

MINUTES 11 FEBRUARY 2014



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 11 February 2014, commencing at 5.51pm.

PRESENT: Mayor B MacKenzie; Councillors G. Dingle; C. Doohan; P. Le Mottee; J. Morello; S. Tucker; General Manager; Corporate Services Group Manager; Facilities and Services Group Manager; Development Services Group Manager and Executive Officer.

001	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that the apologies from Crs Sally Dover, Ken Jordan, Peter Kafer and John Nell be received and noted.
002	Councillor Steve Tucker Councillor John Morello
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 10 December 2013 be confirmed.
	The General Manager declared a less than significant conflict of Interest in Item 3 – Newcastle Airport Pty Ltd – Deeds of Indemnity.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2013-05420

NELSON BAY RSL SUB-BRANCH

THAT COUNCIL:

- 1) Provide in principle support for the application of the Nelson Bay RSL Sub Branch to apply for Federal Government funds to erect a Commemorative Column at Apex Park, Nelson Bay.
 - 2) Allocate funds for the costs associated with the lodgement of the development application.
-

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 MOTION

003	Mayor Bruce MacKenzie
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Provide in principle support for the application of the Nelson Bay RSL Sub Branch to apply for Federal Government funds to erect a Commemorative Column at Apex Park, Nelson Bay.2) Allocate funds for the costs associated with the lodgement of the development application.

BACKGROUND

The purpose of this report is to inform Council that the Nelson Bay RSL Sub Branch has approached Council for support with an application to access funding from the Federal Government Centenary Fund.

The Federal Government is calling for applications under the Centenary Fund to provide grants to commemorate the centenary of the 1915 landings at Gallipoli, the service and sacrifice for all who served in the First World War.

The Nelson Bay RSL Sub Branch is preparing an application to access funds to construct a commemorative column in Apex Park, Nelson Bay. The column will be adorned by a professionally created panel appropriate to the conflict with a dedication on behalf of all citizens of Port Stephens.

It is proposed that the structure would be located on the site previously occupied by the Cenotaph. The proposed column would overlook the Cenotaph and symbolically face the east at dawn.

A development application will be required for the project to proceed. As part of the 100 year anniversary it is proposed that Council will provide funding for the Council costs to lodge the development application when required.

Council is asked to provide its support to the Nelson Bay RSL Sub Branch for this important project which will add to Australia's history and recognise the efforts of those from the First World War.

COUNCIL REPORTS

ITEM NO. 1

FILE NO: 16-2010-460-2

SECTION 96 MODIFICATION TO DEVELOPMENT APPLICATION FOR RECREATION FACILITY (GYM) AT NO. 118 MAGNUS STREET NELSON BAY

REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the modification to 16-2010-4602 in accordance with the amended condition No.19 detailed within **(ATTACHMENT 3)**, resulting in the reduction of Section 94 Contributions from \$75,642 to \$46,857.20 (excluding CPI indexing).
-

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
MOTION**

004	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council move into Committee of the Whole.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Paul Le Mottee Councillor John Morello
	That the recommendation be adopted.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Chris Doohan, Steve Tucker, Geoff Dingle and John Morello.

Those against the Motion: Nil.

MOTION

005	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council approve the modification to 16-2010-4602 in accordance with the amended condition No.19 detailed within (ATTACHMENT 3) , resulting in the reduction of Section 94 Contributions from \$75,642 to \$46,857.20 (excluding CPI indexing).

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Chris Doohan, Steve Tucker, Geoff Dingle and John Morello.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present to Council for determination a proposal to modify development consent 16-2010-460-2, called to Council by Mayor Mackenzie.

The modification seeks deletion of Condition No.19 that requires payment of Section 94 contributions. The waiving of Section 94 contributions requires that the matter be reported to Council.

Original Consent

The original consent (16-2010-460-1) granted approval for a recreational facility (Curves Gym) at the subject site. In accordance with the provisions of Council's Development Control Plan 2007 Chapter B3 the recreational facility generated a demand for car parking greater than the commercial premises (office) located on site at the time of approval. It was determined that the recreational facility resulted in a shortfall of six (6) car parking spaces on the site. The payment of Section 94 contributions in order to address the car parking deficiency was considered an acceptable outcome to address the short fall.

The Section 94 Contributions were applicable to the development pursuant to Council's Section 94 Development Plan and relate to the facilitation of future car parking provision and redevelopment of existing car parking structures within the Nelson Bay Town Centre.

The future works program for the Nelson Bay Commercial/Retail Foreshore Area Parking identifies that an estimated \$19.197 million is required to facilitate the Nelson Bay foreshore parking works and the provision of 1,636 spaces. Section 94 Contributions gained from development within the locality shall be utilised to fund these works as detailed in the following table extracted from Council's Section 94

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

Contributions Plan. Given the substantial cost of the parking works Council needs to ensure that Section 94 Contributions are collected from all applicable developments without exception.

Nelson Bay Commercial/Retail and Foreshore Area Parking

Project No	Locality	Project Description	Estimate	Staging Threshold
PF1	Nelson Bay	DONALD STREET; Seal and linemark land adjoining the existing multi-level carpark	\$35,000	1
PF1	Nelson Bay	DONALD STREET; Stage 1 construct additional 1 Level to the existing multi-level carpark	\$1,080,000	3
PF1	Nelson Bay	DONALD STREET; Stage 2 construct additional 1 Level to the existing multi-level carpark	\$1,080,000	4
PF1	Nelson Bay	DONALD STREET; Stage3 construct final 2 Levels to the existing multi-level carpark	\$1,080,000	5
PF3	Nelson Bay	DONALD STREET; Redevelop Donald St west carpark to 6 levels Stage 1 construction of 2 levels	\$2,160,000	6
PF4	Nelson Bay	TERAMBY ROAD; Extension of on -street parking bay, souther side - east of Teramby Rd (review as part of TIC redevelopment)	\$540,000	7
PF3	Nelson Bay	DONALD STREET; Redevelop Donald St west carpark to 6 levels, Stage 2 construction of 2 levels	\$2,160,000	8
PF3	Nelson Bay	DONALD STREET; Redevelop Donald St west carpark to 6 levels, Stage 3 construction of Final 2 levels	\$2,160,000	9
PF1	Nelson Bay	DONALD STREET; Stage construction of new 6 level carpark joining the existing Donald St east carpark	\$2,370,000	12
PF7	Nelson Bay	VICTORIA PARADE; Construct multi-level carpark southern side, east Teramby Rd, stage construction	\$6,472,590	13
	Nelson Bay	Nelson Bay Town Centre Transport & Parking Study	\$60,000	0
Total Estimate			\$19,197,590	

Proposed Modification

The applicant lodged a Section 96 Modification on 20 September 2013 which sought approval to waive the Section 94 Contributions applicable to the development site. Condition No.19 (identified as Condition No.1 'Conditions Relating to Issue of Construction Certificate') of determination 16-2010-460-1 specified that a monetary contribution of \$75, 642 was payable to Council prior to commencement of use.

The applicant provided information with the Section 96 Modification seeking to justify the deletion of Condition No.19 as follows:

- 1) The business does not generate profits that would permit the payment of Section 94 Contributions;
- 2) The site has the required car parking spaces being four (4) spaces and has been operating for approximately 2 years without disruption to the surrounding community;
- 3) Five (5) staff members would lose employment should the facility cease operation;
- 4) The nature of the Curves Gym is not typical of a standard gym/recreation facility, car parking rates should be discounted for the approved use;
- 5) The gym component of the use comprises 80m² not the 114m² approved.

The Section 96 Modification was assessed in terms of a review of the manner in which the Section 94 Contributions were levied and the associated car parking rate calculations. The assessment identified:

- 1) The four (4) car parking spaces the applicant sought to rely upon failed to comply with AS2890.1. Vehicles are unable to both enter and exit the site in a forward direction. Therefore the spaces cannot be relied upon in calculating car parking rates and associated Section 94 Contributions;
- 2) The car parking was provided within a stacked parking arrangement which is not acceptable for commercial premises. Therefore the spaces cannot be relied upon in calculating car parking rates and associated Section 94 Contributions;
- 3) The on-site car parking spaces were not allocated to the applicants tenancy. As such the applicant failed to demonstrate the spaces were available for the sole use of the tenancy and Curves Gym facility;
- 4) The original assessment accepted two (2) of the existing spaces on site (which were not allocated to the tenancy nor compliant with AS2890.1). Further, a discount of one (1) space was granted;
- 5) The applicant did not submit amended plans detailing the internal layout of the facility to demonstrate that the total area of the gym component is only 80m² as per the Section 96 submission. The approved plans indicate that the gym area is 114 m². Notwithstanding, a gym component of 80m² would result in a short fall of four (4) spaces if the sites existing two (2) spaces are accepted.

The submission by the applicant that the recreational facility (Curves Gym) generated the need for four (4) spaces which were all provided for on-site was not accurate. As such the modification could not be supported by staff. The car parking spaces on-site were neither allocated to the tenancy nor compliant with AS2890.1. Further the approved use generates a need for a minimum of six (6) spaces.

However, it was identified that the original short fall of six (6) spaces was disproportionate in the light of the facility not operating in accordance with standard gym practices, for example group fitness classes are not run at the facility. The assessment of the Section 96 Modification determined that the approved use therefore resulted in a short fall of four (4) spaces on the site, equating to a Section

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

94 payment of \$46,857.20 (excluding CPI indexing). In this regard the credit of two (2) existing car spaces on site applied under the original consent was accepted. The ability for staff to give consideration to the reduction of car parking rates is consistent with B3.C8 of Development Control Plan 2007.

The Applicant was advised the Section 94 Contribution could be reduced from \$75,642 to \$46,857.20 (excluding CPI indexing) under delegation due to recalculation of applicable car parking demanded by the approved use. The Applicant was not satisfied with a reduction seeking the total fees to be waived and sought for the application to be called to Council.

It is noted that, as the applicant has failed to satisfy the conditions of consent pertaining to the original approval, specifically Condition No.19, the current use of the site is unlawful. In this regard, Council's Compliance Section have made contact with the applicant in relation to this matter. However, in the interests of working with the owner and to try and obtain an acceptable outcome further compliance action has been placed on hold pending the outcome of the Section 96 Modification.

Key Issues

In summary the key issues relevant to the proposal include:

- Loss of Section 94 Contributions to the value of \$75,642 (or \$46,857.20 as amended);
- Shortfall of car parking servicing the site;
- Unlawful commencement of use.

FINANCIAL/RESOURCE IMPLICATIONS

Should Council approve the Section 96 modification in accordance with the amended conditions the applicant may appeal to the Land and Environment Court. Defending Council's determination would have financial implications. The risk of such an appeal is low.

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

LEGAL, POLICY AND RISK IMPLICATIONS

The Section 96 modification is inconsistent with Council's Section 94 Contribution Policy and Development Control Plan 2007. There are no legal, policy or risk implications arising from the approval of the application, as amended by the recommendation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council will fail to realise its Section 94 commitments in relation to car parking requirements in Nelson Bay if Section 94 fees are waived.	Medium	Support the recommendation to approve the application with reduced Section 94 Contributions.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The applicant has stated that requiring the payment of Section 94 Contributions causes the facility to become unviable and would result in the loss of five (5) employment opportunities in the locality. Furthermore, the requirement to pay Section 94 Contributions was to occur prior to commencement of use. The current premise is operating outside the terms of the consent. Council has exercised judgement, discretion and compassion allowing the use to continue during the assessment of the Section 96 Application.

Approval of the modification sought by the applicant would result in an undesirable precedent for the waiving of Section 94 Contributions relating to car parking within the Nelson Bay Town Centre. Such a precedent would negatively impact Council's ability to provide an additional 1,636 spaces within the Nelson Bay Town Centre. These planned works have an estimated cost of a total \$19.197 million.

The applicant has failed to provide a compelling argument for Council to support the waiving of all required Section 94 Contributions. However, the opportunity to review the Section 94 Contributions payable via recalculation of car parking rates has resulting in a recommendation of the reduction of applicable contributions from \$75,642 to \$46,857.20 (excluding CPI indexing). This is a reduction of 38% and presents an improved outcome for the applicant whilst insuring Council obtains funding required for the Nelson Bay car parking project.

CONSULTATION

In accordance with Council policy the Section 96 modification was not exhibited.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment;
- 3) Amended Conditions of Consent.

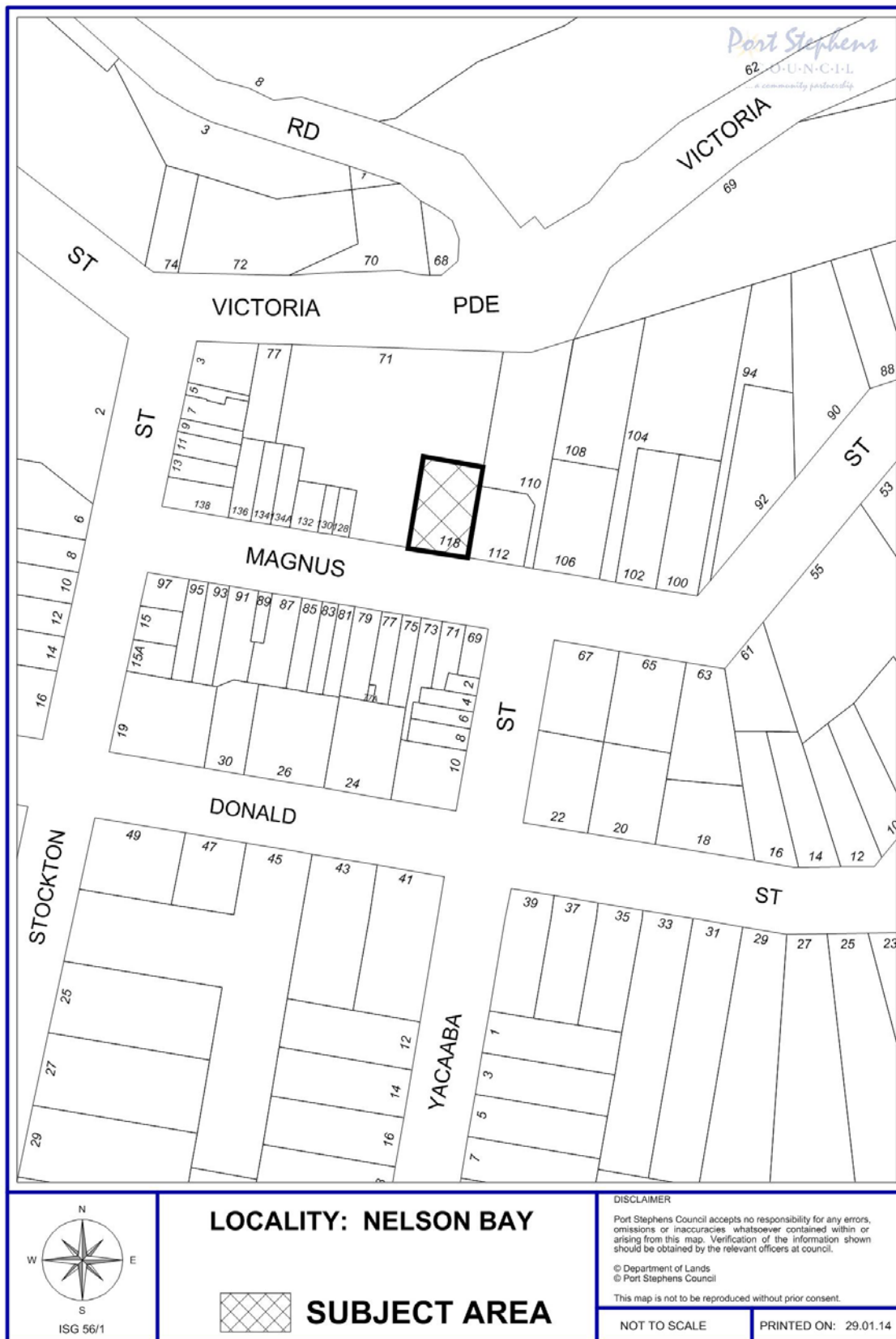
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

The Section 96 modification has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and the following is a summary of those matters considered relevant in this instance.

