

Port Stephens Beachside Holiday Parks

Standard Operating Procedures *for the* Administration *and* Management of Holiday Vans



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1 Purpose

These Standard Operating Procedures have been prepared to provide a consistent approach to the management of Holiday Vans with respect to Crown Lands Policy, Holiday Park Regulations and agreed management practice across Port Stephens Beachside Holiday Park (PSBHP) properties.

PSBHP currently host Holiday Vans at Halifax, Shoal Bay and Fingal Bay Holiday Parks.

The Procedures support Council as the Corporate Trust and its Commercial Business Unit in the administration and management of key responsibilities and procedures including but not limited to:

- Annual occupancy agreements – terms and conditions
- Compliance
- Maintenance and presentation standard of holiday vans
- Plans of Management - reduction of holiday vans
- Communication and consultation
- Complaints and disputes

These Procedures assist Council as the park manager/operator to implement strategies supported by Crown Lands as land owner for the management, orderly and aesthetic development, and general safety of the Holiday Parks.

2 Legislation

The statutory rules describing the occupation by Holiday Vans of sites within a caravan park are contained within the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.

The *Crown Lands Caravan Parks Policy 1990* establishes objectives and strategies that are relevant to the management and development of all caravan parks in New South Wales.

The objectives of the Crown Lands Caravan Parks Policy are:

- a. to develop a caravan park and camping ground system on Crown land which meets the needs of the community and provides a range of facilities for short-term use, long-term use and camping.
- b. to manage caravan parks on Crown land in an environmentally acceptable manner, to provide for the protection of important scenic, natural and cultural resources consistent with the objects and principles of the *Crown Lands Act 1989*.
- c. to ensure that caravan parks and camping grounds on Crown land are managed in a way that provides appropriately for the recreational and social needs of the community.
- d. to encourage the entrepreneurial management of caravan parks on Crown lands in order to provide the community with an appropriate standard of facility and the government with an optimum financial return for the land it provides.

Other legislation affecting Holiday Vans include:

- *Holiday Parks (Long-term Casual Occupation) Act 2002*
- *Holiday Parks (Long-term Casual Occupation) Regulation 2009*
- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2011*
- *Crown Lands Act 1989*

Legislations can be viewed at www.legislation.nsw.gov.au

Caravans are defined as moveable dwellings designed to be registrable as a trailer under the *Road Transport (Vehicle Registration) Act 1997*.

3 Work Health and Safety

All persons who can affect health and safety on any Port Stephen's Beachside Holiday Park (PSBHP) carry a duty of care to ensure the safety of themselves and others on the park. The installation and maintenance of Holiday Vans must be such as to minimise any risk of injury to other persons or property. The standards supporting this objective are:

- AS/NZS 3000:2007, Electrical Installations (known as the Australia/New Zealand Wiring Rules)
- AS/NZS 3001:2008, Electrical installations—Transportable structures and vehicles including their site supplies
- Building Code of Australia
- AS/NZS 3760:2003 In-service safety inspection and testing of electrical equipment

4 Guidelines

It should be noted that the specifications contained within the legislation describes minimum conditions. PSBHP has the right to adopt guidelines that alter these conditions as long as the minimum legislative standards comply. It is the responsibility of PSBHP to ensure that by providing a guideline that alters the legislative requirement that in doing so it does not contravene the regulations nor should it give consequence of creating hazards or affecting general safety standards on the park.

4.1 *Occupancy Agreement and Payment of Site Fees*

Port Stephens Council as Corporate Trust Manager and operator of the Beachside Holiday Parks will determine each year the number of annual occupancy agreements offered for holiday van sites within Shoal Bay, Halifax and Fingal Bay Holiday Parks. The terms and conditions for occupation on all holiday van sites require Owners who have been offered an annual occupancy agreement to enter into an agreement with Park Management. All Owners wishing to take up the offer of an annual agreement will require a current occupancy agreement.

- a) Owners must enter into an Annual Occupancy Agreement with PSBHP, commencing on 1 July each year, for a fixed term of 12 months, ending on 30 June. Each Occupancy Agreement has a maximum term of one year if a new agreement is offered for a following year the van owners must sign the new agreement and produce evidence of insurance currency.
- b) If an Occupancy Agreement is offered by park management the current owner will be notified and the new Agreement will be made available to the nominated owner no later than 30 April.
- c) The Occupancy Agreement provides for 12 month occupation of a site with a maximum of 180 days use of the site. 150 days are covered by the annual occupancy fees while additional days, if used, are available at the tariff rate current at the time when the extra days are taken.
- d) An 'Owner' may include an individual or couple, up to four immediate family members, or two separate principals. 'The Owner' must each be sixteen years or older.
- e) Signed Occupancy Agreements must be returned and received by park management prior to the commencement of the agreement period 1 July. Failure to sign and return the Annual Occupancy Agreement along with the first month's occupancy fee and evidence of Public Liability insurance currency will result in a notice of termination and subsequent removal of the van.
- f) An occupancy fee is to be paid monthly and in advance payments must be received by the park so that at all time fees are no less than one month in advance. Payment options include direct debit, cash and cheque.
- g) Owners whose occupancy fees are in arrears will be notified by mail and requested to comply with the site occupancy fee schedule.
- h) Owners whose occupancy fee is thirty days in arrears will be notified that failure to pay the current month's outstanding fee, and the next month's occupancy fee in full and in advance, will result in termination of their annual occupancy agreement.
- i) Owners whose occupancy fees are ninety days in arrears will have their occupancy agreement revoked and be required to remove all goods, including the caravan and annex within thirty (30) days and return the site to its natural state.

- j) Where there is a history record of continued late payment Owners will be notified and given the opportunity to establish a direct payment plan. Failure to keep occupancy fee payments current will result in termination of the annual occupancy agreement.
- k) Owners are responsible for the payment of utility charges including electricity and water as metered and invoiced quarterly. These charges are paid in addition to the site occupancy charges.
- l) Fees and charges will be adjusted annually and park management will notify owners in advance of annual fees and charges adjustments. Utility charges will be in accordance with the rates prescribed by the Independent Pricing and Regulatory Tribunal (IPART).
- m) In the event of an Owner is experiencing financial hardship an application may be made to PSBHP. Successful applicants will be granted a maximum of three months occupancy fee relief by deferring monthly fee payments for this period and agreeing to enter into a repayment plan. Should repayment not be possible the owner will be allowed to sell their van according to the process outlined in Part 8 Sale of Vans below, all outstanding fees must be settled in accordance with either the repayment plan or upon sale of the van. No Owner shall be granted more than one period of occupancy fee relief during the term of a current occupancy agreement.

4.2 The Site

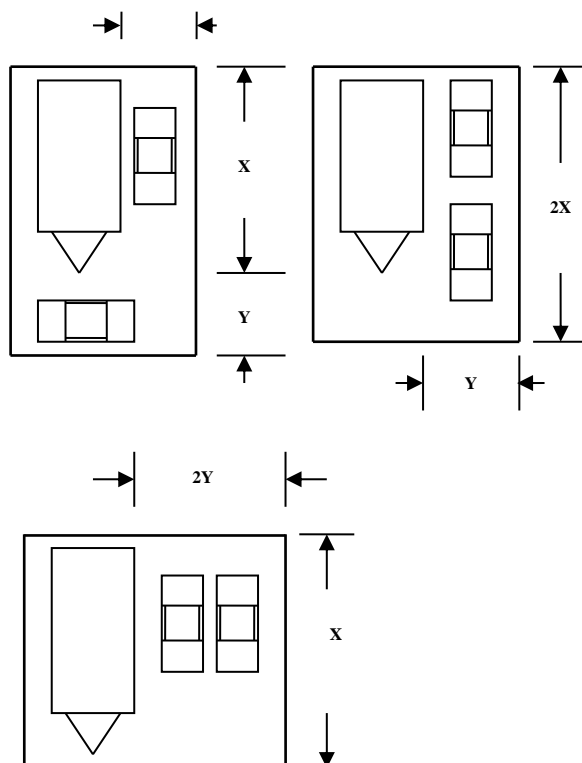
The caravan must be so located so that it is:

- a) Set back by 3.0 metres from any park boundary;
- b) Set back by 1.0 metre from any access road;
- c) Not installed closer than 2.5 metres to any other Holiday Van, moveable dwelling or fixed annex, awning or associated structure;
- d) The enclosed floor area of all annexes and additions that are attached to a caravan must not exceed the enclosed floor area of the caravan. The definition of 'enclosed' for this purpose means any structure that precludes free access.
- e) An area with minimum dimensions of 5.5 metres by 2.4 metres, accessible from an access road and useable for car parking, must be provided.
- f) The caravan, annex and any associated structures as described in Section 4.2 (d), above, are to be no more than 66% area usage of the total dwelling site area.
- g) Driveways are not permitted. Limited paving is permitted with the written approval of the park manager.
- h) No boundary fencing including lattice structures or the like is permitted.

