructure, Transport, Regional Development and Local Government. Issues raised during this process were satisfactorily resolved and resulted in the Director-General of Planning issuing a Section 65 Certificate on 2 December 2008.

Section 66 Consultation

Section 66 of the Act provides that, upon receipt of a Section 65 Certificate Council shall give public notice that the environmental study and draft local environmental plan may be inspected by the public. Section 67 of the Act provides that any person may make a written submission.

The draft Plan and the environmental study were placed on public exhibition, firstly, from 17 December 2008 to 30 January 2009, and secondly, from 23 February 2009 to 25 March 2009. The second round of exhibition was required due to typographic errors in the first advertisement, and technical omissions.

Those persons who make submissions are required to address their correspondence to the General Manager. The advertisements placed in the newspaper during the exhibition periods, as well as the notification letters sent to adjoining and surround landholders, clearly stipulates this requirement.

During the public exhibition, Council received a total of sixteen (16) submissions.

Submission Summaries

A total of sixteen (16) submissions were received, four (4) of which were in support and twelve (12) of which were objecting to the proposed rezoning as a result of the exhibition period. Amongst those submissions were two petitions; one in support and one opposing the proposed rezoning. The issues raised in thirteen (13) submissions were summarised and comments provided in the Report submitted to the Ordinary Meeting held 21 April 2009 (Item 12.24).

The three (3) previously omitted submissions are summarised with comments provided on the issues raised below. Copies of the submissions have been circulated separately to each Councillor. The following details with regard to the subject submissions should be noted:

- The submission by Mr. Frank D’Alterio was received by Council as an email on 16 January 2009 (which was during the first exhibition period). The email was addressed to the Council email address, Planning Officer, Director Environmental Development Services, General Manager, as well as Councillors Sullivan, Wheatley, George and Crawford.
- The submission by Mr. Peter Lynch was received by Council as a letter on 2 February 2009 (outside both the exhibition periods). As this submission was received outside the exhibition period, Council has no legal obligation to consider the issues it raised. The letter was correctly addressed to the General Manager.
- The submission by Mr. Anthony Coleiro was received by Council as a letter on 23 February 2009 (which was the first day of the second exhibition period). The letter was addressed to the Mayor, Cr Col Sullivan.

Mr. Frank D’Alterio, Discovery Bay Hong Kong - dated 11 January 2009

1. Conflicting land use – the noise of an operational airfield impacting on the nursing home.

Comment: Any future Development Application for a Future Retirement Village Nursing Home will have to address and satisfy the requirements of the AS2021, obstacle limitation surface and ANEF contours.

2. The proposed retirement village nursing home clearly has the intention of reducing aviation related operations.

Comment: All accompanying reports and studies for the proposed rezoning indicate that any potential for land use planning conflict may be adequately managed for the proposed FRV facility. Appropriate building design can be provided to ensure the FRV facility is not impacted upon, nor adjoining land uses, particularly the aerodrome, are compromised by the FRV. The ANEF report indicates aircraft noise levels for the proposed location of the aged facility to be within the required guidelines for residential development.

ANEF levels of greater than 20 ANEF units are considered unacceptable for hospital and nursing homes. The whole of the proposed rezoning and retirement village site are outside of the projected 20 ANEF contours.

3. Contradiction to the spirit of preserving the heritage listed aerodrome.

Comment: The Heritage Office has agreed in principle with the rezoning proposal. Council has prepared a Plan of Management that supports long term aviation use of the aerodrome, as stated within the plan’s objectives. A Heritage Agreement has also been prepared in conjunction with the Heritage Office.

4. Proposed airpark development promotes aviation activity, investment and creates employment opportunities.

Comment: A Commercial in Confidence study undertaken by Tweed Economic Development Corporation (TEDC) details the Economic Impact of the Proposed RSL LifeCare Evans Head Retirement Village to be extremely beneficial to the local area. In terms of employment, a retirement village of the nature proposed will initially employ approximately 85 full time staff with potential for a further 27 positions. The study details multiplier effects of the construction and operational phases of the development project on the economy of Richmond Valley Local Governmental Area to be almost \$10 million with \$42 million and nearly \$17 million value added income generated with 270 employment positions required during the construction phase. In addition, it should be noted that separate expressions of interest have been called for possible Airpark developments at Evans Head Memorial Aerodrome. The concept of an airpark and an aged care facility at that location are identified in the endorsed Plan of Management.

Mr. Peter Lynch, Chapel Hill QLD - 30 January 2009

1. The proposed use is in conflict with the Deed of Agreement, unacceptable high risk for complaints against aircraft noise which will threaten ongoing aviation use.

Comment: The Department of Infrastructure, Transport, Regional Development and Local Government (Domestic Aviation Industry Policy) have endorsed Council compliance and its satisfaction with the way in which Council has abided by the Deed of Agreement. Any claim to the contrary is a negligent misstatement.

2. Proposed use is in conflict with the principles of the NSW Heritage Councils listing (aviation and conservation).

Comment: The Heritage Office has agreed in principle with the rezoning proposal. Council has prepared a Plan of Management that supports long term aviation use of the aerodrome, as stated within the plan's objectives. A Heritage Agreement has also been prepared in conjunction with the Heritage Office. Any claim that the rezoning of the site is in contravention to principles of the NSW Heritage Council listing is unfounded.