Site Description:

The subject site is an existing two (2) storey commercial premises located within 118 Magnus Street Nelson Bay.

Site Constraints:

The proposed modification relates to an application for change of use of an existing commercial premises for the purpose of a recreation facility. Constraints affecting the site are not a relevant consideration as no construction works are proposed.

The s.96 Modification Proposal:

Delete Condition No.19 which states:

A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

	<i>Per Lot</i>	<i>Total</i>
<i>Car Parking</i>	<i>(\$12,607)</i>	<i>(\$75,642)</i>

Note:

a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.

*b) Contributions are to be paid **prior to commencement of use.***

c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.

CONSULTATION – COMMUNITY

In accordance with Council's Notification Policy, adjoining neighbours were not notified of the Section 96 modification application.

STATUTORY PROVISIONS

Environmental Planning and Assessment Act 1979 (EP&A Act)

Section 96 –

Section 96 of the EP&A Act requires that prior to determination of a modification to consent one must be satisfied that the proposal is of minimal environmental impact and that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.

The proposal seeks to modify development consent 16-2010-460-1, by way of the deletion of a condition of consent imposed in relation to the payment of Section 94 Contributions. The modification does not seek to amend the development as approved in terms of operation or site configuration. As such the proposal is satisfactory with regards to the substantially the same test as prescribed under EP&A Act.

State Environmental Planning Policies (SEPP)

The proposed modification does not result in any inconsistencies in relation to the SEPPs affecting the site. The development's compliance with applicable SEPPs was addressed within the original assessment under 16-2010-460-1.

Port Stephens Local Environmental Plan 2000 (PSLEP 2000)

The proposed modification is not inconsistent with either the zone objectives or relevant clauses within PLEP2000. Given the nature of the modification further detailed assessment under PLEP2000 is not required. The development's compliance with PSLEP2000 was addressed within the original assessment under 16-2010-460-1.

Port Stephens Local Environmental Plan 2013 (DPSLEP 2013)

The proposed modification is not inconsistent with the provisions of LEP2013. Given the nature of the modification further detailed assessment under LEP2013 is not required.

Port Stephens Development Control Plan 2007 (PSDCP2007)**B2 – Parking and Access**

DCP Control		Requirement	Proposed	Compliance
B3.8	Number of parking spaces	Gym = 5 spaces per 100sqm	2 existing	No – Shortfall of 4 spaces
B3.8	Provision of disabled parking	1 space per 20 spaces	None	N/A

The development has a short fall of four (4) car parking spaces. The short fall has reduced by two (2) spaces from the original approval supported by the submission of further information provided by the applicant. The extent of the utilised gym area (being 80m² only) and the differences in operation of a Curves facility compared to a standard recreation facility facilitated the reduction.

The ability for staff to give consideration to the reduction of car parking rates on merits consistent with B3.C8 of Development Control Plan 2007. In this regard there was an opportunity for review of the applicable Section 94 Contributions but no compelling argument was put forward by the applicant to support a recommendation of approval to the waiving of all Section 94 Contributions.

Under Council's Section 94 plan, developments which have a car parking deficiency within the Nelson Bay Town Centre have the opportunity to pay a Section 94 contribution to compensate for any car parking shortfall.

Given the available on street parking, and off street parking (local parking station located within walking distance to the subject site), imposition of a Section 94 contribution to address the parking deficiency is acceptable in this instance. It is unreasonable to expect developments within the existing centre/existing buildings to comply with Council's car parking requirements as listed in DCP 2007.

INTERNAL REFERRALS**Engineering**

The modification was referred to Council's Development Engineering Section for assessment. Council's Development Engineering Section identified that there was insufficient information provided with the application to facilitate a detailed assessment of the proposal.

However, it was identified that the existing car parking on site was not appropriate as stacked parking was proposed. Further, that it appeared from the site that it was unlikely vehicles could enter and exit the site in a forward direction. Compliance with AS2890.1 was also raised as a concern.

EXTERNAL REFERRALS

Nil.

Section 94 Contribution

Review of the applicant's submission and recalculation of applicable car parking rates result in the applicable Section 94 Contribution reducing from \$75,642 to \$46,857.20 (excluding CPI indexing). This is a reduction of 38% and presents an improved outcome for the applicant whilst insuring Council obtains funding required for the Nelson Bay car parking project.

Likely Impact of the Development

The proposed modification results in a development that further exacerbates the car parking shortfall within the Nelson Bay Town Centre. Whilst it is unreasonable to expect car parking to be provided on-site for change of use applications which intensify the use of existing commercial premises, these shortfalls need to be addressed via contribution to Council's future Section 94 Plan. The applicant has failed to provide a sound justification as to why this requirement should not apply in this instance. Further, approval of the Section 96 modification proposed would result in an undesirable precedent for the waiving of Section 94 Contributions. .

Suitability of the Site

Based on a review of the car parking generated by the approved use it would be suitable to amended condition No.19 so as to reduce the Section 94 Contribution amount from \$75,642 to \$46,857.20 (excluding CPI indexing). The site is suitable for the development subject to the payment of Section 94 Contributions.

Public Interest

The proposed modification to waive all Section 94 Contributions is not considered to be in the public interest. However, based on a review of the car parking generated by the approved use it would be in the public interest to amended condition No.19 so as to reduce the Section 94 Contribution amount from \$75,642 to \$46,857.20 (excluding CPI indexing). T

Conclusion

It is recommended that the modification to 16-2010-460-2 be amended subject to the attached modified conditions provided in Attachment 3.

**ATTACHMENT 3
AMENDED CONDITIONS OF CONSENT**

Amend Condition No.19 as follows:

A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

	Per Lot	Total
Car Parking	(\$11,714.30)	(\$46,857.20)

Note:

a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.

b) Contributions are to be paid **prior to commencement of use**.

c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.

ITEM NO. 2

FILE NO: PSC2006-0184

PESTICIDE USE NOTIFICATION PLAN

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL
SERVICES SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the "Pesticide Use Notification Plan" shown at **(ATTACHMENT 1)**;
- 2) Place the "Pesticide Use Notification Plan", as amended on public exhibition of a period of 28 days;
- 3) Should no submissions be received, the plan be adopted as amended, without a further report to Council;
- 4) Revoke the "Pesticide Use Notification Plan" dated 17 January 2007 (Min No. 760), should no submissions be received.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Paul Le Mottee Councillor John Morello
	That the recommendation be adopted.

MOTION

006	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council: <ol style="list-style-type: none"> 1) Endorse the amendments to the "Pesticide Use Notification Plan" shown at (ATTACHMENT 1); 2) Place the "Pesticide Use Notification Plan", as amended on public exhibition of a period of 28 days; 3) Should no submissions be received, the plan be adopted as amended, without a further report to Council; 4) Revoke the "Pesticide Use Notification Plan" dated 17 January 2007 (Min No. 760), should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement of a draft Pesticide Use Notification Plan for exhibition.

Under the Pesticides Regulation 1995 it is a legal requirement for all NSW Councils to develop and implement a Pesticide Use Notification Plan in accordance with the Pesticides Regulation 1995. The plan sets out how Port Stephens Council will notify members of the community of pesticide applications it makes, or allows to be made to public places that it owns or controls.

Council has had a Pesticide Use Notification Plan since January 2007 with the Pesticides Regulation 1995 requiring the plan to also specify the timeline for review. The review has found that the existing plan is being well implemented and the attached draft has only minor amendments in line with operational practices.

The plan describes:

- What is a pesticide;
- Which public places are covered by the plan;
- Who regularly uses those places and an estimated level of use;
- How and when council will notify the public of it's intended use of pesticides;
- How the public can access this plan and obtain further details on council's use of pesticides;
- How future reviews of this plan will be conducted.

Notification requirements are based on Council's assessment of:

- The estimated level of usage where pesticides may be used;
- The extent to which activities generally undertaken in those areas could result in direct contact with pesticides;
- The type of pesticide to be used;
- The manner and extent of intended application;
- Other requirements for notification (such as Port Stephens Council's licence to spray on or over water).

Port Stephens Council preferentially uses pesticides that are available to the general public at retail outlets. The plan details that Council will not notify the public when using products available to the general public unless otherwise stated, i.e when spraying over water.

As defined by The Pesticides Act 1999 a pesticide is an agricultural chemical product that is used to treat pests whether they are a plant or insect/animal. As such pesticides are used across the organisation, the notification for the varied uses is detailed in the attached Pesticide Notification Plan.

The Pesticide Notification Plan links to 9.1.1.2 of the Community Strategic Plan – Conduct noxious and environmental weed control on Council owned and controlled reserves.

FINANCIAL/RESOURCE IMPLICATIONS

The requirement for notification will have minimal budget impacts. Some costs may be incurred by particular sections of Council when notifying the community of pesticide use however these costs will be absorbed into the current budget allocations.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	5,000	Notification occurs across many different departments, however the annual cost would not exceed \$5,000.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

It is a legal requirement for all Councils in NSW to develop a Pesticides Use Notification Plan in accordance with the Pesticides Regulation 1995. The final plan will also be forwarded to the Environmental Protection Agency who is the Appropriate Regulatory Authority.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may not notify the community of pesticide use in accordance with the Pesticide Regulation 1995. This could lead to compliance action from the Environmental Protection Agency in addition to community dissatisfaction.	Low	Ensure adequate internal communication regarding Councils responsibilities and that processes reflect the required notifications.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Pesticides are an essential, sustainable tool in integrated pest and weed management programs. Existing programs have contained many weed species and prevented them from expanding further into highly valued environmental, agricultural and recreational areas and Council assets such as road sides and drains. Invasion of native vegetation by weeds is a Key Threatening Process in NSW, including invasion by Lantana, Bitou Bush, Vines/scramblers and Perennial Grasses. Key threats to endangered aquatic ecosystems present in Port Stephens include weed invasion, particularly Alligator Weed, Water Hyacinth and Salvinia.

If Council was unable to lawfully apply pesticides in any outdoor public place the costs resulting from the impact of weeds and pests would increase rapidly as pest populations flourished unabated. Increased weeds and pests could also lead to increased flooding, closing of recreational assets, reduced aesthetics, and subsequent control programs would have increased costs as a result of requiring more resources to bring pests under control.

The Pesticide Use Notification Plan fulfils the communities right to be informed on the use of these pesticides.

CONSULTATION

- 1) The Pesticides Regulation 1995 requires a minimum four week community consultation process with copies of the plan to be available free of charge. An advertisement will be placed in the Port Stephens Examiner with the plan able to be downloaded from Council's website. The plan will also be available at the Administration building, libraries and on request;
- 2) Consultation with Council sections that use pesticides has been undertaken in preparing this Plan to ascertain the level and type of notification for affected operations.

OPTIONS

- 1) Approve the draft plan for exhibition;
- 2) Do not approve the draft Plan for consultation. In which case Council will be in breach of the Pesticide Regulation 1995 for all future pesticide use;
- 3) Endorse a modified plan to be placed on public exhibition.

ATTACHMENTS

- 1) Draft Pesticide Use Notification Plan.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Draft Pesticide Use Notification Plan

**PORT STEPHENS COUNCIL
FINAL PESTICIDE USE
NOTIFICATION PLAN**



Changes

Delete:
FINAL

PESTICIDE USE NOTIFICATION PLAN

1. INTRODUCTION

This pesticide use notification plan has been prepared in accordance with the requirements of the Pesticides Regulation 1995 (the Regulation). The plan sets out how Port Stephens Council will notify members of the community of pesticide applications it makes or allows to be made to public places that it owns or controls.

The plan describes;

- What is a pesticide
- Which public places are covered by the plan
- Who regularly uses those places and an estimated level of use
- How and when council will notify the public of it's intended use of pesticides
- How the public can access this plan and obtain further details on council's use of pesticides
- How future reviews of this plan will be conducted

Note: Port Stephens Council has a licence to spray herbicides on or over water, which has particular requirements for notification in addition to those contained within this plan. This licence is referred to as "the Licence" in this document.

2. WHAT IS A PESTICIDE?

The Pesticides Act 1999 defines a pesticide as:

- (a) an agricultural chemical product within the meaning of the Agvet Code

Note. The Agvet Code defines an "agricultural chemical product" to be a substance or a mixture of substances that is represented, imported, manufactured, supplied or used as a means of directly or indirectly:

- 1) destroying, stupefying, repelling, inhibiting the feeding of, or preventing infestation by or attacks of, any pest in relation to a plant, a place or a thing, or
- 2) destroying a plant, or
- 3) modifying the physiology of a plant or pest so as to alter its natural development, productivity, quality or reproductive capacity, or

- 4) modifying an effect of another agricultural chemical product, or
- 5) attracting a pest for the purpose of destroying it, or
- (b) a veterinary chemical product (within the meaning of the Agvet Code) that is represented as being suitable for, or is manufactured, supplied or used for, the external control of ectoparasites of animals.

Note: The term pesticide also includes insect repellents for use on human beings.

This notification plan generally refers to the small scale use of common herbicides and insecticides.

3. PUBLIC PLACES COVERED BY THIS PLAN

Port Stephens Council proposes to use or allow the use of pesticides in the following categories of outdoor public places that it owns or controls in the Port Stephens Council area:

- bushland areas
- parks, cemeteries, picnic areas, playgrounds, sporting fields, and ovals
- timber structures
- certain council buildings
 - childcare facilities
 - libraries
 - community centres
 - community halls
- public land owned or controlled by Port Stephens Council, including:
 - road verges and reserves
 - drains
 - caravan and holiday parks
 - swimming pools
 -

Port Stephens Council's estimate of the level of community use, regular user groups and types of pesticide use in each of these categories of public places is summarised in the following table.