The Park Manager shall establish the boundaries of the site, if not readily identified, on request. All holiday vans will be inspected each year to determine compliance with the relevant regulations and policies. Following the inspections compliance reports will be prepared and a copy of their report will be sent from Beachside Holiday Park Management to all van owners nominated on the Annual Occupancy Agreement. Each nominated owner will receive a report indicating compliance or non-compliance prior to entering into any new Occupancy Agreement.

4.3 Parking

- a) The majority of sites accommodate one vehicle only.
- b) There are a limited number of approved sites where two vehicles can be accommodated. These sites have been authorised and are noted in the occupancy agreement.
- c) A 'vehicle' is regarded as one car, or one boat and trailer, or one jet ski or similar and trailer, or one trailer.
- d) Additional vehicles must be parked outside the Holiday Park grounds. Designated visitor parking spaces are required for short duration parking and cannot be utilised for additional car parking during a stay.
- e) PSBHP accepts no responsibility for the security of any vehicles parked inside or outside of the Holiday Park.
- f) The layouts depicted below are typical representations of holiday van sites allowing two vehicles, although some site layouts vary. The general principle is that a parking space is represented by the following dimensions; - length $X = 5.5\text{m}$ and width $Y = 2.4\text{m}$ with of maximum of two vehicles permitted per site.
- g) All site dimensions within the park are measured so that documented records exist. The annual holiday van agreement is signed by PSBHP and the van owner, this document confirms the agreed parking space allocation specific for the site.
- h) For sites that do not provide sufficient space to achieve these dimensions, variations up to 100mm will be considered on a merit basis representing the absolute minimums of $X = 5.4\text{m}$ & $Y = 2.3\text{m}$.
- i) Individual requests for further concession to the minimum standard for parking space allocation will be considered if there is sufficient medical justification to warrant a review. The request must be in writing and have supporting medical documentation to justify the reason for the exemption request. An assessment of the supporting information and the actual site will be undertaken by the park management to determine the merits of a specific use variation.



4.4 Boats and Trailers

- a) A boat on its trailer is considered one vehicle for the purpose of parking as above. Boats and trailers must be stored totally within the confines of the designated site and not encroach onto adjoining sites or cause a nuisance to other park patrons. Any boat or trailer must be firmly stored in a stable position, registered and not in a state of disrepair.
- b) Storage of boat and trailers during any period when the site is unoccupied is not permitted.
- c) No responsibility will be accepted by PSBHP for damage, theft or any other costs whatsoever.
- d) The storage of fuel in containers other than the boat's fuel tank is not permitted under any circumstances.

4.5 Minimum Maintenance Required

Owners are expected to maintain their van, annex, associated structures and site to the following minimum standards:

- a) Caravans are to be registrable as a trailer under the *Road Transport (Vehicle Registration) Act 1997*;
- b) Caravans are to be maintained with the original manufacturer's colour scheme or an approved colour alternative agreed by PSBHP management.
- c) Annexes are to be of a sympathetic colour/colour scheme to the caravan.
- d) Any areas of flaking paint/paint chips are to be repaired as soon as practicable.
- e) Skirting around the caravan base is to be of weather-proofed materials, in a colour scheme sympathetic to caravan/annex.
- f) Any mould and/or algae is to be removed. This includes from the roof of the caravan and the top and underside of tropical roofs.
- g) A draw bar and the wheels of caravans must be attached and in working order, in compliance with the Fire Protection Policy for Caravan Parks on Crown Reserves and Leasehold Lands.
- h) The roof and any gutters must be maintained to ensure a build-up of combustible materials does not occur.
- i) Windows and doors, including rubber weather seals, flyscreens etc, to be in working order, without rust, holes or signs of deterioration.
- j) There is to be no clutter around the caravan when it is not occupied. Storage of items beneath the caravan must be in such a manner as to not be seen from outside the site.
- k) Storage boxes outside of the van are subject to approval by PSBHP management, and are to be kept clean and in good order.
- l) Storage boxes and BBQs are the only items permitted to be left outside when not in occupation. BBQs are to be clean and free of visible rust.
- m) Any outdoor furniture, bikes etc left on site are to be stored inside the van/annex or otherwise in an approved storage box when the owner is not in occupation.
- n) There is to be no storage of motor vehicles that are unregistered or in a state of disrepair.
- o) Gardens and garden beds are permitted with approval but must not encroach on designated parking spaces, and must be maintained weed-free or as near as practical. Any weeds or pruning from the garden must be disposed of appropriately in the green waste bins provided on the park. Owners are asked to be mindful of the protected status of Crown land and take appropriate care in the planting and maintaining of gardens. Inappropriate disposal of plant material is strictly prohibited.
- p) An appropriate dry chemical extinguisher of minimum 1kg capacity must be provided in a readily accessible position in the case of fire, and all caravans must be fitted with a smoke alarm and fire blanket. Owners and their guests must ensure they have sufficient knowledge of any fire equipment to ensure they react appropriately in an emergency situation.
- q) Any item/material that cannot fit into a 20ltr drum/bucket cannot be placed in the Holiday Parks' waste bins. Furniture, whitegoods, building materials, bikes, BBQs, gas bottles and furnishings must be removed from the park by the Holiday Van owner. The waste disposal area of the park is not to be used by van owners as an area to dump unwanted goods. These areas will be under surveillance and where

an owner fails to comply with this regulation PSBHP management reserves the right to terminate their occupancy agreement.

- r) The owner will support the orderly development, aesthetic attributes, amenity and general safety of PSBHP.
- s) The occupant will not attach any fixture, or renovate, alter or add to the caravan or the site without the park owner's prior written permission through the relevant application process and completion of a Site Addition / Alteration / Maintenance Application.
- t) If the occupant's caravan is required to be removed from its current site, all associated structures and additions must be removed leaving the site in its natural state.

4.6 Tropical Roofs

- a) All tropical roofs previously approved under the past standard can be maintained providing they are inspected by a structural engineer.
- b) A Structural Engineers report must be supplied to the Park Manager within fourteen (14) days of receiving a request for proof of compliance.
- c) Should a tropical roof fail to meet the structural requirements after inspection by a Structural Engineer the holiday van owner will be required to remove the structure. A timeframe for removal will be negotiated based on risk factors identified in the structural assessment.
- d) In the event a Holiday Van owner intends to sell their van and the tropical roof on the van is not the current approved design, the non-compliant tropical roof must be removed from the van and made compliant prior to any sale proceeding.
- e) A new tropical roof design and specification has been adopted by PSBHP and will supersede the current design across all PSBHP for any new tropical roof installation. The development and application of this standard provides certainty that the structural design and installation of tropical roofs is compliant with design wind loadings specified in the Regulations. The purpose of this standard is to ensure the safety of all park users, that the aesthetic of vans is consistent across the park, and to ensure consistency of installation and compliance of practice, whilst providing van owners with an option for weather protection.
- f) The option of two different roofing materials has been included in the specifications.
- g) Standard drawings have been prepared and will be provided with an application or on request.
- h) The standard design is only permitted to cover the van and not the adjoining annex (except for the design eave overhang)
- i) The standard allows for a choice of roof materials : 1200 wide x 50mm "Unipanel" or 1000 wide x 50mm "Metroll Solarspan"
- j) The roof material colour is to be Classic Cream or Surf Mist from the Colorbond range. Posts and beams may be coloured Classic Cream or left galvanised.
- k) All associated steelwork and welding is to be hot dipped galvanised.
- l) The installation and compliance requirements provide for an inspection timeframe by a certified Structural Engineer: This will occur on completion of construction and one year after construction and then every five years.
- m) The Holiday Van Owner is required to complete a Site Addition/ Alteration Application for approval by the Park Manager prior to any work commencing. Timeframe for any works to be carried out has to be in consultation with the Park Manager.
- n) Installation must be carried out by a licensed Contractor. The licensed Contractor is required to complete a WHS Park Induction process prior to work being carried out on site.
- o) On completion of work the licensed Contractor is to certify the structure in the form of a compliance plate. The Park Manager must be provided with a notice of completion within (7) seven days of completion.
- p) All tropical roofs will now require on-going inspections to ensure structural adequacy during the occupancy within the holiday park.