3. Aerodrome is an important piece of community infrastructure as an active airfield, e.g. air ambulance.

Comment: The Aerodrome will continue to operate in accordance with the endorsed Plan of Management. This airfield is an unregistered facility and is available for use such as the air ambulance as well as private aircraft use.

4. Aerodrome is vital piece of the NSW Rural Fire Services capability; used as a valuable staging area during bush fires.

Comment: Emergency Services such as the NSW Rural Fire Service will continue to be able to utilise the existing runways which are available for day light use only as no runway lighting is provided.

5. A mixed use aviation development is the most appropriate form of development for the Aerodrome such as an airpark; training and employment opportunities; attract tourists.

Comment: The Commercial in Confidence study undertaken by Tweed Economic Development Corporation (TEDC) which details the Economic Impact of the Proposed RSL LifeCare Evans Head Retirement Village has been previously discussed in this report. The concept of both an airpark and an aged care facility on the subject site are identified in the endorsed Plan of Management.

Mr. Anthony Coleiro, Concord NSW - 18 February 2009

1. Lost too many aerodromes which are suitable for general aviation and are important pieces of infrastructure.

Comment: The Plan of Management proposes to significantly increase the aviation use of the site and therefore there would be no reduction as a result of this proposal.

2. Aerodromes provide benefits to society such as staging posts for disaster relief, medical links, used by police and aerial fire fighters, teaching grounds for the next generation of pilots etc.

Comment: The Aerodrome will continue to operate in accordance with the endorsed Plan of Management. Emergency Services will continue to be able to utilise the existing runways which are available for daylight use only as no runway lighting is provided. This airfield is an unregistered facility and is available for private aircraft use.

3. Council is breaching the Deed of Agreement for the aerodrome and the proposed development threatens the viability of the aerodrome.

Comment: The Department of Infrastructure, Transport, Regional Development and Local Government (Domestic Aviation Industry Policy) have endorsed Council compliance and its satisfaction with the way in which Council has abided by the Deed of Agreement. Any claim to the contrary is a negligent misstatement.

4. The site has Historical significance and should be kept as a viable airport.

Comment: The Heritage Office has agreed in principle with the rezoning proposal. Council has prepared a Plan of Management that supports long term aviation use of the aerodrome, as stated within the plan's objectives. A Heritage Agreement has also been prepared in conjunction with the Heritage Office. The Plan of Management proposes to significantly increase the aviation use of the site and therefore there would be no reduction as a result of this proposal.

5. Airpark use is more appropriate use of the aerodrome than a retirement village.

Comment: The Commercial in Confidence study undertaken by Tweed Economic Development Corporation (TEDC) which details the Economic Impact of the Proposed RSL LifeCare Evans Head Retirement Village has been previously discussed in this report. The concept of both an airpark and an aged care facility on the subject site are identified in the endorsed Plan of Management.

6. Placement of the retirement village adjacent to a runway is designed to eventually shut the aerodrome down due to noise complaints.

Comment: This matter has previously been addressed in this report. The ANEF report indicates aircraft noise levels for the proposed location of the aged facility to be within the required guidelines for residential development.

Conclusion

In light of the omission of three (3) submissions, an investigation has been undertaken into the procedure for receiving submissions and the methods to which they are forwarded to the relevant Council Officer. Submissions which are unclear as to what they relate to or those which are incorrectly addressed to persons other than the General Manager are more likely to create difficulties for records management and processing and have a greater risk of being overlooked. Changes will be made to the procedure for handling submissions to avert any possible future omission of submissions as a result of an exhibition period.

Legal advice has supported the view the existing resolution is valid as the issues raised in the three (3) omitted submissions had already been considered and commented on within the report to Council on 21 April 2009 (Item 12.24). However, it was felt it would be prudent to report the subject submissions to Council and obtain an additional resolution to proceed with the subject rezoning and make the Plan so that there would be no doubt the issues raised had been considered.

RECOMMENDATION

Recommended that:

1. The issues and comments in relation to the three (3) previously omitted submissions be noted.
2. Council proceed with the rezoning process in accordance with the resolution of 21 April 2009, as follows:
 - (a) *Draft Richmond River Local Environmental Plan 1992 (Amendment No 31)*, as published in this report, be adopted for creation as a local

environmental plan, subject to any amendments required by the Department of Planning as a result of Item (b) below;

- (b) the Draft Plan be forwarded to the Department of Planning for opinions from the LEP Review Panel and Parliamentary Counsel; and
- (c) the Draft Plan be submitted to the Minister to be made a Plan.

050509/ 4 RESOLVED (Cr. Morrissey/Cr. Wheatley)

That the above recommendation be adopted.

FOR VOTE - Cr. Sullivan, Cr. Cox, Cr. Crawford, Cr. George, Cr. Jeffery, Cr. Morrissey, Cr. Mustow, Cr. Wheatley

AGAINST VOTE - Cr. Kinnish

The Meeting closed at 2.13 p.m.

CONFIRMED - 19 May 2009

CHAIRMAN