Insert
reserves, (after 'parks,')

Insert
- Rivers, creeks and watercourses
(after ' – drains')

Public places	Regular user groups	Level of use of public place	Type of pesticide use
Bushland areas	General recreation (walkers, motorists)	Low to medium	Spot herbicides or insecticides Broadscale selective or non-selective herbicides Rodenticides Large vertebrate baiting
Parks, Cemeteries, Picnic areas, Playgrounds, Sporting fields, ovals and Timber structures	General recreation, families, social groups, Sporting clubs and associations General public (joggers, dog walkers)	Medium to High, particularly during holidays	Spot herbicides or insecticides Broadscale selective or non-selective herbicides Rodenticides Fungicides termiticides
Road verges and Reserves	Local residents, visitors, travelling public walking , riding or driving	Low to medium for rural roads, medium to high for arterial roads	Spot herbicides Broadscale selective or non-selective herbicides
Drains	Local residents and people who walk or drive past a drain	Low	Spot herbicides or insecticides Broadscale selective or non-selective herbicides
Caravan and Holiday parks, Swimming pool buildings and grounds	Residents Visitors Swimming clubs Residents Schools Social groups	Medium to high	Spot herbicides or insecticides Broadscale selective or non-selective herbicides Broadscale insecticides Fungicides Spray termiticides Spray ant control Bait termiticides, Bait bird control Rodenticides
Certain Council Buildings	Childcare Facilities - Enrolled families and their children Community Centres and Halls - General public families, social groups Libraries - General public	Medium to High	Spot herbicides or insecticides Broadscale selective or non-selective herbicides Rodenticides Bait Termiticides

4. NOTIFICATION ARRANGEMENTS

This section of the plan describes how and when Port Stephens Council will provide notice of pesticide use in public places, arrangements for emergency pesticide applications and circumstances where notice will not be given.

These notification requirements are based on Port Stephens Council's assessment of:

- The estimated level of usage where pesticides may be used
- The extent to which activities generally undertaken in those areas could result in direct contact with pesticides
- The type of pesticide to be used
- The manner and extent of intended application
- Other requirements for notification (such as Port Stephens Council's licence to spray on or over water)

4.A INSTANCES WHERE NO NOTICE WILL BE PROVIDED

Port Stephens Council preferentially uses pesticides that are available to the general public at retail outlets. It is not intended to notify of the use of such products other than in this plan including;

- Spot spraying of weeds
- Minor insecticide, rodenticide applications
- For emergency control (for example wasps and bees)
- Council will not give notice of pesticide use by lessees of council owned land that remain a public place

The requirement within Port Stephens Council's licence to notify certain groups of the intended use of some of these products before spraying on or over water remains.

4.B HOW AND WHEN NOTICE OF PESTICIDE USE WILL BE PROVIDED

AQUATIC AREAS

Port Stephens Council has an existing obligation (the Licence) to notify the public prior to using herbicides on or over water. This obligation includes advance written notice to occupiers of land adjacent to the waterbody, publishing a notice in the local paper and displaying signage during the works. As many treatments require access through private property this obligation has generally been in addition to verbal communication with landowners.

Insert

- Use of biological controls
(after "minor insecticide,
rodenticide applications")

BUSHLAND AREAS

For bushland areas, signage will be provided prior to works commencing for the following pesticide uses:

- *Products not available to the general public at retail outlets*
- *Vertebrate baiting*

For mobile works signs will be positioned on spray vehicles.

Parks, Cemeteries, Picnic areas, Playgrounds, Sporting fields, Ovals and Timber Structures

For sporting fields and ovals, signs will be located at the major entrances to the area to be treated and at a location where they are most likely to be seen e.g. amenities block, change room (except for those situations described in 4e). Signs will be put up immediately prior to pesticide use and will remain in place at least until the operation is completed (where the pesticide label or permit requires a longer period of signage, this will be followed). When foliage is sprayed, signs will remain at least until the pesticide has dried. Signs will be used for the following pesticide uses:

- *Broadscale selective or non-selective herbicides*
- *Broadscale insecticides*
- *Fungicides*
- *termiticides*
- *Spray ant control*

If pesticides are to be applied adjacent to a sensitive place, as defined in section 4c, the manager or responsible person for that place is to be notified 48 hours in advance of the intended application for the use of the following products;

- *Products not available to the general public at retail outlets*
- *Vertebrate baiting*
- *Rodenticides*

ROAD VERGES AND RESERVES

For road verges and reserves, signage will be provided during works for the following pesticide uses:

- *Broadscale selective or non-selective herbicides*

Insert

For mobile works, signs will be positioned on spray vehicles. (after "Spray ant control")

DRAINS

For drainage easements, notice in accordance with licence requirements will be provided for the following pesticide uses:

- *Spraying in or over water*

Caravan And Holiday Parks, And Swimming Pool Buildings And Grounds

For Caravan and holiday parks, advice will be placed on notice boards or near/at the main entrance immediately prior to the following pesticide uses:

- *Spot herbicides or insecticides*
- *Broadscale selective or non-selective herbicides*
- *Broadscale insecticides*
- *Fungicides*
- *Spray termiticides*
- *Spray ant control*
- *Bait termiticides,*
- *Bait bird control*
- *Rodenticides*

Certain council buildings (community halls, centres, libraries, childcare facilities)

For buildings and grounds of certain council buildings, signage will be provided at the entrance to the facility 48 hours prior to pesticide use for the following pesticide uses:

Insert

For mobile works signs will be positioned on spray vehicles (after "Spraying in or over water")

Delete

, child care facilities

Delete

signage will be provided at the entrance to the facility 48 hours prior to pesticide use for the following pesticide uses:

Insert

Advice will be placed on notice boards of near / at the main entrance immediately prior to the following pesticide uses:

- *Spot herbicides or insecticides*
- *Broadscale selective or non-selective herbicides*
- *Broadscale insecticides*
- *Fungicides*
- *Spray termiticides*
- *Spray ant control*
- *Bait termiticides,*
- *Bait bird control*
- *Rodenticides*

4.C SPECIAL MEASURES FOR SENSITIVE PLACES

Clause 11J(1) of the *Pesticides Regulation* defines a sensitive place to be any:

- school or pre-school
- kindergarten
- childcare centre
- hospital
- community health centre
- nursing home
- place declared to be a sensitive place by the Environment Protection Authority (now a part of the Department of Environment and Conservation).

SPECIAL NOTIFICATION MEASURES FOR PROGRAMMED PESTICIDE USE IN PUBLIC PLACES ADJACENT TO CHILDCARE CENTRES, KINDERGARTENS AND SCHOOLS WILL CONSIST OF WRITTEN AND OR VERBAL ADVICE TO BE PROVIDED TO THE RESPONSIBLE PERSON 48 HOURS PRIOR TO THE FOLLOWING PESTICIDE USES WITHIN 10 METRES OF THE BOUNDARY:

- *Products not available to the general public at retail outlets*
- *Vertebrate baiting*
- *Rodenticides*

Delete
Clause 11J(1) of

Delete
Department of Environment and Conservation).

Insert
Office of Environment and Heritage).

4.D NOTIFICATION OF EMERGENCY PESTICIDE APPLICATIONS

In cases where emergency pesticide applications in public places are required to deal with biting or dangerous pests such as wasps, bees, venomous spiders, fleas, bird mites or rodents (that pose an immediate health hazard), signage will be provided on vehicles or within sight of the application during the work for the following pesticide uses:

- *Broadscale insecticides*

4.E PESTICIDE CONTRACTORS AND LESSEES OF PUBLIC PLACES

Where Port Stephens Council uses contractors to apply pesticides on its behalf:

The arrangements detailed in this plan apply. Where possible Port Stephens Council will require contractors to comply with this plan as a condition of contract.

Where persons or organisations hold an existing lease on Port Stephens Council land that remains a public place:

Council will not give notice of pesticide use by lessees but will request that lessees carry out notification in accordance with this plan.

5. WHAT INFORMATION WILL BE PROVIDED

In accordance with clause 11L(2)(g) of the Pesticides Regulation, notice of pesticides uses will include the following information:

- the full product name of the pesticide to be used, and
- the purpose of the use, clearly setting out what pest or pests are being treated, and
- the proposed date/s or date range of the pesticide use, and
- the places where the pesticide is to be used, and
- contact telephone number and email address of the Council officer who people can contact to discuss the notice, and
- any warnings regarding re-entry to or use of the place, if specified on the pesticide product label or the APVMA¹

Insert
contractors and
(after "... notice of pesticide use by")

Delete
clause 11L(2)(g) of

Insert
Or be available by
contacting the phone
number listed on such
sign/notice or from Port
Stephens Council.
(after "the following
information")

permit.

The persons using the pesticide will be able to provide this information on site.

6. HOW THE COMMUNITY WILL BE INFORMED OF THIS PLAN

Port Stephens Council will advise residents of this plan and its contents by:

- making a copy of the plan available for viewing, free of charge, at its main office at Raymond Terrace
- placing a copy of the plan on the its website

7. FUTURE REVIEWS OF THE PLAN

The notification plan will be reviewed every 3 years or when circumstances require a review of the plan. The review will include:

- a report on progress of implementing the plan
- exhibiting a plan for comment with proposed amendments and calling for public submissions
- consideration of comments and recommendation for alterations (if applicable) to the plan

8. CONTACT DETAILS

Anyone wishing to make a written comment on this draft notification plan should contact:

Environmental Services Manager
Port Stephens Council
PO Box 42
Raymond Terrace, NSW
2324

or access the website www.portstephens.nsw.gov.au

Delete

3 years

Insert

5 years

Delete

Anyone wishing to make a written comment on this draft notification plan should contact:
Environmental Services
Manager

Port Stephens Council
PO Box 42
Raymond Terrace, NSW
2324

or access the website

www.portstephens.nsw.gov.au

Insert

General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Signed under delegated authority for Port Stephens Council as
local control authority for the purposes of the Noxious Weeds Act
1993

Peter Gesling
General Manager
Port Stephens Council

Date

Delete
as local control authority for the
purposes of the Noxious Weeds
Act 1993

ITEM NO. 3

FILE NO: PSC2013-01853

NEWCASTLE AIRPORT PTY LIMITED – DEEDS OF INDEMNITY**REPORT OF: WAYNE WALLIS – GROUP MANAGER CORPORATE SERVICES****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopts the provision of a deed of indemnity between Port Stephens Council and each Officer of Newcastle Airport Pty Limited;
- 2) Grant authority to affix Council's seal to the deeds.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Mayor Bruce MacKenzie Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

007	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council: <ol style="list-style-type: none">1) Adopts the provision of a deed of indemnity between Port Stephens Council and each Officer of Newcastle Airport Pty Limited;2) Grant authority to affix Council's seal to the deeds.

BACKGROUND

The purpose of this report is to seek Council adoption of the provision of deeds of indemnity between Port Stephens Council and Officers of Newcastle Airport Pty Limited.

In December 2004, Council adopted the provision of a deed of indemnity between the Council and each Officer of the entity known then as Newcastle Airport Limited (Minute #417, 21 December 2004). Newcastle City Council also adopted the provision of and was a party to the deeds.

Given the recent corporate restructure of Newcastle Airport, the deed has been updated. It is similar in form and content to the deed adopted by Council in 2004, with the addition of a clause dealing with the effect of any previous indemnity provided under the 2004 document.

The provision of the deed relates to item 15.1 of Council's Community Strategic Plan - a Sustainable Council - Port Stephens Council's services and assets are sustainable in the longer term.

FINANCIAL/RESOURCE IMPLICATIONS

There is no initial direct financial impact. The deeds function in a retrospective manner to cover any potential claims.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Section 22 of the *Local Government Act 1993* provides that Council has the functions imposed on it by any other Act or law. As a statutory corporation, Council has the power to enter into the deed of indemnity given it is necessary for and incidental to the exercise of its functions.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Newcastle Airport Pty Limited will not attract and keep suitable Officers if the Officers of the company are not provided with the protection of deeds of indemnity.	Medium	Council adopt the proposed deed of indemnity.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Newcastle Airport operates successfully to provide civil air services for the Region. Growth of the Airport facilities continues, which in turn provides both economic and social benefits to the Region.

CONSULTATION

- 1) Legal Services Manager.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

FILE NO: PSC2011-02657

SIX MONTHLY REPORT JULY – DECEMBER 2013 AGAINST THE DELIVERY PROGRAM 2012-2016

REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Six Monthly Report July – December 2013 against the Delivery Program 2012-2016.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Morello Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

008	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council adopt the Six Monthly Report July – December 2013 against the Delivery Program 2012-2016.

BACKGROUND

The purpose of this report is to provide Council and the community of Port Stephens with details of the progress in the six months to 31 December 2013 in achieving actions in the Delivery Program 2012-2016.

Two of the nine key indicators were not achieved during this period; the staff engagement survey and the 360 degree feedback process. Both key indicators are conducted annually and have not occurred in the first 6 months.

FINANCIAL/RESOURCE IMPLICATIONS

This statutory report was developed by Corporate Strategy & Planning with inputs from across Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	500	Produced in-house and electronic copy available on Council's web site.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Six Monthly Report July – December 2013 fulfils the requirements of Section 404(5) of the Local Government Act: The general manager must ensure that regular progress reports are provided to the Council, reporting as to its progress with respect to principal activities detailed in the Delivery Program. Progress reports must be provided at least every six (6) months.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that failure to report to Council is a breach of the legislation.	Low	Reporting to Council's February meeting to comply with legislative requirements.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Six Monthly Report July – December 2013 gives details of progress against the Delivery Program 2012-2016 and reports social, economic and environmental actions completed under the Program.

CONSULTATION

The Six Monthly Report July – December 2013 was compiled with input from across Council. A draft was supplied to the Executive Team for consultation and feedback.

OPTIONS

- 1) Adopt the Six Monthly Report July – December 2013;
- 2) Amend the Six Monthly Report July – December 2013;
- 3) Reject the Six Monthly Report July – December 2103.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Six Monthly Report July – December 2013 against Delivery Program 2012-2016.

ITEM NO. 5

FILE NO: PSC2005-1357

LEASE OF SHOP 1/437 HUNTER STREET NEWCASTLE TO FORMAL WEAR RENTALS PTY LIMITED

REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease documentation and any associated legal documentation including the Option Lease if exercised.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Steve Tucker
	That the recommendation be adopted.

MOTION

009	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease documentation and any associated legal documentation including the Option Lease if exercised.

BACKGROUND

The purpose of this report is to advise Council that the existing tenant (Formal Wear Rentals Pty Ltd) at Shop 1, Ground Floor, 437 Hunter Street Newcastle has expressed a desire for a further lease over the premises following the expiry of the previous lease.

Property Services has negotiated a new lease for a period of four (4) years and with an option for a further two (2) years at a commencement rental of \$78,481 per annum plus GST which represents an increase of 6% on the previous lease figure of \$74,039. The new lease will be subject to CPI increases with a market review prior to the Option being entered into. The new rental has been determined following market review.

This recommendation links to the Community Strategic Plan at 15.1.2.13 "Manage Council's commercial property portfolio to contribute to non-rate revenue".

FINANCIAL/RESOURCE IMPLICATIONS

The income to be derived from this proposed lease agreement has been accounted for in the current budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	78,481	Income for this shop is accounted for in the existing budget and will be increased in the budget review to reflect the increase in revenue.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the provisions of the Conveyancing Act, leases in excess of three years total duration, including the option period, are to be registered upon the title of the land to which they apply. Accordingly, if the lease is to be registered the common seal must be affixed upon signing under Clause 400, Local Government (General Regulation) 2005.