4.7 Water and Sewerage

Access to a sewer main is not available to all sites. Where sewer is not available no toilets or showers will be permitted. Where no sewer is available grey water must drain to a sullage pit provided for the purpose. Installation and maintenance of sullage pits is at the Owner's expense.

Water supply is provided via a tap external to the site. Hoses and fittings are to be supplied at the Owner's expense.

All Holiday Vans and associated structures shall connect to the site water supply and sewerage inlet such that all pipes and fittings that relate to water supply, sewerage or stormwater drainage are installed in accordance with the Plumbing and Drainage Code (AS 3500).

4.8 Gas and Electrical Installations, Alterations and Supply Connection

All electrical wiring, installations and alterations that may be carried out within a caravan must comply with the requirements of AS/NZS 3000:2007, Electrical installations (known as the Australian/New Zealand Wiring Rules)

All owners must comply with AS/NZS 3001:2008 Electrical installations—Transportable structures and vehicles including their site supplies, Section 5 – Connections to the Site Supply.

- a) Only one supply lead shall be connected to each socket-outlet of the site supply. This is to be a double-insulated 15 amp lead.
- b) Supply lead is to be tested and tagged annually with the tag to remain on the lead at all times. Leads exhibiting faded insulation, or wear on the insulation, will be removed and disposed of.
- c) Any supply lead used to connect a transportable structure to a site supply socket-outlet should be in one unbroken length.
- d) The supply of electricity for use in individual transportable structures or vehicles should not be obtained from a socket-outlet inside another transportable structure or vehicle or by the use of socket-outlet adaptors (double adaptors).
- e) Where a supply lead is coiled on or in a reel, drum, storage box or similar, the lead should not be connected to the site supply whilst coiled.
- f) Electrical installations in transportable structures should be inspected annually by a qualified person to ensure their safe and effective operation. Evidence of inspection by a licensed electrician must be provided to PSBHP management annually or within fourteen (14) days of a request for evidence of compliance.
- g) Residual Current Devices (RCD) used for the protection of transportable structures should be tested by operating the push button on the RCD to check that the device trips. After tripping, the RCD should be reset. If the RCD fails to trip, this failure should be reported to the caravan park manager.
- h) All socket-outlets are or will be individually metered. Where meters have been fitted, meters will be read on a quarterly basis and owners will be invoiced by PSBHP for their use of electricity. The rate of charge shall be the same rate per kilowatt hour as charged to the Park by the electricity provider, as per conditions determined by the Australian Energy Regulator for deemed exemption Class D3. This cost is additional to the occupancy fees. The van Owner will not be required to pay the Service Availability Charge nor any portion of it.
- i) Owners are required to use the socket outlet allocated to their site, supply leads connected to outlets not designated to their site will be considered a failure to comply with this regulation. In this case PSBHP management reserves the right to terminate the occupancy agreement.
- j) All gas installations and alterations must comply with the requirements of Storage & Handling of Gas (AS/NZS 1596) and the Gas Installation Code (AG601).

4.9 Standards of Behaviour

Owners of Holiday Vans and their guests are expected to abide by the park rules of behaviour as established for all guests of PSBHP, as follows:

- a) Owners and their guests are required to follow any reasonable direction given by Park staff during their stay within the Holiday Park.

- b) Observe speed limits. For the safety of all guests, keep speed limit to 8km/h (walking speed) at all times. The park is a shared zone which requires vehicles to give way to pedestrians. Motorists are requested to remain alert to the movement of pedestrians and cyclists within the Park.
- c) Drunkenness, offensive, aggressive or threatening behaviour or wilful damage to park or guest property will not be tolerated under any circumstances. Persons displaying this type of conduct will be removed from the park.
- d) No excessive noise. Guests are required to keep noise to reasonable levels, please ensure your televisions and radios are kept at a volume that will not disturb your neighbours. Excessive noise will not be tolerated under any circumstances. All noise of a disruptive nature is to cease by 10.00pm.
- e) Security Gates are in operation. Guests arriving outside reception hours must arrange prior entry. Use of your access number for another vehicle will prevent your own access.
- f) Guests are responsible for the conduct of their visitors and a fee is applicable for day visitors or overnight stays. Visitor's cars must be left outside the park unless permission is obtained to bring them in.
- g) Vehicles and boats must not be parked on roadways, walkways or other sites within the park. Additional vehicles must be parked outside the park perimeter unless special arrangements have been made with reception.
- h) Boats & jet skis are only to be washed in designated zone (please check with reception). Storage of fuel on site is not permitted.
- i) Mats/carpets are not permitted to cover grass on sites. If cover is required only shade cloth is permitted.
- j) Scooters, bicycles, skateboards and roller blades must be used on roadways only and not on the pathways. The management of the park is not responsible for any accident or injury caused whilst riding or skating in the park. All activities of this nature must cease when street lights are activated. No riding in or around the boom gate area. Normal road rules apply in park grounds. Helmets must be worn whilst riding on roads. All forms of motorised scooters are prohibited. Please check park for exclusion periods.
- k) Amenities are not to be used by children under the age of eight (8) years unless accompanied by an adult. Amenity access codes can be obtained from reception.
- l) Guests are not permitted to dig trenches around sites.
- m) Fish cleaning is not permitted within the park.
- n) Do not empty sink waste water into the storm water drains.
- o) Fires are not permitted within the park.
- p) Only gas and electric barbeques are permitted – no wood fires or other fuel permitted.
- q) The playground is closed from dusk till dawn. The playground is for use of children under the age of twelve (12). Children must be supervised at all times.
- r) All garbage is to be placed in the bins provided. Large domestic waste items are not to be disposed of within the park premises. These items are to be disposed by and at the expense of the owner. Port Stephens Council provide waste stations for disposal of large items. Fees apply.
- s) No Responsibility is taken by Council, the Crown Land Reserve Trust, PSBHP or its representatives for personal injury damage or loss of property.
- t) Guests are responsible to secure their belongings at all times. No responsibility is taken by Council, the Crown Land Reserve Trust or PSBHP for damage to or loss of property.
- u) Pool Rules must be observed. Children under the age of twelve (12) MUST be accompanied by an adult.

4.10 Pets

- a) PSBHP are located in areas of high environmental sensitivity. As such there will be NO CATS, NO RABBITS, and NO FERRETS, RATS or MICE permitted on the park AT ANY TIME.
- b) NO PETS are allowed on the park DURING DESIGNATED NSW HOLIDAY PERIODS, including the weekends before and after school holiday weeks, and weekends before and after gazetted public holidays.
- c) At other times no more than two dogs; and no more than two portable cages of birds, reptiles or other permitted animals are allowed per site, as per Port Stephens Council's *Local Orders Policy The Keeping Of Animals On Private Property*.
- d) Dogs being walked or otherwise moving about the park with their owner must be on a lead at all times.
- e) Dogs must not be left unattended at any time anywhere in the park.
- f) When located on a site dogs must be restrained in such a manner as to not be able to cross the boundary of that site.
- g) Owners must collect and dispose of the animal's faeces in an appropriate manner.
- h) Persistent barking will not be tolerated. Owners of dogs that bark excessively or cause a nuisance or disturbance to guests will be required to remove the dog from the park.
- i) Biting or threatening behaviour will not be tolerated. Owners of animals that have bitten or in any other manner intimidated a person will be required to vacate the park.
- j) Pet owners must report the presence of the pet(s) to reception upon arrival.
- k) For dogs a vaccination certificate providing evidence of current C5 vaccination must be presented to reception.
- l) Pets must have current flea treatment. Evidence of excessive flea infestation will require owners to vacate the park.
- m) Dogs must be microchipped. Evidence must be presented to reception.
- n) No restricted dog breed will be allowed at any time. These breeds include Pitbulls, Japanese Tosa, Dogo Argentino, Fila Brasileiro, and any dog cross-bred with any of these breeds. Determination of the presence of these breeds is at the discretion of the park manager.
- o) Guide dogs and assistance dogs will be allowed at any time upon application. Evidence of the formal status of the animal and the requirement for assistance will be required at the time of application.

4.11 Emergency Procedures

All persons occupying sites at PSBHP must:

- a) Comply with the parks safety and emergency procedures. All residents and guests must be familiar with the current Emergency Evacuation Procedures of the park.
- b) All holiday van Owners and their guests must register at the park office upon first arrival and final departure for each stay. Should this be after office hours, prior notification to reception by telephone during office hours to advise park staff of your estimated time of arrival or alternatively register at the park office within one hour of the office opening the next day.

4.12 Safety and Public Liability Insurance

- a) All persons who can affect health and safety on PSBHP carry a duty of care to ensure the safety of themselves and others on the park. The installation and maintenance of Holiday Vans upon short term sites must be such as to minimise any risk of injury to other persons or property.
- b) The occupant will forthwith take out and thereafter during the continuation of their Occupation Agreement keep current and in the name of the occupant, a Public Risk insurance policy in an amount of not less than twenty million dollars (\$20,000,000). The owner(s) must provide PSBHP management with a copy of the Public Liability Insurance Policy and proof of currency at the time when each annual occupancy agreement is prepared.

4.13 Non Compliance

- a) For any site that does not comply with any of the requirements of these Procedures by 30 June 2014 the owners will not have their occupancy agreement renewed, and must remove all goods including the caravan and annex, and return the site to a natural state within thirty (30) days of this date.
- b) Should these goods not be removed for a further 30 days thereafter (i.e. by 14 August 2014) PSBHP will in accordance with Part 7 of the Holiday Parks (Long-term Casual Occupation) Act 2002 No 88 obtain orders from the NSW Consumer, Trade and Tenancy Tribunal allowing for Council to repossess and dispose of these goods.
- c) Thereafter, where a site becomes non-compliant with these requirements, the owner will be informed in writing and be given two calendar months to rectify the site. Failure to do so within this timeframe will result in the occupation agreement being revoked and the owner will be required to remove the caravan and associated structures and return the site in a natural state.

5 Park Improvements & Development

Port Stephens Council as Corporate Trust Manager and operator of the Crown Holiday Parks in partnership with the Crown Lands as land owner will undertake its responsibilities for the management and development of the parks in accordance with the relevant approved Plans of Management. The proposed improvements and development impacting holiday van owners will be communicated via agreed communication strategies including newsletters, direct mail and consultative committees. Holiday vans located in the precincts identified for future improvement or development will be provided with notice in accordance with the terms of their occupancy agreement. The staged reduction of holiday vans as outlined in the Plans of Management will provide opportunities to improve the sustainability of the park through the creation of quality recreational facilities, providing greater public access to Crown land, changing products to meet tourism demand and optimising financial return from investment.

6 Operational Decisions

Port Stephens Council in its capacity as park manager/operator will employ consultation and continuous improvement processes to achieve operational objectives and compliance with Crown Land Policy and Government regulations. Operational decisions that impact holiday van sites will take into account any available opportunities to relocate vans to alternative sites within designated holiday van precincts defined within the approved current Plans of Management. Typical operational decisions that could impact sites included those relating to the upgrade and modification of utilities, improvements and changes to roads, paths, drainage systems and access points. Changes considered necessary by park management for safety, security, expansion or relocation of services and facilities and the placement of temporary buildings or structures.

7 Precincts

Port Stephens Council have defined precincts including camping, tourist van/motor home, and holiday van and cabin sites. The Plans of Management identify changes to the structure of precincts over time which will further define and enhance the various site uses. It is the intention of PSBHP management that sites for Holiday Vans shall be established in identified precincts. Management reserves the right to request Holiday Van owners to relocate to a different site within the park if available, for the purpose of maintaining identifiable precincts by accommodation type. Sites may be reclaimed for the purpose of installing an alternate accommodation type, installing or increasing recreational facilities, for the provision of infrastructure such as roads or the installation of essential services, for landscaping, beautification, or to further identify a precinct.

8 Sale of Vans

Port Stephens Council as park manager/operator with support from Crown Lands as land owner had previously placed an embargo on new holiday van owners entering tenure within Shoal Bay, Halifax and Fingal Bay Holiday Parks. The strategy had been in place to facilitate the implementation of the Plans of Management by restricting the sale of holiday vans. Following consultation facilitated by the Holiday Van Consultative Committee, a review of the process for the sale of vans was undertaken in August 2014 and resulting from that review the embargo has been lifted. For Van Sale purposes, sites are noted to be categorised into two types - those located in areas identified for proposed development, and those not impacted.

8.1 Sale of vans and associated structures in areas identified for Development

- a) Development includes changes proposed within the Plans of Management, and operational changes notified to Owners.
- b) At any time an Owner is permitted to sell their van and associated structures on the condition it is removed from the site. At the time of sale the van and associated structures must be removed and the site returned to its natural state within thirty (30) days. No occupancy agreement will be issued on that site. The site is no longer available as a Holiday Van site.
- c) The Owner will be required to pay occupancy fees up until the day the site is returned to its natural state, as approved and agreed to by PSBHP.
- d) Note that where the assets have been sold to an existing holiday van Owner, and the new Owner incorporates or replaces their previous van and/or structures with newly acquired assets, then the new configuration is required to comply with the conditions provided for in this document. Any non-compliant feature or structure must be removed from the park within sixty (60) days.
- e) Van Owners in development areas will be eligible to participate in Van Sales periods as long as they are not affected by development plans during the next Holiday Van Agreement period and that a full year agreement will be available for the new owner.

8.2 Sale of vans and assets on sites not impacted by development

- a) PSBHP, in its discretion, will notify Owners of specific periods of each year where an Owner is permitted to sell their van and associated structures on site ("**Van Sale Periods**"). During a Van Sale Period as advised the Owner is permitted to sell their asset(s) in circumstances where the asset will remain on site. At all times during the year an Owner may sell their van and associated structures on the condition it is removed from the site. However, Owners may only sell in circumstances where the assets will remain on site during Van Sale Periods and in accordance with the following process.
- b) PSBHP will notify Owners in writing at least one month before the commencement of a Van Sale Period.
- c) At least 2 weeks prior to the commencement of the Van Sale Period Owners must notify PSBHP if they wish to sell their assets on site.
- d) During any Van Sale Period, Owners must first offer to sell their asset(s) to existing holders of current occupancy agreements ("Internal Interested Parties"). Internal Interested Parties will have an exclusive negotiation period of 2 weeks to negotiate the purchase of the assets from the selling Owner. After the expiry of the 2 week negotiation period and during the Van Sale Period, the selling Owner may sell their assets to a third party on no better terms and price than that offered to Internal Interested Parties.
- e) During the Van Sale Period PSBHP Management will engage the services of a Registered Plant and Machinery Valuer to determine the Market Value of the assets being sold by the Owner, being the Van and associated structures, exclusive of the site (land component). This Value as assigned will be acknowledged in writing by the Purchaser of the van as the Market Value of the Assets and this acknowledgement will form an addendum to the Purchaser's current Annual Holiday Van Occupancy Agreement and any Occupancy Agreement entered into by the Purchaser.
- f) The Purchaser (new owner) upon acquiring assets will be responsible for attending to any outstanding compliance or other matters within sixty (60) days.
- g) The following rules apply to sale of vans and associated assets under this clause;
 - i. The Vendor and the Purchaser must acknowledge in written form that the sale is for the assets which are located upon the site and that no proportion of the agreed sale price is attributed to the site component (land).
 - ii. The Vendor and the Purchaser must acknowledge in written form that PSBHP's consent to the sale does not waive or vary PSBHP's rights under the Occupancy Agreement.
 - iii. The Purchaser acknowledges it must enter into the Annual Holiday Van Occupancy Agreement or accept an assignment of the vendor's Occupancy Agreement notwithstanding the price paid for the assets.
 - iv. It is noted that the parties to sale of assets on site are not precluded from negotiating a sale at a higher price than the Valuation as assigned as set out above. However if the purchaser pays a higher price than the valuation it does so at their own risk and cost.

9 Adding and removing names from holiday van agreements

Van Owners will also have the ability to add or remove names from their Van Occupancy Agreement under certain circumstances. To ensure this is not a circumvention of the sales process outlined above this will only be permitted in the following circumstances:

- Where the name being added or deleted is an immediate family member being a child, parent, sibling or grandparent. This family relationship can be through adoption or re-marriage; and
- Where the vehicle or other assets on site remain in the ownership of the primary party noted on the contract;
- Where the Van Owner confirms in writing to Council that no consideration is paid for the addition or removal of names from the Van Occupancy Agreement; and
- In such other circumstances as Council determines, in its discretion.