The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

The aim in leasing of the Investment Property portfolio is to create a secure Lease for the longest available period to a viable tenant. The expected outcome is that Council is protected by a secure agreement with known returns over the term. The income received contributes to Council's non-rates funding thereby reducing the call on rates income.

In having a valid and enforceable Lease Council is protected and having the ability to recover costs means that the property returns funds to Council as opposed to contributing as a liability for rates, maintenance, asset management and other factors.

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that should there not be a formalised lease in place a tenant could vacate at short notice and there would be a loss of income as a result.	Medium	Formalise the lease document as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Formal Wear Rentals Pty Ltd;
- 2) Harris Wheeler Lawyers;
- 3) Tew Property Consultants;
- 4) Property Investment Coordinator.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: PSC2005-1631

NEW LEASE OF 46 WILLIAM STREET RAYMOND TERRACE TO BENEVOLENT SOCIETY**REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the Mayor and the General Manager to affix the Seal and sign the new lease document and the Surrender of the existing lease;
- 2) Authorise the Mayor and the General Manager to affix the Seal and sign the lease option and any other associated legal documentation.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014**COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Geoff Dingle Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

010	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council: <ol style="list-style-type: none">1) Authorise the Mayor and the General Manager to affix the Seal and sign the new lease document and the Surrender of the existing lease;2) Authorise the Mayor and the General Manager to affix the Seal and sign the lease option and any other associated legal documentation.

BACKGROUND

The purpose of this report is to advise Council that a new lease has been negotiated with the existing tenant, The Benevolent Society ('BenSoc') for the Council owned Premises at 46 William Street, Raymond Terrace for a five (5) year term and with a three (3) year option. Currently BenSoc occupies the ground floor of the premises only under the terms of the current lease which expires on 31 October 2015.

For many years the first floor of the premises has been unoccupied and difficult to lease as a number of capital upgrades were required to make it desirable in the market particularly as there is no disabled access to this floor.

The works have been done by Council under the terms of the new proposed lease and include air-conditioning, fire services and recarpeting. An economic rent (above market) has been negotiated so that Council recoups the majority of these costs over the initial two years of the lease which is five (5) years.

This recommendation links to the Community Strategic Plan at 15.1.2.13 "Manage Council's commercial property portfolio to contribute to non-rate revenue".

FINANCIAL/RESOURCE IMPLICATIONS

The capital expenditure for this project amounts to approximately \$60,000. The additional rent for year one is \$31,398 therefore the capital expenditure will be recouped in the initial two years of the new lease.

The agreed rental schedule over the initial term (five years) of the lease provides an income stream of \$339,177.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	64,002 rent per annum	On execution of the lease the budget will be reviewed to reflect this \$31,398 additional income in this current business year.
Existing budget	Yes	60,000	The capital expended on the building will be recouped in the first two years of the new lease term (5 years plus 3 year option).
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

This proposal provides an opportunity to Council to economically upgrade the first floor of the premises recouping its capital investment in two years and secures a strong tenant for a five (5) year term with an option of another three (3) years.

In accordance with the provisions of the Conveyancing Act, leases in excess of three years total duration, including the option period, are to be registered upon the title of the land to which they apply. Accordingly, if the lease is to be registered the common seal must be affixed upon signing under Clause 400, Local Government (General Regulation) 2005.

The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

The aim in leasing of the Investment Property portfolio is to create a secure Lease for the longest available period to a viable tenant. The expected outcome is that Council are protected by a secure agreement with known returns over the term, and contributing to Council's non-rates funding thereby reducing the call on rates income.

In having a valid and enforceable Lease, Council is protected and having the ability to recover costs means that the property returns funds to Council as opposed to contributing as a liability for rates, maintenance, asset management and other factors.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that should there not be a formalised lease in place a tenant could vacate at short notice and there would be a loss of income as a result	Medium	Formalise the lease document and the surrender of the existing lease as recommended	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Harris Wheeler Lawyers;
- 2) Property Investment Coordinator.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

FILE NO: PSC2006-0533

**PURCHASE LOT 398 DP 753204, FORMER ANNA BAY FIRE STATION,
CROWN RESERVE 89712****REPORT OF: CARMEL FOSTER – PROPERTY SERVICES MANAGER**
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Purchase Lot 398 DP 753204 (Reserve 89712) being 4290 Nelson Bay Road, Anna Bay (former Anna Bay Rural Fire Station site) and declare the land as Operational Land;
- 2) Authorise the General Manager and the Mayor to sign and affix the Seal of Council to any related documentation.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Steve Tucker Councillor John Morello
	That the recommendation be adopted.

MOTION

011	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council: <ol style="list-style-type: none">1) Purchase Lot 398 DP 753204 (Reserve 89712) being 4290 Nelson Bay Road, Anna Bay (former Anna Bay Rural Fire Station site) and declare the land as Operational Land;2) Authorise the General Manager and the Mayor to sign and affix the Seal of Council to any related documentation.

BACKGROUND

The purpose of this report is to recommend to Council the purchase of Lot 398 DP 753204 (Reserve 89712), 4290 Nelson Bay Road Anna Bay for an amount to be determined by negotiation between the Crown and Property Services. The value of the parcel of land is considered nominal due to its size (632m²), the restricted market and its current zoning (6a). Under the provisions of the Port Stephens Council Local Environmental Plan 2013 the land is zoned RE1 Public Recreation.

The abovementioned property has for many years been vacant due to Council demolishing the old Anna Bay Rural Bushfire Station and building a new station for the Anna Bay and Bobs Farm Rural Bushfire Service at 1A Fishermans Bay Road, Anna Bay.

Crown Land owns the land as a Reserve for the purpose of 'Bushfire Brigade'. Council owns the adjoining property, being the former Anna Bay Oval (Lot 10 DP 729986) and is currently proposing to reclassify it from Community to Operational Land for redevelopment purposes. It would be strategic for Council to purchase the Reserve from the Crown and consolidate it with Lot 10 DP 729986. The purchase and consolidation of this lot will not impact on any current use of the Council owned adjoining land.

FINANCIAL/RESOURCE IMPLICATIONS

The value of the land is considered nominal however a survey plan of consolidation would need to be prepared and legal fees for transfer and registration would also be payable.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	10,000	Funds for the purchase would be required from the Property Reserve.
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Crown Lands Department and Council's Property Section will complete all standard legal documents to complete the land transaction by way of Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991.

There are no encumbrances on the land.

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that should Council not acquire the land now, Crown Land could change the purpose of the Reserve and lease or licence the land for a use that may not compliment the future plans of Council for the adjoining property.	Medium	Adopt the recommendations.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The former Anna Bay Oval is currently being reclassified from Community to Operational to allow the development of the site. The future use has not been determined as there is further analysis of proposed uses to be undertaken to ensure the best outcome for the site. The purchase and consolidation of the Crown parcel and the Council owned land will straighten the boundary of the land (**ATTACHMENT 1 & ATTACHMENT 2**).

CONSULTATION

- 1) Property Officer;
- 2) Crown Land staff;
- 3) Community Services Section Manager;
- 4) Property Development Co-ordinator;
- 5) Economic Development Project Officer.

OPTIONS

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

ATTACHMENTS

- 1) Aerial photograph;
- 2) Location map.

COUNCILLORS ROOM

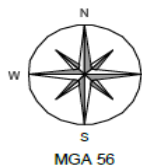
Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Aerial Photograph - Lot 398 DP753204, Anna Bay



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

DISCLAIMER

Port Stephens Council accepts no responsibility for any errors, omissions or inaccuracies whatsoever contained within or arising from this map. Verification of the information shown should be obtained from an appropriately qualified person(s).

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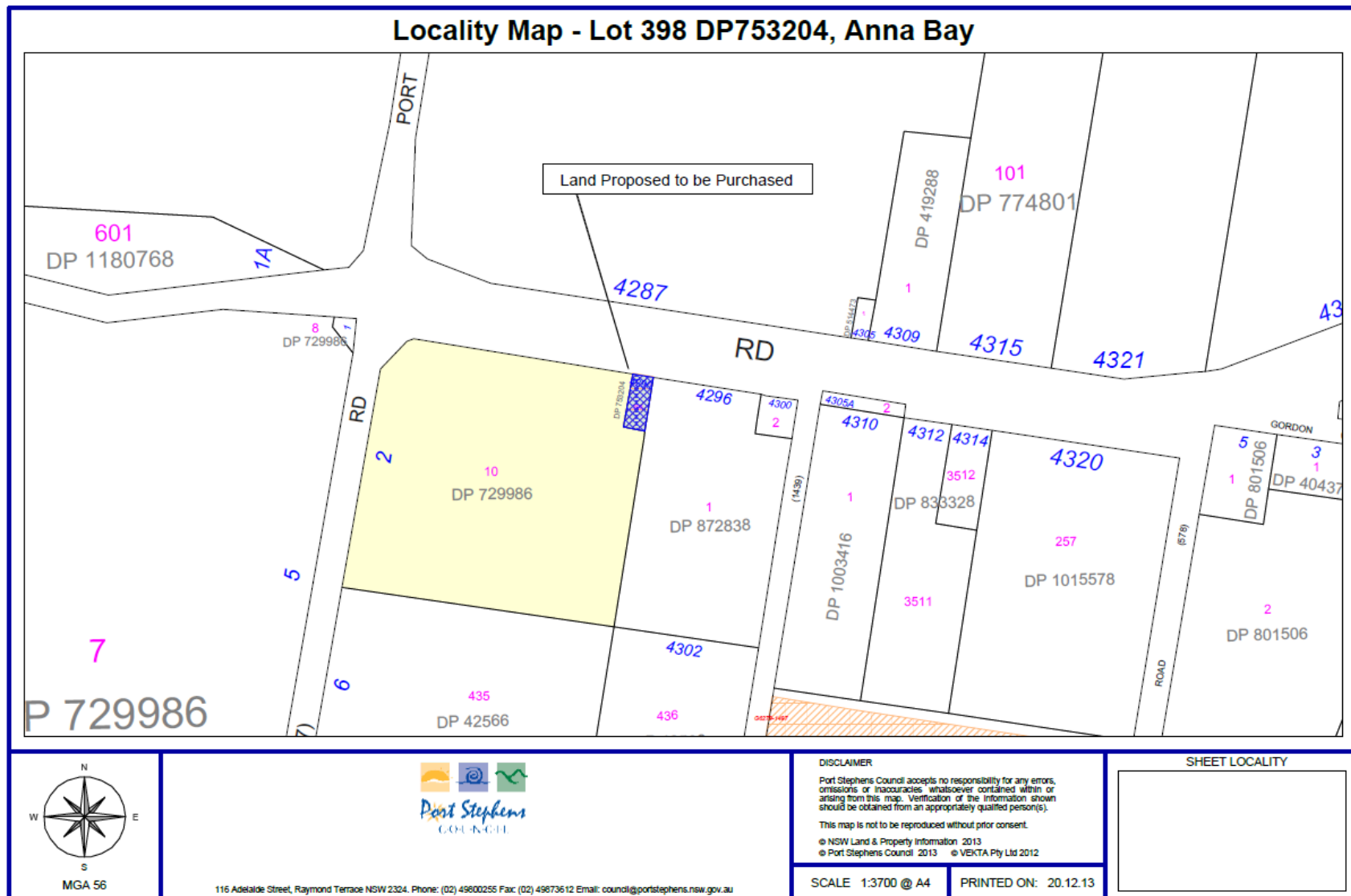
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PRINTED ON: 20.12.13

SHEET LOCALITY



ATTACHMENT 2



ITEM NO. 8

FILE NO: PSC2013-00734

FAMILY DAY CARE PARENT LEVY FEE INCREASE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the recommended change to the Family Day Care Parent Levy from \$0.80 per hour per child to \$0.89 per hour per child.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Morello Councillor Geoff Dingle
	That the recommendation be adopted.

MOTION

012	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council adopt the recommended change to the Family Day Care Parent Levy from \$0.80 per hour per child to \$0.89 per hour per child.

BACKGROUND

The purpose of this report is to recommend an amended fee for the Family Day Care Parent Levy from \$0.80 per hour per child to \$0.89 per hour per child.

Family Day Care is linked to the Community Strategic Plan through the Delivery program 4.1.1.5 – "Plan and provide access to services for children through the Family Day Care Unit."

The recommendation to amend the Family Day Care Parent Levy was publicly exhibited for 28 days. One submission was received, a petition signed by twelve parents registered with the Family Day Care Unit. The Unit currently has 660 families using care.

The main issue raised was the timing of the proposed fee increase. The petition (**ATTACHMENT 1**) requested that the increase be delayed until the new financial

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

year, as is the usual practice, and that this delay would allow families to cope better with the fee increases expected from Educators in early 2014.

The petitioners state they were not advised of the possibility of an imminent fee increase when their Educator registered with Newcastle/Port Stephens Family Day Care. At all meetings conducted in 2013 with Families and Educators of Newcastle Family Day Care it was made clear that Port Stephens Family Day Care fees as scheduled in July 2013 would be reconsidered if the "Education and Care Services National Regulations" implemented the proposed ratio change on January 1 2014.

The Family Day Care Unit operates under the "Education and Care Services National Regulations". From January 1 2014 this regulation reduced the number of pre- school aged children who may be cared for by each home based Educator. The existing maximum of 5 children has been lowered to 4. This will reduce the number of childcare hours provided by Educators and as a consequence reduce their income. In common with sector practice across New South Wales most Newcastle/Port Stephens' Educators have increased their fees in January 2014.

The recommended increase in the Parent Levy is intended to maintain the income of the Family Day Care Unit at the existing budgeted level for 2013-14. Leaving the Parent Levy at \$0.80 per hour per child will result in a reduction in budgeted income for 2013-14 (due to the anticipated reduction in childcare hours) and an increase in the budgeted ratepayer subsidy to Family Day Care. This financial impact is addressed in the next section of the report.

FINANCIAL/RESOURCE IMPLICATIONS

The fees and charges for the Family Day Care Unit cover the costs of service operation and a portion of the Corporate Overheads. The 2013-14 budgeted income for the Parent Levy is \$286,272. This is based on existing child care utilisation. With the projected decrease in child care utilisation of up to 20% maintaining the parent levy at \$0.80 per hour per child has the potential to reduce this income over the next 5 months by up to \$30,000. The impact of this reduction in income would be to increase the budgeted ratepayer subsidy for Family Day Care from the current \$18,763 to \$48,763.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Increase the Parent Levy income to cover the expected drop in child care usage as a result of changes to the Education and care Services National regulation.
Reserve Funds	No		
Section 94	No		
External Grants	No		

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

Other	No		
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LEGAL, POLICY AND RISK IMPLICATIONS

Adopting the recommendation complies with the requirements of the Local Government Act 1993 relating to the setting of fees and charge.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that failure to increase the fee will result in an increased rate payer subsidy to Family Day Care in 2013-14 resulting in an unsustainable business model.	Medium	Adopt the recommendation	Yes
There is a risk that families may seek alternative care in response to the fee increase which may result in loss of business sustainability.	Low	Adopt the recommendation because benchmarking with neighbouring services indicates that the recommended Parent Levy is market competitive.	Yes
There is a risk that increasing the Parent Levy may be seen as unreasonable by working families resulting in reputation damage.	Low	Adopt the recommendation in the knowledge that Educators and families of Family Day Care are well aware of the Regulatory changes on 1 January 2014 and the likely cost increases to provide quality family day care as a result of these changes.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation will ensure that any ratepayer subsidy for Family Day Care is maintained at agreed levels, thus supporting the financial sustainability of the service and the freeing up of ratepayer funds for other services.

Adopting the recommendation will result in families paying more for their childcare. This increase will range from \$0.63 per week for families using seven hours of care to a maximum of \$4.50 per week for families using 50 hours of care. The Commonwealth Government Department of Education provides a subsidy to families which will reduce the full impact of the recommended increase.

There are no environmental implications of adopting the recommendation.

CONSULTATION

- 1) Extensive consultation has taken place with Family Day Care Educators in the form of surveys in June and October 2013 to assess the likely impact of the regulatory change on the hours of care they will be able to deliver from January 1 2014;
- 2) Educators and parents were informed throughout 2013 by emails and at meetings that a fee increase would be recommended if the regulation was implemented;
- 3) Public exhibition of proposal for one month from 11 December 2013.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation and accept that there will be a greater draw on Port Stephens ratepayer funds to offset the cost of providing Family Day Care services.

ATTACHMENTS

- 1) Petition received.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Petition signed by 12 families using care with an Educator registered with Newcastle/Port Stephens Family Day Care.

Re: the proposed January 2014 increase in FDC Parent Levy fees

At a meeting last night Port Stephens Council voted to place on Public Exhibition a proposal to increase the Family Day Care Parent Levy from \$0.80 per child per hour to \$0.89 per child per hour. The proposed fee is now on Public Exhibition with the intention to implement the increase from Monday 13th January 2014

This proposed fee increase is in response to the change in ratios which will be introduced on January 1 2014. The maximum number of non school aged children which may be cared for at any one time by an Educator will be reduced from 5 children to 4.

Research with our Educators indicated this regulation change has the potential to reduce the income the Co-ordination Unit receives from the current Parent Levy by between 12% and 20%. In order to continue delivering high quality support it is essential for our Coordination Unit to remain financially viable, therefore it is necessary to propose an increase in this levy.

The expansion of our service this year from 55 to 82 Educators allowed us to reverse the proposed fee increase in July 2013. This means there has not been an increase in this levy since July 2012. We have previously indicated that fees would be reviewed if the Ratio change was implemented. We hope you understand the need for this proposed increase; a decision was not made lightly as we understand that any increase in childcare costs means adjusting the family budget.

You may make comment on this proposed fee increase by writing before COB 7/1/14 to

The General Manager
Port Stephens Council
P.O. Box 42, Raymond Terrace 2324

We object to this fee coming at this time. As it comes only a couple of months after our Carer/Educator chose to move her care administration to Port Stevens Council, at which time no indication was made that fees would rise so quickly, we believe that the increase should be delayed until the new financial year. It is normal practice to coordinate fee rates changes with the financial year, and not in January. As you realise, these increases affect the family budget and postponing your levy increase by six months will assist all families in better preparing for both this increase and the likely increase in fees charged by the Carer/Educator because of the government directive to reduce child/carer ratio from 5 to 4, which will reduce their income by 20%. Therefore, we object to this fee coming at this time.

ITEM NO. 9

FILE NO: PSC2011-04792

COMMUNITY GRANT – ST. JOHN ANGLICAN CHURCH

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Re-allocate \$1,000 to the St. Johns Church for the purpose of a new boundary fence.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor Steve Tucker
	That the recommendation be adopted.

MOTION

013	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council re-allocate \$1,000 to the St. Johns Church for the purpose of a new boundary fence.

BACKGROUND

The purpose of this report is to seek Council's approval to re-allocate Community Grant funding to another project for the St. Johns Anglican Church.

In March 2012, Council resolved to provide \$1,000 towards a children's safe area under the Community Grants program. For a number of reasons the Church requested an extension of time to complete the project. Council has now been advised that the project will not proceed.

The Church is now seeking Council's approval to re-allocate the funds to a new boundary fence for the Church in lieu of the original project.

Council is requested to consider the re-allocation of \$1,000 from the original project (children's safe area) to the new boundary fence.

FINANCIAL/RESOURCE IMPLICATIONS

These funds have already been expended therefore there is no impact on the current budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	1,000	Previously allocated – no impact on current budget.
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

This funding was originally provided under Section 356 of the Local Government Act 1993.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the original funding will not be expended in accordance with the Council resolution.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Should Council adopt this report the local community would benefit from the provision of the new fencing. This would allow the Church to direct other funds to supporting the local community.

CONSULTATION

Nil.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 10

FILE NO: PSC2013-05253

COMMUNITY GRANTS DECEMBER 2013/JANUARY 2014 – FINANCIAL ASSISTANCE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from Mayoral and Ward Funds as detailed below:

EAST WARD

- a) Birubi Surf Lifesaving Club – Contribution towards new patrol radios - \$500.
- b) Nelson Bay & District Social & Welfare Club Inc. – Contribution towards new equipment - \$500.
- c) Port Stephens Historical Society Inc. – Contribution towards fit out of shipping containers - \$500.
- d) Rotary Club of Nelson Bay Inc. – Contribution towards the Road Safety training for Year 11 - \$1,000.
- e) Rotary Club of Nelson Bay Inc. – Contribution towards a Golf Charity Day - \$1,000.
- f) The Real Futures Foundation – Contribution towards the GIFT program to support high risk & highly disengaged students - \$2,000.
- g) Sailability NSW Inc – Port Stephens Branch – Contribution towards replacing the current hoist - \$310.50.

CENTRAL WARD

- a) Birubi Surf Lifesaving Club – Contribution towards new patrol radios - \$500.
- b) Port Stephens Veterans Golfers Association – Contribution towards golf competition - \$1,000.
- c) Sailability NSW Inc – Port Stephens Branch – Contribution towards replacing the current hoist - \$310.55.

WEST WARD

- a) Raymond Terrace Athletics Centre – Contribution towards repairs to synthetic surfaces - \$2,000.
- b) Raymond Terrace Neighbourhood Centre – Contribution towards installation of new security doors - \$2,000.
- c) Sailability NSW Inc – Port Stephens Branch – Contribution towards replacing the current hoist - \$310.50.

- 2) Advertise the proposal to provide funding to the Art-a-Bility program in the amount of \$1,500, for a period of 28 days seeking submissions from the public.

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

- 3) Should no submissions be received as a result of the public exhibition period, Council provide the \$1,500 to the Art-a-Bility program.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor John Morello
	That the recommendation be adopted.

MOTION

014	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council: 1) Approves provision of financial assistance under Section 356 of the Local Government Act from Mayoral and Ward Funds as detailed below: EAST WARD a) Birubi Surf Lifesaving Club – Contribution towards new patrol radios - \$500. b) Nelson Bay & District Social & Welfare Club Inc. – Contribution towards new equipment - \$500. c) Port Stephens Historical Society Inc. – Contribution towards fit out of shipping containers - \$500. d) Rotary Club of Nelson Bay Inc. – Contribution towards the Road Safety training for Year 11 - \$1,000. e) Rotary Club of Nelson Bay Inc. – Contribution towards a Golf Charity Day - \$1,000. f) The Real Futures Foundation – Contribution towards the GIFT program to support high risk & highly disengaged students - \$2,000. g) Sailability NSW Inc – Port Stephens Branch – Contribution towards replacing the current hoist - \$310.50. CENTRAL WARD a) Birubi Surf Lifesaving Club – Contribution towards new patrol radios - \$500. b) Port Stephens Veterans Golfers Association – Contribution towards golf competition - \$1,000. c) Sailability NSW Inc – Port Stephens Branch – Contribution towards replacing the current hoist - \$310.55.

	<p>WEST WARD</p> <p>a) Raymond Terrace Athletics Centre – Contribution towards repairs to synthetic surfaces - \$2,000.</p> <p>b) Raymond Terrace Neighbourhood Centre – Contribution towards installation of new security doors - \$2,000.</p> <p>c) Sailability NSW Inc – Port Stephens Branch – Contribution towards replacing the current hoist - \$310.50.</p> <p>2) Advertise the proposal to provide funding to the Art-a-Bility program in the amount of \$1,500, for a period of 28 days seeking submissions from the public.</p> <p>3) Should no submissions be received as a result of the public exhibition period, Council provide the \$1,500 to the Art-a-Bility program.</p>
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BACKGROUND

Council's Financial Assistance Policy provides for Community Grants to be called in July and January each year. This is the fifth round of funding under this Policy.

Council called for Community Grant applications from 5 December 2013 to 12 January 2014. All applications received are shown at **(ATTACHMENT 1)**. A total of 11 applications were received.

The total value of the Grants received is:

East Ward	\$ 9,980 – shown in blue in attachment
Central Ward	\$ 2,000 – shown in yellow in attachment
West Ward	\$ 4,000 - shown in green in attachment
Whole of LGA	<u>\$ 2,432</u> – shown in white in attachment
	\$18,412

The applications received were assessed by the panel comprising of the General Manager, Councillors Dover, Doohan, Jordan, in accordance with the criteria under the Financial Assistance Policy.

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

Council will note that Item (2) of the recommendation requires a public exhibition period as the funds are sought by an individual and Council is not able to provide funds to an individual without public exhibition. These funds would be provided to allow resources to be purchased for the Art-A-Bility program for intellectually disabled children.

FINANCIAL/RESOURCE IMPLICATIONS

Council Ward Funds are the funding source for all financial assistance. Council has provided for \$36,000 per year, with \$18,000 being available on each occasion Grants are called. These Grants are limited to \$2000 per grant.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	18,000	
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be liable for capital projects on land other than community land should Council provide funding for such works.	Low	Council's current policy restricts such provision of funding.	Yes
There is a risk that Council will not comply with Section 356 of the Local Government Act 1993	Low	Council's current policy provides specific requirements for compliance.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The provision of the Community Grants allows organisations and groups to build relationships and provide events to the local community whilst further developing the cultural, social and economic aspects of the local government area.

CONSULTATION

- 1) Mayor;
- 2) Councillors;
- 3) General Manager;
- 4) Council staff;
- 5) Port Stephens community.

OPTIONS

- 1) Adopt the recommendation;
- 2) Vary the dollar amount before granting each or any request;
- 3) Decline to fund all the requests.

ATTACHMENTS - All listed below are provided under separate cover.

- 1) Community Grants applications received.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 11

FILE NO: PSC2014-00413

LOCAL GOVERNMENT NSW TOURISM CONFERENCE – MARCH 2014

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the attendance of Cr John Nell at the Local Government NSW Tourism Conference to be held on 10-12 March 2014 at the Crowne Plaza Hunter Valley Resort, Lovedale.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

015	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolve that Council endorse the attendance of Cr John Nell at the Local Government NSW Tourism Conference to be held on 10-12 March 2014 at the Crowne Plaza Hunter Valley Resort, Lovedale.

BACKGROUND

The purpose of this report is to inform Council of the Local Government NSW Tourism Conference to be held on 10-12 March 2014 at the Crowne Plaza Hunter Valley, Lovedale.

The Conference Draft Programme is shown at **(ATTACHMENT 1)**.

The Conference is open to all Councillors.

As Councillors would be aware the Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for Councillor attendance at Conferences.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation would be covered from the budget, subject to the Councillor not exceeding the conference budget limits in the Policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	583	Registration costs are \$583 per person. These costs are covered under the policy and the existing budget. Travel & Accommodation shall be additional.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Payment of Expenses and Provision of Facilities to Councillors Policy requires that Council approve all Councillor conference attendances. Councillors' conference costs are limited to \$3,500.00 per year under the Policy

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that non attendance will disadvantage Port Stephens Community as this conference is an opportunity for knowledge sharing.	Low	A representative of Port Stephens Council will attend the conference.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending this Conference to ensure the Local Government Area has a presence at an important Tourism event within the Hunter Council's area.

CONSULTATION

Nil.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Draft Conference Programme.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Local Government NSW Tourism Conference 2014

Harvesting the Value of Tourism

10 - 12 March 2014, Crowne Plaza Hunter Valley, 430 Wine Country Drive, Lovedale, NSW, 2325

DRAFT PROGRAM as of 5 December 2013

Conference MC: Nigel Collin

This Program is correct at the time of printing, changes may occur and will be updated in the online version.

Monday 10 March		
8.00am – 2.00pm	Exhibitors set up for Trade Exhibition	
1.00pm – 5.00pm	Registration opens at Crowne Plaza Hunter Valley Resort	
1.30pm – 5.30pm	Optional Summit: Reinvigorating VICs to adapt to the contemporary visitor economy! For all AVIC network members and VIC operations staff and volunteers, as well as tourism staff, this half day session will deal directly with the operational challenges of your VIC facilitated by John Larkin, Managing Director, Aurora Research. Book separately on the registration forms; \$120.00 pp.	
1.30pm – 2.15pm	How to Generate Income Streams for your VIC Including events, ticketing, merchandise, and bookings	Panel discussion with: Glenn Caldwell, Tourism Manager, Coffs Coast Marketing, Coffs Harbour City Council Glenn Mickle, Tourism Manager, Enterprise Services, Orange City Council John Sommerlad, Director, Business and Events, Tamworth Regional Council (Tamworth Tourism) Nicole Collins, Site Co-ordinator Echo point VIC, Blue Mountains City Council
2.15pm – 2.45pm	Promoting the Value of your Visitors Centre to Key Decision Makers and the Broader Community	Mitch Lowe, Tourism and Events Manager, Lismore City Council
2.45pm – 3.30pm	The Role of Volunteers in a Contemporary VIC	Panel discussion with Nanette Burnham, Visitors Services Co-ordinator, Great Lakes Council Malcolm Wallis, Tourism Economic Development Officer, Kyogle Council Wendy Hughes, Tourism Manager, Gloucester VIC
3.30pm – 3.50pm	Afternoon Tea	
3.50pm – 4.20pm	Harnessing the Power of Visiting Friends and Relatives (VFR) Marketing and Ambassadors	Steve Rosa, Group Manager, Tourism, Economic Development and Events, Southern Highlands
4.20pm – 4.40pm	Open question and answer session	
4.40pm – 5.20pm	Reconfiguring your VIC Space – Walk the Talk Visit the Cessnock VIC at the bottom of the hill from Crowne Plaza and discussion	Rhiannon Stevens, Economic Development Officer, Cessnock City Council
6.00pm – 9.00pm	Opening Ceremony and Welcome Reception, Speed Networking and Casual Dinner at Crowne Plaza Welcome to Country Welcome from The LGNSW President. Delegate registration will be available at this event.	