For the avoidance of doubt, Port Stephens Council may agree in writing for names to be added and removed from Occupancy Agreements in circumstances where it does not involve an immediate family member (however this is a matter for Council in its absolute discretion). Council does not want the van sale process to be circumvented by the addition and removal of names and will not allow the addition or removal of names where it suspects that the party is trying to circumvent the van sales process.

10 Communication/Consultation

A PSBHP Holiday Park Consultative Committee shall be established to provide advice and support to management in the development and improvement changes identified in the Plans of Management, and to further facilitate ongoing communication from PSBHP to owners. The Committee will consist of 5 Park Management representatives and 5 Holiday Van Owners elected by ballot from amongst current Owners, and include at least one representative from each park. Voting is limited to one vote per holiday van site.

Park Management will provide information to holiday van Owners through the following distribution methods including but not limited to newsletters, mail, E-mail, Beachside Holiday Parks Webpage and by public notice displayed in the Park.

Acceptable forms of communication from holiday van Owners to Park Management include in person, by telephone, mail, E-mail or facsimile.

11 Resolution of Disputes

- a) In the first instance an Owner wishing to dispute the intent or application of these guidelines should approach the park manager in an effort to resolve the dispute informally.
- b) If the Owner is not comfortable raising the matter with the park manager, or is dissatisfied with the response they have received, the Owner should contact PSBHP management in effort to resolve the dispute informally.
- c) If this has not resolved the issue the Owner is encouraged to detail the nature of their dispute in writing to the General Manager Port Stephens Council.
- d) Port Stephens Council would follow the process outlined by the Alternative Dispute Resolution Policy Extract shown in Appendix 11.5
- e) The policy allows for various approaches to resolution of the dispute including mediation, negotiation, facilitation and neutral evaluation.
- f) If a resolution to the dispute is not obtained it will escalate to the NSW Consumer, Trade and Tenancy Tribunal for a formal ruling.

Port Stephens Council Holiday Van Occupancy Agreement Terms & Conditions Edition 0/00

SECTION E

EXECUTION PAGE

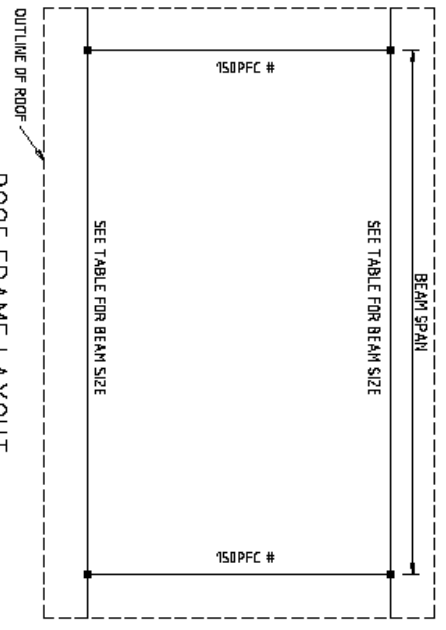
AS OCCUPANT, I CONSENT THAT BY SIGNING THIS DOCUMENT I HAVE RECEIVED, READ AND AGREE TO THE TERMS AND CONDITIONS SET OUT IN THE HOLIDAY VAN OCCUPANCY AGREEMENT EDITION 5/13

EXECUTED AS AN AGREEMENT

<p>SIGNED for and on behalf of PORT STEPHENS COUNCIL under delegated authority.</p> <p>by.....<i>Council officer signature</i></p> <p>.....<i>Council officer name (please print)</i></p> <p>In the presence of</p> <p>.....<i>Witness signature</i></p> <p>(Witness)</p> <p>.....<i>Witness name (please print)</i></p>		STAFF USE ONLY
<p>SIGNED by:</p> <p>.....<i>Occupant signature</i></p> <p>.....<i>Occupants name (please print)</i></p> <p>in the presence of:</p> <p>.....<i>Witness signature</i></p> <p>(WITNESS)</p> <p>.....<i>Witness name (please print)</i></p>	<p>SIGNED by:</p> <p>.....<i>Occupant signature</i></p> <p>.....<i>Occupants name (please print)</i></p> <p>in the presence of:</p> <p>.....<i>Witness signature</i></p> <p>(WITNESS)</p> <p>.....<i>Witness name (please print)</i></p>	
<p>SIGNED by:</p> <p>.....<i>Occupant signature</i></p> <p>.....<i>Occupants name (please print)</i></p> <p>in the presence of:</p> <p>.....<i>Witness signature</i></p> <p>(WITNESS)</p> <p>.....<i>Witness name (please print)</i></p>	<p>SIGNED by:</p> <p>.....<i>Occupant signature</i></p> <p>.....<i>Occupants name (please print)</i></p> <p>in the presence of:</p> <p>.....<i>Witness signature</i></p> <p>(WITNESS)</p> <p>.....<i>Witness name (please print)</i></p>	

To be signed and returned by 30th June 0000

12.2 TROPICAL ROOF STANDARD DRAWING



ROOF FRAME LAYOUT
1:50

- 75-5mm SHS POST WITH 200SDx10mm BASE PLATE (4M12 ANCHORS) AND 75x300x12mm CAP PLATE (2M12 BOLTS)
- FASTER PFC TO ADJACENT BEAM WITH 6mm GLEAT & 2M12 BOLTS.

SEE TABLE FOR BEAM SIZE

150 PFC #

SEE TABLE FOR BEAM SIZE

150 PFC #

OUTLINE OF ROOF

STRUCTURAL INSPECTIONS

IT IS RECOMMENDED THAT THE STRUCTURES ARE INSPECTED AT THE FOLLOWING INTERVALS:-

- PAIRING CONSTRUCTION 1 YEAR AFTER CONSTRUCTION
- THEN EVERY 3 YEARS

ENGINEERING CERTIFICATION

DESIGN ENGINEER
DAVID HILL SDI
31A DONALD STREET, NELSON BAY (PH: 0459 841230)
BE (STRUCTURAL/DIVID/INER/AS13)

DESIGN CRITERIA

LIVE LOAD: ROOF 0.25kPa
WIND LOAD: 41m/s

SAA CODES

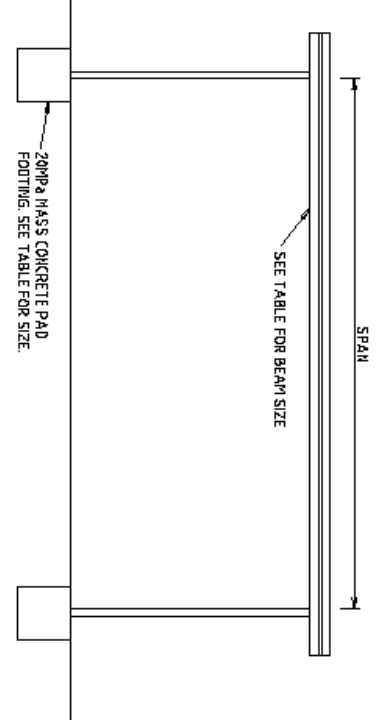
AS1170 LOADING CODE, AS3600 CONCRETE CODE,
AS4100 STEEL STRUCTURES CODE.

CERTIFICATION

THE SIGNATURE IN THE TITLE BLOCK CONFIRMS THAT IT IS CONSIDERED THAT THIS DESIGN IS SUITABLE FOR THE HOLDAY PARKS AT HILLPARK, HINGAL BAY & SPYRAL BAY AND THE WORK COMPLETED IN ACCORDANCE WITH THIS DESIGN WILL BE STRUCTURALLY SOUND AND SATISFY THE RELEVANT CODES FOR OTHER SITES WITHIN PORT STEPHENS THE WIND CLASSIFICATION WOULD NEED TO BE REVIEWED BY PSE.

STRUCTURAL STEELWORK

- ALL WORKMANSHIP AND MATERIALS SHALL COMPLY WITH AS4100 AND AS1554.
- UNLESS NOTED OTHERWISE UNROL ALL STEEL SHALL COMPLY WITH AS3679 GRADE 300 FOR ROLLED SECTIONS & AS7183 GRADE 350 FOR HOLLOW SECTIONS.
- ALL STEELWORK IS TO BE HOT DIPPED GALVANISED WITH A MINIMUM COATING OF 80g/m².
- ALL WELDS SHALL BE 5mm CONTINUOUS FILLET WELDS.