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

Tuesday 11 March		
8.15am	Trade exhibition opens	
8.50am – 9.00am	MC Introduction and Housekeeping	
9.00am – 9.10am	Welcome to Cessnock	Cr Bob Pynsent, Mayor of Cessnock City Council
9.10am – 9.40am	Tourism Keynote Address	The Hon George Souris MP, Minister for Tourism, Major Events, Hospitality and Racing, and Minister of the Arts, Member for the Upper Hunter (invited)
9.40am – 10.00am	Topic 1 – Destination Management Plans One Year On. Are they adding value?	Facilitated by Andrew Sargent, Director, Regional Alliances and Events, Destination NSW
10.00am – 10.20am	How to Put Together a DMP?	Alby Stafford, Director, The Stafford Group
10.20am – 10.40am	A Local Government Area Perspective	Andrea Roberts, Community Development Manager, Broken Hill City Council
10.40am – 11.00am	Open question and answer session	
11.00am – 11.20am	Morning Tea	
11.20am – 11.50am	Collaboration in the Visitor Economy	Graham Perry, CEO, Inland Tourism
11.50am – 12.10pm	Topic 2 - Lifecycle of an Event	Facilitated by Andrew Walsh
	Case Study 1 – Vivid Sydney	Ignatius Jones, Creative Director, Vivid Sydney
12.10pm – 12.30pm	Case Study 2 – The Deni Ute Muster (and the Deniliquin Blues and Roots Festival)	John Harvie, Economic and Business Development Manager, Deniliquin Council
12.30 – 12.50pm	Case Study 3 – Kurri Kurri Nostalgia Festival	Lesley Morris, Community Projects Manager, Towns with Heart
12.50pm – 1.00pm	Open question and answer session	
1.00pm – 1.20pm	Keynote from Cessnock: The Hunter RE-Invention Prior to site inspections	Jane Holdsworth, Economic Development Manager, Cessnock City Council
1.20pm – 2.00pm	Lunch	
2.00pm – 4.30pm	Site Inspection 1. Kurri Kurri Town of Murals A bus tour of a selection of the 54 outdoor murals within Kurri Kurri and surrounds set up by Towns with Heart to bring new life to the area. A great example of volunteering and community driven product development and ownership of tourism.	Facilitated by Lesley Morris, Community Projects Manager, Towns with Heart
	Site Inspection 2. Creating Opportunities beyond the Obvious. Travel back to 1830 and to Wollombi and understand how heritage can be part of the tourism experience in different ways. Come and experience The Convict Trail Project – commemorating the Great North Road.	Facilitated by Lori Modde, Managing Director, Lorick Management
	Site Inspection 3. Hunter Valley Delights diversification of product mix to enhance the destination. This trip will indulge you with an exclusive sparkling winery tour, and tastings at both the Hunter Valley Olive Centre and Chocolate Company – The Barn. Learn how these operators have enhanced the value of tourism to the destination by changing the product mix.	Facilitated by Rhiannon Stevens, Grants Officer, Cessnock City Council
4.30pm - 5.00pm	Return to Crowne Plaza	
From 7.30pm	Conference Dinner 'Celebrating New Beginnings: End of Vintage Dinner' at The Hope Estate Bus transfers	
11.00pm	Bus Transfers return to Crowne Plaza Hunter Valley	

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

Wednesday 12 March		
8.15am	Trade exhibition opens	
9.00am - 9.30am	State Your Case A competition to find a great resolution from three industry experts who give their answers to the listed challenges, voted on by the audience, with a single prize of \$3000.00 to the pitching council and a great opportunity to learn from the conference. Not to be missed. Case Study 1	
9.30am – 9.50am	Case Study 2	
9.50am – 10.30am	Case Study 3 and prize-giving	
10.30am – 11.00am	Morning Tea	
11.00am – 11.40am	Topic 4 - Harvesting the Value of Tourism: Return on Investment. How much does tourism pump into your economy? How many of your people owe their jobs to Tourism?	Facilitated and presented by Tom Phillips, Executive Officer, South Coast Regional Tourism Organisation Inc and Peter Valerio, Tourism Strategy Development Services
11.40am – 12.00pm	Open question and answer session	
12.00pm – 1.00pm	Topic 5 - Short Term and Holiday Rentals	Facilitated by Jenny Dennis, Senior Policy Officer Planning, LGNSW: Eddie Love, Manager Integrated Planning, Gosford City Council Daniel Kobeleff, Director/Owner, Holiday Rental Solutions
1.00pm	Lunch and close	

ITEM NO. 12

FILE NO: PSC2009-09420

POLICY REVIEW: ACCESS TO INFORMATION POLICY

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Access to Information policy shown at **(ATTACHMENT 1)**;
- 2) Place the Access to Information policy, as amended on public exhibition of a period of 28 days;
- 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 4) Revoke the Access to Information policy dated 13 July 2010, Min No. 208, should no submissions be received.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Paul Le Mottee Councillor Steve Tucker
	That the recommendation be adopted.

MOTION

016	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council: <ol style="list-style-type: none"> 1) Endorse the amendments to the Access to Information policy shown at (ATTACHMENT 1); 2) Place the Access to Information policy, as amended on public exhibition of a period of 28 days; 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council; 4) Revoke the Access to Information policy dated 13 July 2010, Min No. 208, should no submissions be received.

BACKGROUND

The purpose of this report is to provide Council with the opportunity to review the Access to Information policy.

As part of the ongoing policy review program, the above policy, shown at **(ATTACHMENT 1)**, has been reviewed and no significant changes have been identified at this time. The policy was last reviewed in 2010.

The General Manager has approved the supporting "Access to Information Guidelines for Local Government" shown at **(ATTACHMENT 2)**, which have been reviewed and no changes have been made.

Council is requested to consider the policy and adopt the recommendation.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to comply with the Government Information (Public Access) Act 2009 when making information available to the public. A number of other pieces of legislation should also be complied with such as the *Copyright Act 1968* (Cth) and the *Privacy and Personal Information Protection Act 1998*.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that out of date policies may lead to poor judgment or misinform Council and the community.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Access to Information policy;
- 2) Access to Information Guidelines for Local Government.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted: 16/09/1997

Minute No: 1282

Amended: 19/10/2004

Minute No: 375

Amended: 28/03/2006

Minute No: 462

Amended: 13/7/2010

Minute No: 208

FILE NO: PSC2009-09420

TITLE: ACCESS TO INFORMATION POLICY

REPORT OF EXECUTIVE OFFICER

BACKGROUND

Since 1989 access to Council records has been governed by the *Freedom of Information Act 1989* and current and previous Local Government Acts. This legislation provided the community access to Council records.

From 1 July 2010, the new *Government Information (Public Access) Act 2009*, (GIPA) will commence providing four mechanisms to access Council information – mandatory disclosure, proactive disclosure, information release and formal access.

Section 12 of the *Local Government Act 1993* and the *Freedom of Information Act 1989* will cease on 30 June 2010.

OBJECTIVE

The objective of this policy is to describe Council's principles regarding public access to information and to facilitate the processing of requests for such access. This policy is to be read in conjunction with the Access to Information Guidelines.

Changes

PRINCIPLES

1) Port Stephens Council is committed to the following principles regarding public access to documents and information:

- Open and transparent government
- Consideration of the overriding public interest in relation to access requests
- Proactive disclosure and dissemination of information
- Respect for the privacy of individuals

POLICY STATEMENT

Port Stephens Council publishes specific open access information on our website, free of charge unless to do so would impose unreasonable additional costs to Council. Council will facilitate public access through this and other appropriate mediums. Also Council publishes for inspection documents listed under Schedule 5 of the Government Information (Public Access) Act held by it, unless there is an overriding public interest not to do so. Council will keep a record of all open access information that is not published because of an overriding public interest against disclosure.

Council also makes as much other information as possible publicly available in an appropriate manner, including on the internet. Such information is also available free of charge or at the lowest reasonable cost.

The 'Access to Information Guidelines' document associated with this policy identifies the documents and types of information that are available for public access and any restrictions that may apply.

Some documents may require a formal access application in accordance with the Government Information (Public Access) Act. Council will assess all requests for access to documents and information in a timely manner and in accordance with the 'Access to Information Guidelines' and relevant legislation.

Depending upon the nature of the request and the form of access requested charges may be applied in accordance with Council's Schedule of Fees and Charges and relevant legislation.

Council will assess requests for access to information with reference to:

- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998
- Local Government Act 1993
- Environmental Planning and Assessment (EPA) Act 1979
- Companion Animals Act 1998

and any other relevant legislation and guidelines as applicable.

Broad requests for access to a large number of unspecified documents which, if processed, would divert substantial Council resources from dealing with other requests, or from performing other Council functions may be refused on the grounds that such a diversion of resources is contrary to the public interest. Council will endeavour to assist in defining the request to a more manageable one.

Council also endeavours to release other information in response to an informal request, subject to any reasonable conditions Council may impose having regard to the circumstances of the case.

Where information is released to an applicant under a formal access application and Council considers that it will be of interest to other members of the public, Council will provide details of the information in a disclosure log for inspection by the public.

The General Manager has authority to approve Guidelines for Information Access, which is to be available to members of the public.

RELATED POLICIES

Nil

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The new GIPA legislation provides greater access to

Council records through accessible on Council's website where possible, and where this does not create an unreasonable additional cost to Council to publish these documents on the website.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

RELEVANT LEGISLATIVE PROVISIONS

Government Information (Public Access) Act 2009
Copyright Act 1968
Privacy & Personal Information Protection Act 1998
Local Government Act 1993
Health Records & Information Privacy Act 2002

IMPLEMENTATION RESPONSIBILITY

Executive Officer

REVIEW DATE

July 2011

Insert:
PROCESS OWNER
Executive Officer (before
REVIEW DATE)

Delete:
July 2011
Insert:
Date which is 2 years from
adoption.

ATTACHMENT 2

Access to Information Guidelines for Local Government

1. Accessing Information

Port Stephens Council is subject to NSW legislation that requires it to be open and accountable in the exercise of its functions, and to handle personal and health information in a fair and reasonable manner. Council will seek to ensure that legitimate requests for access to information are handled promptly and that members of the public are able to access information, subject to the public interest. In doing so Council recognises that it must take into account the privacy of others, legal and commercially sensitive information.

These guidelines set out the documents and types of information that are available to members of the public as a matter of routine, and those that will not generally be available for inspection and copying. Where practicable, Council will deal with requests to inspect documents in accordance with the Government Information (Public Access) Act (GIPAA) free of charge but a reasonable photocopying fee may be payable under the Act and for access to versions of documents that are neither current nor immediately preceding versions of the document and are not reasonably accessible. All charges are detailed in Council's Schedule of Fees and Charges.

There is a right of access under the GIPPA to certain documents held by Council unless there is an overriding public interest not to do so. Any applications under GIPAA will be processed in accordance with the Act's requirements and a determination made to release the documents or refuse access on the basis of the relevant considerations under that Act. Charges for formal applications are in accordance with the GIPAA Fees and Charges and include a \$30 application fee. In some circumstances processing charges may also be applied.

Council also may provide access to information under other legislation. Under the NSW Privacy and Personal Information Protection Act (PPIPA) 1998 and the NSW Health Records and Information Privacy Act (HRIPA) 2002, an individual also has a right to access and amend records held by Council which contain their personal details, matters related to their business affairs and any records containing information about their health. Where information about an individual is held in documents, files or systems that include information about other persons, any request should be made under the GIPAA. The Act provides for consultation with other affected parties prior to disclosure of information concerning their personal or business affairs. Under the State Records Act 1998 Council is required to give an access direction (whether the records are open or closed) for all their records that are at least thirty (30) years old in what is described as the "open access period". Under the NSW Environmental Planning and Assessment (EPA) Act 1979 and Regulations 2000 there is a right to access Development Application registers and documents held by Council subject to restrictions set out in s.268(3).

2. Information Available

Council publishes open access, or mandatory release, information on its website unless there is an overriding public interest against disclosure or do so would impose an unreasonable additional cost on Council. In respect of the latter the Council will make the information freely available in another format eg. hard copy at the Council Administration Office. The open access information is:

- Council's policy documents;
- a publication guide with information about the council's structure and functions, and listing the type of information that is publicly available;
- a disclosure log of formal access applications where in council's opinion the information released may be of interest to other members of the public;
- a register of contracts worth more than \$150,000 that councils have with private sector bodies;
- a record of open access information that council does not make publicly available on the basis of an overriding public interest against disclosure.

In addition schedule 5 of the GIPA Act requires that certain documents held by council, are to be made publicly available for inspection, free of charge. The public is entitled to inspect these documents either on Council's website (unless there is an unreasonable additional cost to Council to publish these documents on the website) or at the offices of the Council during ordinary office hours or at any other place as determined by the Council. Any current and previous documents of this type may be inspected by the public free of charge. Copies can be supplied for reasonable copying charges.

These documents are:

1. Information about Council
 - The model code of conduct prescribed under section 440(1) of the Local Government Act
 - Council's adopted Code of Conduct
 - Code of Meeting Practice
 - Annual Report
 - Annual Financial Reports
 - Auditor's Report
 - Management Plan
 - EEO Management Plan
 - Policy concerning the Payment of Expenses and Provision of Facilities to the Mayor and Councillors
 - Annual Reports of Bodies Exercising Functions Delegated by Council (e.g. Section 355/377 Committees)
 - Any Codes referred to in the Local Government Act
 - Returns of the Interests of Councillors, Designated Persons and Delegates
 - Agendas, Business Papers and Minutes of Council/Committee meetings (except meetings that are closed to the public)
 - Division of Local Government, NSW Department of Premier and Cabinet Representative Reports presented at a meeting of Council

- Land Register
 - Register of Investments
 - Register of Delegations
 - Register of Graffiti removal works
 - Register of current Declarations of Disclosures of Political donations
 - Register of Voting on Planning Matters
2. Plans and Policies
- Local Policies adopted by Council concerning approvals and orders
 - Plans of Management for Community Land
 - Environmental Planning Instruments, Development Control Plans and Contribution Plans
3. Information about Development Applications
- Development Applications and any associated documents received in relation to a proposed development, eg:
- Home Warranty Insurance documents
 - Construction Certificates
 - Occupation Certificates
 - Structural Certification Documents
 - Town Planner Reports
 - Submissions received on Development Applications
 - Heritage Consultant Reports
 - Tree Inspections Consultant Reports
 - Acoustic Consultant Reports
 - Land Contamination Consultant Reports
 - Records of decisions on Development Applications including decisions on appeals
 - Records describing the general nature of documents that Council decides to exclude from public view after application of public interest test considerations
4. Approvals, Orders and Other Documents
- Applications for approvals under part 7 of the LGA
 - Applications for approvals under any other Act and any associated documents received
 - Records of approvals granted or refused, any variation from Council Policies with reasons for the variation, and decisions made on appeals concerning approvals
 - Orders given under Part 2 of Chapter 7 of the LGA, and any reasons given under section 136 of the LGA
 - Orders given under the Authority of any other Act
 - Records of Building Certificates under the Environmental Planning and Assessment Act 1979
 - Plans of land proposed to be compulsorily acquired by Council
 - Compulsory Acquisition Notices
 - Leases and Licenses for use of Public Land classified as Community Land

Copies of documents provided are given for information purposes only and are provided by Council to meet its requirements under relevant legislation. Copyright laws still apply to each document. The copyright-owner's consent is required for documents where copyright applies such as documents on development applications. This information would generally be available for inspection however may not be able to be copied.