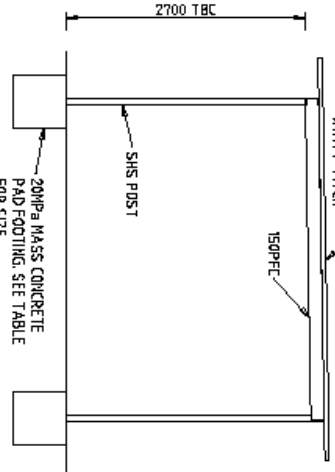


SIDE ELEVATION
1:50

SEE TABLE FOR BEAM SIZE

200PA MASS CONCRETE PAD FOOTING. SEE TABLE FOR SIZE.

SPAN



END ELEVATION
1:50

2700 TBC

150 PFC

SHS POST

200PA MASS CONCRETE PAD FOOTING. SEE TABLE FOR SIZE.

50mm UNIPANEL TO ROOF SHEET WITH 1° PITCH

3500 MAXIMUM

450

450

* 1200 WIDE x 50mm THICK UNIPANEL (6.0mm STEEL SKIN) BY UNITED PANEL INDUSTRIES, FASTENED TO BEAMS WITH 4M10 BOLTS PER PANEL TO MANUFACTURERS SPECIFICATION.

BEAM & FOOTING TABLE

SPAN	BEAM	FOOTING
<5m	150PFC	600SDx400 DEEP
6-7m	180PFC	600SDx700 DEEP
7-8m	200PFC	650SDx700 DEEP

SCALES APPLY TO A3 SHEET

NO	REVISION	DATE
1	ISSUED FOR TENDER	10/01/2015
2	REVISED PER COMMENTS	15/01/2015
3	REVISED PER COMMENTS	22/01/2015
4	REVISED PER COMMENTS	29/01/2015

PROJECT

PROPOSED CARAVAN/MOBILE HOME ROOF AT HALIFAX CARAVAN PARK BEACH ROAD NELSON BAY

CLIENT

PORT STEPHENS COUNCIL

TITLE

ROOF FRAME LAYOUT & DETAILS

Structural/Civil Engineer

DAVID HILL SDI

31A DONALD STREET, NELSON BAY (PH: 0459 841230)

BE (STRUCTURAL/DIVID/INER/AS13)

Scale

AS NOTED



Site Addition / Alteration / Maintenance Application

Date: _____

Street Name: _____

Site Number: _____

Owners Name: _____

Postal Address: _____

_____ Postcode _____

Telephone Number: _____ Facsimile: _____

Construction / Addition / Maintenance Guidelines
Please note clause reference to Local Govt. Regulations

- 1) Reference Cls. 25 - A moveable dwelling must not be installed closer to any other movable dwelling than 2.5m. This includes any habitable area of the movable dwelling. (Habitable area defined as "more than 50% of wall area being fully enclosed".)
- 2) A minimum maintenance buffer of 2.5 metres is required between caravans (including any associated structure or annex).
- 3) Reference Cls.37.3 - Any electrical circuit must be installed in accordance with the requirements of AS 3001(or any other relevant Australian Standard).
- 4) Reference Cls. 94(a)- A tent or caravan (including any associated structure or annex) must not be located closer than 1metre to an access road.
- 5) Reference Cls. 95 (amended) - A caravan (including any associated structure or annex) must not be installed on a single dwelling site if the roofed area of the caravan (including any associated structure or annexe) is more than two-thirds of the area of the site.
- 6) Any paving / concreting or similar, must not exceed 60% of the total habitable floor area of the site. In the event of the caravan being relocated, the Site Occupier will remove any paving / concrete or similar at the Site Occupiers cost, or reimburse Port Stephens Council for the cost of the above-mentioned work.
- 7) Clothes-lines (reference to our clothesline guidelines)
- 8) Reference Cls.102 – The enclosed floor area of all annexes that are attached to a caravan must not exceed the enclosed floor area of the caravan.

Park Management _____
Signature

Applicant: _____
Signature

Site Addition / Alteration / Maintenance Application Page 2

Details of Application:

Please tick appropriate box

- | | | | |
|--|---|-----------------------------------|--|
| Structural work- | Tropical roof <input type="checkbox"/> | Annex <input type="checkbox"/> | Internal fit-out/modification <input type="checkbox"/> |
| External modification <input type="checkbox"/> | Concrete paving/flooring <input type="checkbox"/> | Other <input type="checkbox"/> | |
| Service connections - | Electricity <input type="checkbox"/> | Sewer <input type="checkbox"/> | Water <input type="checkbox"/> |
| Maintenance work - | Electrical <input type="checkbox"/> | Plumbing <input type="checkbox"/> | Cladding <input type="checkbox"/> |
| | | | Other <input type="checkbox"/> |

Name of Builder/Contractor: _____

Postal Address: _____

_____ Postcode _____

Telephone Number: _____

Facsimile: _____

Builders License Number: _____

ABN Number: _____

Description of works to be carried out:

Details of Other Additions / Works:

Plan Attached Yes / No

Approved Yes / No

Park Management _____

NOTE:

- No works to be carried over weekends without PERMISSION.
- No works before 8.30 am.
- No works after 5 pm.
- No works during School Holidays or Long Weekends without PERMISSION.

12.4 HOLIDAY VAN SALE REQUEST FORM



APPLICATION FOR SALE OF HOLIDAY VAN

Site Number _____ Date _____

Surname _____ First Name _____

Address _____

_____ State _____ Postcode _____

Phone (H) _____ Mobile _____

Email Address : _____

If you would like Port Stephens Beachside Holiday Parks to make details of your Holiday Van available to prospective buyers, please complete following section.

Van Make _____ Year of manufacture _____

Other inclusions: _____

Valuation (As determined by Registered Plant and Machinery Valuer) \$ _____

[To be Inserted following receipt of the Valuation documentation and after final approval to proceed from Van Owner.]

There is a Sales Administration fee applicable of \$440 payable to the specific Holiday Park. This fee is to be paid by the seller (This fee is for Administration costs and the Costs associated with obtaining a Valuation of the Van and Associated Structures (excluding the site area (land component)).

Receipt of Administration fee paid is to be attached to the Application for Sale Document. I understand that caravans sold on site are only permitted to stay on site as per the Holiday Van Agreement terms and conditions. In addition, any caravans not complying with the Port Stephens Council Holiday Van Owners Agreement will not be permitted to stay on site.

I acknowledge that any Valuation of my Van is merely a valuer's opinion as to what the Van is worth. It does not limit the price at which I can sell my van. I acknowledge that there is no avenue for appealing the valuer's determination. I unconditionally release Port Stephens Council and agree that it is not liable for any action, demand, liability, loss, damage or cost occurring directly or indirectly in connection with the valuation of the Van or any other asset on the site (howsoever caused).

Signed (by the Holiday Van Owner) _____

(Print Name) _____

Signed (Park Management) _____

(Print Name) _____

Date _____

12.5 PSC Alternative Dispute Resolution Policy Extract



POLICY

Adopted: 28/04/2009
Minute No: 117
Amended:
Minute No:

TITLE: ALTERNATIVE DISPUTE RESOLUTION POLICY

BACKGROUND

Due to its business, community and regulatory roles, Council can find itself dealing with conflict in many areas including the building, development assessment and planning areas, neighbourhood disputes over trees noise, odours and animals and industrial relations disputes. Many of these disputes may be dealt with effectively by staff as they arise, however at times some disputes may escalate into significant issues which consume considerable time, energy and community money to address.

Mediation, negotiation, facilitation and other forms of Alternative Dispute Resolution can be used when appropriate to assist resolve difficult disputes or as an alternative to the expensive and time-consuming option of litigation.

Not all difficult issues will warrant the use of alternative dispute resolution processes involving independent negotiators or mediators. Many disputes can be dealt with and resolved informally by staff without the need to resort to other means. This Policy is only meant to cover the more difficult disputes that Council encounters where it is considered that an alternative dispute handling process is the best alternative.

The NSW Ombudsman encourages NSW councils to use Alternative Dispute Resolution as an alternative to litigation and as a means to help resolve disputes between members of the community involving councils.

In accordance with NSW Ombudsman's Guidelines for Local Government, this Policy must not fetter or limit the range of discretion conferred by a statute on Council staff involved in regulatory or enforcement matters. In exercising that discretion, officers must not act under the dictation or at the behest of any third person or body.