In addition, from time to time Council will make as much other information as possible publicly available in an appropriate manner, including on their website. The information will be available free of charge or at the lowest reasonable cost. Such other information includes frequently requested information or information of public interest that has been released as a result of other requests.

Council will endeavour to release other information in response to an informal request, subject to any reasonable conditions as Council thinks fit to impose. However, notwithstanding the lodgement of an informal application, Council may require a formal access application to be submitted where the information sought:

- is of a sensitive nature that requires careful weighing of the considerations in favour of and against disclosure, or
- contains personal or confidential information about a third party that requires consultation, or
- would involve an unreasonable amount of time and resources to produce.

3. Exemptions To Access

Council may refuse a request for information if there is an overriding public interest against disclosure or if searching for the requested information would require unreasonable and substantial diversion of the Council's resources.

Council will always explain to the applicant its reasons for applying an exemption. Council will not classify information as exempt unless there are clear reasons for doing so. Where documents contain exempt information, any remaining information contained within the requested document will be available under the Act.

In determining whether there is an overriding public interest against the disclosure of the information, Council will fully consider the Public Interest Test.

The GIPA Act provides an exhaustive list of public interest considerations against disclosure. These are the **only** considerations against disclosure that Council will consider in applying the public interest test.

Considerations are grouped under the following headings:

- responsible and effective government
- law enforcement and security
- individual rights, judicial processes and natural justice
- business interests of agencies and other persons
- environment, culture, economy and general matters

- secrecy provisions (in legislation other than those listed in Schedule 1)
- exempt documents under interstate Freedom of Information legislation.

In applying the public interest test, Council will **not** take into account:

- that disclosure might cause embarrassment to, or loss of confidence in, the Council;
- that any information disclosed might be misinterpreted or misunderstood by any person.

Council will consider any submissions made by an applicant in relation to public interest considerations, as well as any factors personal to the applicant.

Under GIPAA there are 12 categories of information (eight of which appear to affect local government) for which there is a conclusive presumption of an overriding public interest against disclosure. These eight are:

1. Information subject to an overriding secrecy law (26 specifically named Acts)
2. Information subject to the direction or order of a court or other body with the power to receive evidence on oath
3. Information subject to legal professional privilege
4. 'Excluded information' (judicial and prosecutorial information, information about complaints handling and investigative functions, competitive and market sensitive information and information in relation to specific functions of the Public Trustee)
5. Documents affecting law enforcement and public safety
6. Specific information relating to transport safety
7. Specific reports concerning the care and protection of children
8. Specific information relating to Aboriginal and environmental heritage.

Generally under GIPAA, Council must not publish and must refuse requests to disclose information in the above categories. Formal applications for 'excluded information' are invalid under the Act.

In dealing with informal applications Council will apply a similar decision making framework.

4. Accessing Information and Making an Application

The public may obtain access to information as follows:

- by searching the Council's website to see if it is already available
- by contacting Council and requesting the information. Council will advise whether the information requested:
 - o is *open access*, or *mandatory release* information that is readily available and where and how to get the information.
 - o should be made available as part of a *proactive release* of information.

- o can be disclosed through an *informal release*, for example where no third party personal information is involved.
- o requires a *formal access application*, for example because consultation with a third party is required.

To make an informal request for access to information under GIPA Act council may require the completion of an 'Informal Access to Information Request' form. No fee is required on application.

To make a formal request for access to information under GIPA Act, the 'Formal Access to Information' Request Form should be completed. The Formal Application fee is \$30.00 and processing charges may be applicable (there is no GST in relation to these charges). An acknowledgement of such application will be provided by Council within five working days.

If a fee for photocopies of documents provided under the GIPA Act is payable, it will be listed in Council's adopted Fees and Charges and is GST inclusive.

5. Time Limits

In respect of formal applications, Council will notify applicants of the decision on an application within 20 working days, unless the applicant agrees to extend the time. Council may also extend the time by up to 15 working days where consultation with a third party is required or if Council needs to retrieve records from archives.

If access is deferred by Council, then Council will notify the applicant and include the reason for deferral and the date on which the applicant will be given access. A decision to defer access is reviewable (see Rights of Review and Appeal). If Council does not decide the applicant's access application within the above timeframes, it is deemed 'refused'. Council will refund the application fee and the applicant may seek internal or external review (see Rights of Review and Appeal) of this refusal. This will not apply if an extension of time has been arranged or payment of an advance deposit is pending.

5. Rights of Review and Appeal

Where a member of the public is refused access under a formal application under GIPA Act, staff will provide details of the reasons for refusal to the member of the public in writing. An applicant who has been refused access by Council to information requested under a formal request for access to information under the GIPA Act has three options of review available.

1. Applicants can apply to Council for an **internal review**. This is review by someone more senior than the original decision maker and there is a \$40 fee. Applicants have 20 working days from receiving notice of a decision to ask for an internal review.

2. If an applicant is not satisfied with the internal review, or does not want one, they can ask for a **review by the Information Commissioner**. Applicants have eight weeks from being notified of a decision to ask for this review.
3. If an applicant is not satisfied with the decision of the Information Commissioner or the internal reviewer or if they do not want to take these options they can **apply to the Administrative Decisions Tribunal (ADT)**. If the applicant has already had a review by the Information Commissioner they have four weeks from notification of the decision to make this application. If they haven't had a review by the Information Commissioner they have eight weeks from notification of the decision to make this application.

It is noted that there are no rights of review in respect of informal applications, but the applicant may make a formal application at any time.

ITEM NO. 13

FILE NO: PSC2010-00009

POLICY REVIEW: INTERNAL REPORTING POLICY

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Internal Reporting policy shown at **(ATTACHMENT 1)**;
- 2) Place the Internal Reporting policy, as amended on public exhibition of a period of 28 days;
- 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 4) Revoke the Internal Reporting – Public Internal Disclosures Act 1994 policy dated 14 December 2010, Min No. 409, should no submissions be received.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Chris Doohan Councillor Geoff Dingle</p>
	<p>That the recommendation be adopted.</p>

MOTION

017	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Endorse the amendments to the Internal Reporting policy shown at (ATTACHMENT 1); 2) Place the Internal Reporting policy, as amended on public exhibition of a period of 28 days; 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council; 4) Revoke the Internal Reporting – Public Internal Disclosures Act 1994 policy dated 14 December 2010, Min No. 409, should no submissions be received.
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BACKGROUND

The purpose of this report is to provide Council with the opportunity to review the Internal Reporting policy.

As part of the ongoing policy review program, the above policy, shown at **(ATTACHMENT 1)**, has been reviewed. The reviewed has been developed based on the NSW Ombudsman model policy and therefore a major rewrite of the current policy has been undertaken. The current policy is shown at **(ATTACHMENT 2)**. The policy was last reviewed in 2010.

Council is requested to consider the policy and adopt the recommendation.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

The *Public Interest Disclosures Act 1994*, requires Council to develop a policy for internal reporting of wrongdoings.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that out of date policies may lead to poor judgment or misinform Council and the community.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) NSW Ombudsman.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) New Internal Reporting policy;
- 2) Existing Internal Reporting policy – Public Interest Disclosure Act 1994.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted: 14/12/2010
Minute No: 409
Amended:
Minute No:

FILE NO: PSC2010-00009

TITLE: INTERNAL REPORTING POLICY

REPORT OF EXECUTIVE OFFICER

BACKGROUND

The *Protected Disclosure Act 1994* requires Council to establish an internal reporting system. This system allows for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money. The Act commenced operation on 1 March 1995.

A review of the *Protected Disclosures Act 1994*, in 2010 has changed the name of the Act to the *Public Interest Disclosures Act 1994 (the Act)*.

OBJECTIVE

The purpose of the Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that the matters raised in the disclosures are properly investigated.

The Act aims to encourage and facilitate the disclosure - in the public interest of corrupt conduct, maladministration and serious and substantial waste in the public sector. This is achieved by:

- enhancing and augmenting established procedures for making disclosures concerning such matters;
- protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures; and
- providing for those disclosures to be properly investigated and dealt with.

PRINCIPLES

- 1) To provide an internal reporting system for public officials to disclose corrupt conduct, maladministration, or serious and substantial waste of public money.
- 2) To encourage public officials to make disclosures when they become aware of them.

POLICY STATEMENT

WHAT SHOULD BE REPORTED?

You should report any suspected wrongdoing you see within Port Stephens Council. Reports about the five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention, and local government pecuniary interest contravention – will be dealt with under the PID Act as public interest disclosures and according to this policy.

A. CORRUPT CONDUCT

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a council official using their position in a way that is dishonest, biased or breaches public trust.

For more information about corrupt conduct, see the NSW Ombudsman's guideline on [what can be reported](#).

B. MALADMINISTRATION

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant an approval for reasons that are not related to the merits of their application.

For more information about maladministration, see the NSW Ombudsman's guideline on [what can be reported](#).

C. SERIOUS AND SUBSTANTIAL WASTE IN LOCAL GOVERNMENT

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of local government money. This includes all revenue, loans and other money collected, received or held by, for or on account of the council.

For example, this could include:

- poor project management practices leading to projects running over time

- having poor or no processes in place for a system involving large amounts of public funds.

For more information about serious and substantial waste, see the NSW Ombudsman's guideline on [what can be reported](#).

D. GOVERNMENT INFORMATION CONTRAVENTION

A government information contravention is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009* (GIPA Act).

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

For more information about government information contravention, see the NSW Ombudsman's guideline on [what can be reported](#).

E. LOCAL GOVERNMENT PECUNIARY INTEREST CONTRAVENTION

A local government pecuniary interest contravention is a failure to fulfil certain functions under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, lodge written declarations and disclose pecuniary interests at council and council committee meetings. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior council staff member recommending a family member for a council contract and not declaring the relationship
- a general manager holding an undisclosed shareholding in a company competing for a council contract

For more information about local government pecuniary interest contravention, see the NSW Ombudsman's guideline on [what can be reported](#).

F. OTHER WRONGDOING

Although reports about the previous four categories of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing

- practices that endanger the health or safety of staff or the public.

These types of issues should be reported to a supervisor, in line with Council's policies, such as the grievance procedures, Code of Conduct and associated Procedures.

Even if these reports are not dealt with as public interest disclosures, Council will consider each matter and make every attempt to protect the staff member making the report from any form of reprisal.

WHEN WILL A REPORT BE PROTECTED?

Port Stephens Council will support any person that reports wrongdoing. For a report to be considered a public interest disclosure, it has to meet all of the requirements under the PID Act. These requirements are:

- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.
- The report has to be made to a position nominated in this policy (see section 9) or an investigating authority (see section 10).

Reports by staff and councillors will not be considered to be public interest disclosures if they:

- mostly question the merits of the policy of the governing body of the council.
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

HOW TO MAKE A REPORT

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The individual making the report should keep a copy of this record.

The reports/advice can be made to or sought from:

The Disclosure Coordinator – Executive Officer/Public Officer, ph: 4980 0187

The Disclosure Officer – Human Resources Manager, ph: 4980 0126

CAN A REPORT BE ANONYMOUS?

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

It is important to realise that an anonymous disclosure may not prevent you from being identified. If we do not know who made the report, it is very difficult for us to prevent any reprisal action.

MAINTAINING CONFIDENTIALITY

Council realises many staff will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.

We are committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. We will discuss with you whether it is possible to keep your report confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan. You will also be told if your report will be dealt with under the Council's Code of Conduct, as this may mean certain information will have to be tabled at a Council meeting.

If you report wrongdoing, it is important that you only discuss your report with the staff of Council responsible to deal with it. This will include the Disclosures Coordinator and the General Manager. In the case of a report about the General Manager, you should only discuss your report with the Disclosures Coordinator and the Mayor.

Where your complaint is made under the Council's Code of Conduct and relates to the General Manager or a Councillor, you may be required to discuss it with a conduct reviewer.

WHO CAN RECEIVE A REPORT WITHIN PORT STEPHENS COUNCIL

You are encouraged to report general wrongdoing to your supervisor. However the PID Act requires that for a report to be a public interest disclosure, it must be made to a public official in accordance with the Council's disclosure procedures - this means this policy and any supporting procedures.

Any supervisor who receives a report that they believe may be a public interest disclosure must refer the individual making the report to one of the positions listed below.

If your report involves a Councillor, you should make it to the General Manager. If your report relates to the General Manager, you should make it to the Mayor.

The following positions are the only staff within Council who can receive a public interest disclosure.

The Disclosure Coordinator – Executive Officer/Public Officer, ph: 4980 0187

The Disclosure Officer – Human Resources Manager, ph: 4980 0126

The General Manager – ph: 4980 0246

The Mayor – ph: 4980 245

A. GENERAL MANAGER

You can report wrongdoing directly to the General Manager. The General Manager is responsible for:

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified
- ensuring there are systems in place in to support and protect people who report wrongdoing
- dealing with disclosures made under the council's code of conduct in accordance with the council's adopted code of conduct procedures
- referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

The General Manager's contact details – ph: 4980 0246.

B. MAYOR

If you are making a report about the General Manager, you should make your report to the Mayor. They are responsible for:

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified.
- dealing with disclosures made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures.

The Mayor must make sure there are systems in place in Council to support and protect people who report wrongdoing.

If the report is about the General Manager, the Mayor is also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

The Mayor's contact details – ph: 4980 245.

C. DISCLOSURES COORDINATOR

The disclosures coordinator has a central role in dealing with reports made by staff and councillors. They receive them, assess them, and refer them to the people within or contracted by the council to be dealt with appropriately.

The Disclosure Coordinator's contact details – Executive Officer/Public Officer, ph: 4980 0187

D. DISCLOSURES OFFICERS

Disclosures officers are responsible for receiving, forwarding and/or dealing with reports made in accordance with this policy.

The Disclosure Officer's contact details – Human Resources Manager, ph: 4980 0126

WHO CAN RECEIVE A REPORT OUTSIDE OF COUNCIL

Staff and councillors are encouraged to report wrongdoing within Port Stephens Council, but internal reporting is not your only option. If you follow the guidance below, you can make a public interest disclosure to:

- an investigating authority. If your report is about both the general manager and the Mayor, you may wish to consider making the report to an investigating authority.
- a Member of Parliament or a journalist, but only in limited circumstances outlined below.

A. INVESTIGATING AUTHORITIES

The PID Act lists a number of investigating authorities in NSW that staff and councillors can report wrongdoing to and the categories of wrongdoing each authority can deal with.

In relation to council, these authorities are:

- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the Ombudsman — for maladministration
- the Chief Executive of the Division of Local Government, Department of Premier and Cabinet — for disclosures about local government agencies
- the Information Commissioner — for disclosures about a government information contravention.

You should contact the relevant authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that it is very likely the investigating authority will discuss the case with Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately

and there is a satisfactory outcome. We will also provide appropriate support and assistance to individuals who report wrongdoing to an investigating authority.

B. MEMBERS OF PARLIAMENT OR JOURNALISTS

To have the protections of the PID Act, a person reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the general manager
- a person nominated in this policy
- an investigating authority in accordance with the PID Act.

Also, Council or the investigating authority that received the report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

If you report wrongdoing to a person or an organisation that is not listed above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or our code of conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Council, contact the disclosures coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

FEEDBACK TO THE INDIVIDUAL WHO REPORTED WRONGDOING

The individual who reported wrongdoing will be told what is happening in response to their report.