This Policy is meant only to provide guidance in the exercise of those powers and at times, depending on the issues surrounding the particular dispute, mediation or negotiation may not be the best option.

PURPOSE

The purpose of this Policy is to provide a process to help resolve disputes that relate to Port Stephens Council. The Policy framework sets out a clear, consistent and fair means to address disputes in an effective and cooperative manner. The Policy also provides an alternative dispute handling process that is less formal and less costly than litigation.

The Policy relates to planning, development, environment, enforcement issues, land management, customer, business, and staff and industrial relations disputes.

DEFINITIONS

Alternative Dispute Resolution - ADR

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

Arbitration

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

In an industrial relations context, Arbitration is a formal dispute resolution process governed by the Industrial Relations Act 1996 (NSW) as amended.

Development Application (DA)

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

Facilitation

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

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

Mediation

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

Mediation Agreement

A mediation agreement is a written agreement setting out the terms of settlement reached between the parties to the mediation process. The agreement is confidential except where the terms of the agreement expressly permit part or all of its contents to be divulged to other parties. The agreement must be signed by all parties to the agreement.

Negotiation

At its most basic, negotiation is an informal bargaining process. It takes place directly between the people in dispute, but can be assisted by others e.g. lawyers and advocates. The people involved in the dispute communicate directly to try to reach an agreement. Communication may be written or spoken and may take some time.

Neutral Evaluation

This is a process provided by the NSW Land and Environment Court. There is no legislative basis for this process, however the Land and Environment Court provides this as a form of mediation in some disputes.

Section 34 Conferences

These are conducted by the Land and Environment Court (NSW). These conferences are more formal than other Court managed ADR processes and are presided over by a single Commissioner.

POLICY OBJECTIVES

- To establish a clear, consistent and fair process to help address disputes.
- To provide an alternative dispute handling process that is less formal and more cooperative than litigation.

- To save time and costs.
- To reduce conflict in the dispute handling process.

POLICY PRINCIPLES

The Alternative Dispute Resolution (ADR) Policy will apply to development, environment and land management disputes and other disputes concerning animals, trees, noise effluent, odours and other forms of pollution. It also applies to business, staff and industrial relations disputes. The following principles relate to the way ADR is applied by Council:

- 1) ADR is a voluntary process.
- 2) To preserve the legitimacy of the process, all parties to ADR are given the opportunity to be represented and have control over the outcomes.
- 3) Where appropriate, ADR is to be initiated as soon as possible to avoid issues escalating.
- 4) Council will ensure confidentiality and respect privacy requirements when dealing with disputes.
- 5) Council will ensure procedural fairness in ADR matters.
- 6) Where mediation is used as one of the ADR options, the mediator is to be suitably qualified, independent and impartial to the dispute at hand.
- 7) Any mediated agreement will be documented and signed by all parties.
- 8) Costs associated with ADR are generally shared between all parties to the dispute unless other arrangements are agreed to by Council.

POLICY STATEMENT

Awareness and Cooperation

Council will encourage parties to a dispute to resolve issues as they arise or come to notice before they escalate into significant matters.

Council will take a proactive approach to minimise the occurrence of disputes.

Council will train appropriate staff in ADR approaches including negotiation.

Approach

Council will not enter into ADR:

- Where there are issues that relate to the content of Council Policies (as opposed to the application of the Policy).
- Where a dispute may create a planning precedent.
- Where the parties are not willing to cooperate.
- Where Council does not believe that ADR is the best option, based on the particular circumstances and broader public interest considerations.

APPENDIX ONE provides a summary of the types of disputes that are suitable for ADR.

APPENDIX TWO outlines the principles of ADR.

RELATED POLICIES

- Compliance Policy
- Complaints/ Requests Handling Policy
- Council Prosecutions Policy
- Grievance and Disputes Procedures contained in Clause 24 of the Port Stephens Council Enterprise Agreement 2008.

RELEVANT LEGISLATIVE PROVISIONS

Not Applicable

IMPLEMENTATION RESPONSIBILITY

All staff and Councillors involved in Alternative Dispute Resolution.

REVIEW DATE

December 2010.

APPENDIX ONE

When is ADR Suitable

KEY

ADR = Alternative Dispute Resolution

CJC = Community Justice Centre

M = Mediation

NA = Not Applicable

NEG = Negotiation

Issue	ADR Yes/ No	Type of ADR	Comments
Neighbourhood Disputes that are <u>not</u> Council's Responsibility.	Yes- however in all likelihood these will be referred to another agency.	NEG & M	Neighbours to be referred to CJC. Refer also to Council's Compliance Policy regarding issues that are not Council's Responsibility.
DA related Disputes.	Yes	NEG & M	It is best if potential issues can be resolved early through negotiation and facilitation.
DA dispute raises matters, which may create a planning precedent.	No	NA	
Minor compliance Issues where Council is the regulatory authority.	Yes- however if it is deemed by the delegated officer to be an Infringement issue (or an Infringement Notice has been issued), there is another process of appeal that should be followed.	NEG or M	Refer to Council's Compliance Policy. Depending on the dispute, it may be advantageous to utilise the CJC.
Moderate to critical compliance issues.	Yes -however if it is deemed by the delegated officer to be an Infringement issue (or an Infringement Notice has been issued), there is another process of appeal that should be followed.	NEG or M	Mediation can be a suitable alternative to legal action in compliance matters at times. A critical compliance matter can include significant human health, public safety, pollution or environmental harm issues. A moderate compliance matter can include moderate, actual or potential public health, safety or environmental issues. Refer to Council's Compliance Policy for a full definition of compliance issues and preferred responses to these matters.
Illegal acts where	Yes in some	NA	In some cases the issue may be so

Issue	ADR Yes/ No	Type of ADR	Comments
the matter is deemed critical and is a criminal offence.	instances.		serious and have such broad impacts that it is best to take some form of regulatory action. Refer to Compliance Policy. A risk management approach is to be taken with these issues when deciding on the best approach.
Contractual Disputes between Council and a third party.	Yes	NEG or M	External Mediator to be selected in accordance with the contract conditions where appropriate.
Industrial Relations issues.	Yes in some cases.	NEG or M	Refer to Council's Grievance & Disputes Procedures contained in the Port Stephens Council Enterprise Agreement 2008.
Industrial Relations disputes that have escalated into a legal dispute.	No See below- Legal Disputes.	See below- Legal Disputes	Refer to Council's Grievance & Disputes Procedures contained in the Port Stephens Council Enterprise Agreement 2008.
Staff Vs Staff disputes	Yes but only in accordance with Council's Grievance & Disputes Procedures contained in the Port Stephens Council Enterprise Agreement 2008.	NEG, M	Refer to Council's Grievance & Disputes Procedures contained in the Port Stephens Council Enterprise Agreement 2008.
Customer Vs staff disputes	Yes in some cases.	NEG or M	In some cases, where both parties are agreeable, mediation may be the preferred approach.
Legal Disputes	Yes if the Court is in favour of this & the laws /circumstances allow this to happen.	NEG or M	Court may refer parties to mediation or may insist on some other form of ADR. The Land and Environment Court provide Mediation and Neutral Evaluation Services for matters before it as well as Section 34 – Conciliation Conferences (see definitions)

APPENDIX TWO

Principles of Alternative Dispute Resolution

A) Mediation

Mediation is one of the most commonly known forms of formal ADR. It is used to help resolve a wide range of disputes by different agencies.

Initiation of Mediation

Mediation may be initiated by the General Manager, a Group Manager/ Section Manager or by a resolution of Council. Mediation may be considered in the following situations:

At the request of either party in a dispute where both parties are willing.

After consideration of submissions following a public exhibition period for a planning instrument or development application.

As an alternative to regulatory action in accordance with Council's Compliance Policy.

As an alternative to legal action in other disputes outlined in this Policy.

Before mediation is initiated, the following issues need to be considered:

Is the dispute within Council's area of responsibility?

Is it best for another agency to deal with the dispute?

Is mediation the best way to deal with the dispute taking into consideration broader public interest issues and the nature of the dispute?

Are all parties willing to enter into the mediation process?

Selection of the Mediator

The mediator must be a neutral and impartial person who does not impose a solution on the parties, nor does he or she make a decision for, or give any legal advice to, the parties.

The mediator must be independent and must be seen to be independent.

The mediator must be impartial.

The mediator must be adequately trained and must have the appropriate experience.

The mediator must be neutral and have no vested interest in the outcome of the dispute.

It will not always be possible to use internal mediators to deal with Council related disputes as they may not be considered independent or neutral. There will be exceptions to this rule however.

In some cases it may be necessary to seek the assistance of an external mediator such as the Community Justice Centre for issues that fall within its jurisdiction. In other cases it may be necessary for Council to engage an external mediator from its panel of approved mediators.

Notification of Mediation

Council will inform the parties of the name of the appointed mediator, establish suitable dates and times and where appropriate, provide administrative support to the mediator.

Provision of Information

Council will provide the mediator with all relevant information. In the case of a development application, this will include plans and any other information provided by the developer in support of the application. The mediator will be briefed by the relevant Council staff prior to the mediation. Prior to mediation, if time permits parties will be asked to provide a statement of their issues detailing their concerns. This will be given to all parties to the mediation prior to the meeting.

Representation and Attendance

Where a dispute involves a group of individuals with common interests or an incorporated organisation, the group/ organisation may be requested to formally nominate a representative to undertake mediation on their behalf.

The Process

The process used for mediation will be similar in most cases. However in complex matters such as those that involve many parties, Council will work with the Mediator to establish an appropriate process, in line with accepted industry standards for mediation.

Generally the mediation process will consist of a number of meetings, including:

The initial meeting between Council staff and the mediator where the mediator will be briefed on the issues and provided with all relevant information.

A meeting between the mediator and the parties.

The mediation meeting (which usually occurs immediately after the above meeting).

It is the responsibility of the mediator to explain the mediation process to all parties.

Outcomes of the Mediation Process

Mediation may result in three outcomes:

Full agreement and settlement.

Partial settlement.

No settlement.

Where there has been partial or full settlement of the dispute, the parties will enter into a Mediation Agreement. The Mediation Agreement is a written agreement setting out the terms of settlement reached between the parties to the mediation process. The agreement is confidential except where the terms of the agreement expressly permit part or all of its contents to be divulged to other parties. The agreement must be signed by all parties to the agreement.

Confidentiality

Information disclosed in the course of mediation is confidential and must not be divulged by any of the parties or the mediator except where the terms of the agreement expressly allow this.

Termination of Mediation

Mediation may be terminated if:

The parties reach settlement and sign a Mediation Agreement.

The Mediator declares that further efforts at mediation are unlikely to be successful.

The parties can't reach settlement.

The General Manager terminates the mediation process for any of the above reasons or due a breach of time limits on the mediation process.

Time Limit for Mediation Process

The General Manager reserves the right to impose a time limit on mediation procedures or terminate the process.

B) Negotiation

Negotiation is fundamentally an informal bargaining process. It takes place directly between the people in dispute, but can at times be assisted by others e.g. lawyers and advocates. The parties involved communicate directly to try to reach an agreement.

Negotiation is also the most basic form of Alternative Dispute Resolution (ADR). It is not as formal as other forms of ADR such as mediation however it is the building block from which all other ADR is built upon.

Types of approaches

There are two basic approaches to negotiation, including distributive bargaining and interest based bargaining.

Distributive Bargaining

An example of this type of negotiation is in labour bargaining with management over wages or salaries or negotiating over the price of goods or services. In this type of bargaining there is little room to move except for the price that is agreed between two parties.

Interest Based Bargaining

This process is more open and flexible than distributive bargaining and involves problem solving that attempts to reach mutually beneficial outcomes. To achieve this, there is a need for frankness, flexibility and an attempt to understand each other's needs. Examples of this approach include negotiating contract conditions with a supplier, reaching an "out of court" settlement over some dispute or reaching an agreement over the conditions of consent in a difficult development application process.

Initiation of Negotiation

In most disputes involving building issues, development assessment and planning matters, neighbourhood disputes (over trees noise, odours and animals), compliance matters and industrial relations, negotiation may be initiated by the staff member dealing with the dispute. Formal negotiation would only be required for high level disputes where the issues have escalated beyond the resources of the staff members to deal with these.

The Process

There needs to be a deliberate process supporting all forms of negotiation. The level of work that goes into the negotiation process will vary depending upon the risks involved in the dispute and what is at stake. For example in industrial relations disputes and many large development proposals the stakes can be very high. The basic steps are:

Research the Issues

Determine what the other party wants out of the process. In some cases this may not be obvious without some background reading or conversations.

Begin with a Positive Approach.

Demonstrate a positive attitude and do not form any predetermined negative perceptions of the other party.

Determine how far Council is willing to go in the negotiations. For any significant regulatory matters, industrial relations disputes, contract issues and any other critical matters that need to be negotiated, the staff member involved should come to an agreement with their Manager regarding the limits of negotiation before the process begins.

Address Issues, not Personalities

Do not attack the other party's views or opinions. Focus on the issues and show respect for the other person regardless of your own views.

Be prepared to Bargain and be Flexible

Not much is cast in stone, including regulatory issues. At times it may appear that there is little room to move in negotiations however attempt to see if there is some way to get past any hurdles in the process. Look for mutually beneficial solutions.

Councils (and delegated staff) have considerable discretion in deciding to enforce the law. If there are good sound reasons not to apply the letter of the law, Council staff may legitimately decide not to enforce the law in some circumstances. In some cases therefore a negotiated decision may not fully meet a particular policy or law however it may result in a better outcome when weighed against the broader public interest.

It is important to document any decisions where this approach has been taken including the reasons. Reference should be made to the NSW Ombudsman's Guidelines in relation to the exercise of discretion.

Emphasise Win- Win

It is not always possible to end up with a win- win outcome however win-win should be the mindset. Look for solutions that will give the other party a positive outcome while satisfying Council's objectives. The final solution may not be exactly what both parties originally had in mind however it may satisfy both needs in a different way.

Be Open to Third Party Assistance

At times the negotiation process may not be reaching a satisfactory outcome for either party. If the stakes are high enough, it may be worth bringing in a third party negotiator or engaging in mediation.

Outcomes of the Negotiation Process

Where there has been partial or full settlement of the dispute by negotiation, the parties may enter into an agreement. Depending upon the dispute, it is not always necessary to enter into a formal agreement. At times it may be suitable to write to the other party, outlining the main points of agreement or in the case of a development application; the outcomes of negotiation are included in the Conditions of Consent.

If a formal agreement is deemed necessary, it should be a written agreement setting out the terms of settlement reached between the parties to the negotiation process. The agreement is confidential except where the terms of the agreement expressly permit part or all of its contents to be divulged to other parties. The agreement must be signed by all parties to the agreement.

C) Other Options

There are times when mediation and negotiation may not be appropriate or the process doesn't work for a particular dispute. At other times the mediation or negotiation process may initially work, however the agreement may not be honoured for various reasons. In these cases, there needs to be other options open to Council. These options can include:

Do nothing. This may be a legitimate option if Council considers that it is not in the public interest to pursue a dispute. This is particularly the case where considerable community resources are needed to help resolve an issue where there is little public benefit or there is a low probability of satisfactory resolution.

Instigate other measures that help to resolve the issue, not the dispute. For example in contract management there is the opportunity to terminate a contract if both parties are in dispute and it can't be resolved. Another example may include the option of modifying the conditions of an approval issued by Council to address a particular issue that is in dispute.

Consider taking legal action to resolve the dispute. If this is considered as a preferred option, the costs of taking action need to be weighed against the benefits. If there is little public benefit in pursuing legal action, or if the action is motivated only on principle, then it may not be worth taking this form of action.

Version Control

Version	Change From Previous	Date	Comment
1	Created	7 May 2013	Version 1 endorsed by Port Stephens Holiday Park Trust
2	<p>Document reviewed for the Holiday Park Trust meeting resulting from legal review and establishment of the Consultative Committee Terms of Reference. The following is a list of changes to Version 1:</p> <p>4.1 (a) Clarification added to the occupancy term, document signing and insurance required</p> <p>4.1 (f) Added reference to payment options</p> <p>4.1 (m) Clarification added to hardship conditions</p> <p>4.2 Annual compliance inspection note added</p> <p>8.4 (c) Reference to Section 8.6 added</p> <p>9 Amended to reflect membership on the Consultative Committee and clarification of distribution and communication methods</p> <p>11.5 Addition of the Alternative Dispute Resolution Policy Extract</p>	29 Oct 2013	Version 1.2 endorsed by Port Stephens Holiday Park Trust