When you make a report, you will be given:

- an acknowledgement that your disclosure has been received
- the timeframe for when you will receive further updates
- the name and contact details of the people who can tell you what is happening.

The PID Act requires that you are provided with an acknowledgement letter and a copy of this policy within 45 days after you have made your report. We will attempt to get this information to you within two working days from the date you make your report.

After a decision is made about how your report will be dealt with, you will be given:

- information about the action that will be taken in response to your report
- likely timeframes for any investigation
- information about the resources available within Council to handle any concerns you may have
- information about external agencies and services you can access for support.
-

This information will be given to you within 10 working days from the date you make your report.

During any investigation, you will be given:

- information on the ongoing nature of the investigation
- information about the progress of the investigation and reasons for any delay
- advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

At the end of any investigation, you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

Behaviour of all people involved in the PID process needs to adhere to Council's Code of Conduct. A breach of the Code of Conduct could result in disciplinary action.

PROTECTION AGAINST REPRISALS

The PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the public interest disclosure. It may also be a breach of the Council's Code of Conduct.

Council will not tolerate any reprisal action against a person who report wrongdoing. The criminal penalties that can be imposed include

imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that person.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.
-

A. RESPONDING TO REPRISALS

Council will act to protect those who report wrongdoing from reprisals.

When a report is received, we will ensure that a thorough risk assessment is conducted. This will identify any risks to the member of staff or councillor who reported the wrongdoing, as well as strategies to deal with those risks.

If you believe that detrimental action has been or is being taken against you or someone else who has reported wrongdoing in reprisal for making a report, you should tell your supervisor, the Disclosures Coordinator or the General Manager immediately, or in the case of an allegation of reprisal action by the General Manager, the Mayor.

All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the Disclosures Coordinator or the General Manager, or in the case of an allegation of reprisal by the General Manager, to the Mayor.

If the Disclosures Coordinator becomes aware of or reasonably suspects that reprisal action is or has been taken against a person who has made a disclosure, they will ensure that the matter is reported under the Council's Code of Conduct and dealt with in accordance with the Council's Code of Conduct procedures.

If you report reprisal action, you will be kept informed of the progress of any investigation and the outcome.

The General Manager may issue specific directions to help protect against reprisals, including:

- issuing warnings to those alleged to have taken reprisal action against the individual who made the disclosure
- relocating the member of staff who made the disclosure or an officer the subject of the allegations within the current workplace
- transferring the member of staff who made the disclosure or the staff member who is the subject of the allegations to another position for which they are qualified

- granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure.

In relation to staff who make reports, such directions will only be made if the member of staff agrees to it. The Disclosures Coordinator will make it clear to other staff that this action was taken in consultation with the staff member and with management support – and it is not a punishment.

If you have reported wrongdoing and feel that any reprisal action is not being dealt with effectively, contact the Ombudsman, the ICAC, or the Chief Executive of the Division of Local Government – depending on the type of wrongdoing you reported. Contact details for all these investigating authorities are included at the end of this policy.

B. PROTECTION AGAINST LEGAL ACTION

If you make a disclosure in accordance with the PID Act, you will not be subject to any liability and no action, claim or demand can be taken against you for making the disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

SUPPORT FOR THOSE REPORTING WRONGDOING

Council will make sure that staff who have reported wrongdoing, regardless of whether they have made a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management, counselling services, legal or career advice.

We also have staff that will provide support for those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal.

Name	Location	Telephone	Email
Lise Campbell	Organisation Development	4980 03871	lise.campbell@portstephens.nsw.gov.au
Debbie Turner	Administration	4980 0266	Debbie.turner@portstephens.nsw.gov.au
Steven Bernasconi	Technical Professional	4980 0162	Steve.bernasconi@portstephens.nsw.gov.au
Jennifer Hope	Library Services	4987 2221	Jenny.hope@portstephens.nsw.gov.au
Sharon Stemp	Children's Services	4980 0337	Sharon.stemp@portstephens.nsw.gov.au
Paul Lyons	Trades		Paul.lyons@portstephens.nsw.gov.au
John Lowson	Operations		John.lowson@portstephens.nsw.gov.au
Michelle Page	Ageing and Disability	4980 0260	Michelle.page@portstephens.nsw.gov.au

Michelle Gilliver – Smith	Human Resources	4980 0126	michelle.gilliversmith@portstephens.nsw.gov.au
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All supervisors must notify the Disclosures Coordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.

SANCTIONS FOR MAKING FALSE OR MISLEADING DISCLOSURES

It is important that all staff and councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. It may also be a breach of the Council's Code of Conduct and may result in disciplinary action. In the case of councillors, such disciplinary action may be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.

SUPPORT FOR THE SUBJECT OF A REPORT

Port Stephens Council is committed to ensuring people who are the subject of a report of wrongdoing are treated fairly and reasonably. If you are the subject of a report, you will be:

- treated fairly and impartially
- told your rights and obligations under our policies and procedures
- kept informed during any investigation
- given the opportunity to respond to any allegation made against you
- told the result of any investigation.

MORE INFORMATION

Staff and councillors can access advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

RESOURCES

The contact details for external investigating authorities that staff and councillors can make a public interest disclosure to or seek advice from are listed below.

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)
Phone: 02 8281 5999
Toll free: 1800 463 909
Tel. typewriter (TTY): 02 8281 5773
Facsimile: 02 9264 5364

For disclosures about maladministration:

NSW Ombudsman
Phone: 02 9286 1000
Toll free (outside Sydney metro): 1800 451 524
Tel. typewriter (TTY): 02 9264 8050
Facsimile: 02 9283 2911

Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au
Address: Level 21, 133 Castlereagh Street,
Sydney NSW 2000

Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au
Address: Level 24, 580 George Street,
Sydney NSW 2000

For disclosures about breaches of the GIPA Act:

Information Commissioner
Toll free: 1800 463 626
Facsimile: 02 8114 3756
Email: oiinfo@oic.nsw.gov.au
Web: www.oic.nsw.gov.au
Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

For disclosures about council:

Chief Executive, Division of Local Government in the Department of Premier and Cabinet
Phone: 02 4428 4100
Tel. typewriter (TTY): 02 4428 4209
Facsimile: 02 4428 4199
Email: dlg@dlg.nsw.gov.au
Web: www.dlg.nsw.gov.au
Address: 5 O'Keefe Avenue, Nowra, NSW 2541

RELATED POLICIES

Code of Conduct

SUSTAINABILITY IMPLICATIONS

The policy provides a mechanism for reporting of corrupt conduct, maladministration and serious or substantial waste of Council resources or money. Through the reporting of such matters should they occur Council would be provided with a potential economic benefit in the reduction of waste.

RELEVANT LEGISLATIVE PROVISIONS

Public Interest Disclosures Act 1994
Local Government Act 1993

IMPLEMENTATION RESPONSIBILITY

Executive Officer

PROCESS OWNER

Executive Officer

REVIEW DATE

2 years from the date of adoption (date to be inserted)

ATTACHMENT 2



POLICY

Adopted: 14/12/2010

Minute No: 409

Amended:

Minute No:

FILE NO: PSC2010-00009

TITLE: INTERNAL REPORTING POLICY – PUBLIC INTEREST DISCLOSURES ACT
1994

REPORT OF EXECUTIVE OFFICER

BACKGROUND

The *Protected Disclosure Act 1994* requires Council to establish an internal reporting system. This system allows for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money. The Act commenced operation on 1 March 1995.

A review of the *Protected Disclosures Act 1994*, in 2010 has changed the name of the Act to the *Public Interest Disclosures Act 1994 (the Act)*.

OBJECTIVE

The purpose of the Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that the matters raised in the disclosures are properly investigated.

The Act aims to encourage and facilitate the disclosure - in the public interest of corrupt conduct, maladministration and serious and substantial waste in the public sector. This is achieved by:

- enhancing and augmenting established procedures for making disclosures concerning such matters;
- protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures; and
- providing for those disclosures to be properly investigated and dealt with.

PRINCIPLES

- 3) To provide an internal reporting system for public officials to disclose corrupt conduct, maladministration, or serious and substantial waste of public money.
- 4) To encourage public officials to make disclosures when they become aware of them.

POLICY STATEMENT

1) SUPPORT FOR PERSONS WHO MAKE DISCLOSURES

Port Stephens Council does not tolerate corrupt conduct, maladministration or serious and substantial waste of public money.

Port Stephens Council is committed to the aims and objectives of the Act. It recognises the value and importance of contributions of staff to enhance administrative management practices and strongly supports disclosures being made by staff, councillors or an independent contractor (public officials) who is engaged by Council who disclose corrupt conduct, maladministration, or serious and substantial waste of public money.

Port Stephens Council will take all reasonable steps to provide protection to staff who make such disclosures from any detrimental action in reprisal for the making of the disclosure.

2) DISCLOSURES

To be protected by the Act, a disclosure must be made by a member of staff, councillor or an independent contractor to:

- an investigating authority;
- the General Manager; or
- to the Public Officer of Port Stephens Council in accordance with the Internal Reporting System established under this policy for the purposes of the Protected Disclosures Act.

This policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money and government information contravention by Port Stephens Council, its staff, councillors and/or independent contractors. The system enables such internal disclosures to be made to the Disclosure Co-ordinator, (the Public Officer), a Nominated Disclosure Officer (Human Resources Manager) or the Mayor, as an alternative to the General Manager.

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a protected disclosure in accordance with this policy.

3) DEFINITIONS

Three key concepts in the internal reporting system are corrupt conduct, maladministration and serious and substantial waste of public money. Definitions of these concepts are outlined below.

3.1 CORRUPT CONDUCT

Corrupt conduct is defined in the *Independent Commission Against Corruption Act 1988* (sections 8 and 9). The definition used in the Act is intentionally quite broad - corrupt conduct is defined to include the dishonest or partial exercise of official functions by a public official. Conduct of a person who is not a public official, when it adversely affects the impartial or honest exercise of official functions by a public official, also comes within the definition.

Corrupt conduct can take many forms, ie. taking or offering bribes, public officials dishonestly using influence, blackmail, fraud, election bribery and illegal gambling are some examples.

3.2 MALADMINISTRATION

Maladministration is defined in the Act as conduct that involves action or inaction of a serious nature that is:

- contrary to the law; or
- unreasonable, unjust, oppressive or improperly discriminatory; or
- based wholly or partly on improper motives (section 11).

3.3 SERIOUS AND SUBSTANTIAL WASTE

The term serious and substantial waste is not defined in the Act. The Auditor-General provides the following working definition:

- Serious and substantial waste refers to the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources.

In addressing any complaint of serious and substantial waste regard will be had to the nature and materiality of the waste.

The following delineation of the definition of serious and substantial waste may be of assistance to public officials and/or public authorities.

TYPES:

- Absolute:** serious and substantial waste might be regarded in absolute terms where the waste is regarded as significant, for example \$200,000.
- Systemic:** the waste indicates a pattern which results from a system weakness within the public authority.
- Material:** the serious and substantial waste is/was material in terms of the public authority's expenditure or a particular item of expenditure or is/was material to such to such an extent so as to affect a public authority's capacity to perform its primary functions.
- Material by** the serious and substantial waste may not be material in financial terms but nature not may be significant by nature. That is it may be improper or inappropriate amount: (alternatively, this type of waste may constitute "maladministration" as defined in the Protected Disclosures Act).

Waste can take many forms, for example:

- misappropriation or misuse of public property;
- the purchase of unnecessary or inadequate goods and services;
- too many personnel being employed in a particular area, incurring costs which might otherwise have been avoided;
- personnel being remunerated for skills that they do not have, but are required to have under the terms and conditions of their employment;
- programs not achieving their objectives and therefore the costs being clearly ineffective and inefficient.

Waste can result from such things as:

- the absence of appropriate safeguards to prevent the theft or misuse of public property;
- purchasing procedures and practices which fail to ensure that goods and services are necessary and adequate for their intended purpose; and
- purchasing practices where the lowest prices is not obtained for comparable goods or services without adequate and appropriate justification.

4. WHAT DISCLOSURES ARE PROTECTED UNDER THE ACT

4.1 WHAT DISCLOSURES ARE PROTECTED?

Disclosures are protected under the Act if they:

- a) are made
- ⇒ in accordance with this Internal Reporting Policy; or
 - ⇒ to the General Manager; or
 - ⇒ to one of the investigating authorities nominated in the Act; AND

- b) show or tend to show corrupt conduct, maladministration, or serious and substantial waste of public money by the Port Stephens Council or any of its staff, councillors or independent contractors; AND
- c) are made voluntarily.

4.2 WHAT DISCLOSURES ARE NOT PROTECTED?

A disclosure is not protected under the Act if it is made by a public official in the exercise of a duty imposed by or under an Act.

Protection is also not available for disclosures which:

- primarily question the merits of government policy; or
- are made solely or substantially with the motive of avoiding dismissal or other disciplinary action.

It is an offence to wilfully make a false or misleading statement when making a disclosure.

5. REPORTING UNDER THE INTERNAL REPORTING SYSTEM

The persons or positions to whom internal disclosures can be made in accordance with the Internal Reporting System (as shown on the attached diagram) are:

- the Council's Disclosure Co-Ordinator [Executive Officer/Public Officer, General Manager's Office: 49800187 (internal ext 187)]
- the Nominated Disclosure Officer [Human Resources Manager, Corporate Services Group, Ph: 49800126 (internal ext 126)]
- the General Manager [Ph: 49800246 (internal ext 246)]
- the Mayor [Ph: 49800245 (internal ext 245)]

Where persons contemplating making a disclosure are concerned about publicly approaching the Disclosure Co-ordinator, the Nominated Disclosure Officer or the General Manager, they can ring the relevant official and request a meeting in a discreet location away from the workplace.

Notes:

- a) A public official who wishes to make a protected disclosure which involves a councillor may do so to the General Manager, or an investigating authority (eg. The ICAC or the Ombudsman)
- b) A councillor who wishes to make a protected disclosure which involves another councillor may do so to the General Manager or an investigating authority (eg. The ICAC or the Ombudsman)

- c) If the Mayor wishes to make a protected disclosure he or she may do so to the General Manager or an investigating authority (eg. The ICAC or Ombudsman)
- d) The Department of Local Government is not an investigating authority under the Act, however, the ICAC, the Ombudsman or Council may refer the protected disclosure to the Division for investigation, and in such a circumstance any protection conferred under the Act is maintained.

6. ROLES AND RESPONSIBILITIES

This Internal Reporting Policy places responsibilities upon people at all levels within the Port Stephens Council.

6.1 EMPLOYEES AND INDEPENDENT CONTRACTORS (PUBLIC OFFICIALS)

Public Officials are encouraged to report known or suspected incidences of corrupt conduct, maladministration or serious and substantial waste in accordance with this Policy.

All Public Officials of the Port Stephens Council have an important role to play in supporting those who have made legitimate disclosures. They must abstain from any activity that is or could be perceived to be victimisation or harassment of persons who make protected disclosures. Further, they should protect/maintain the confidentiality of persons they know or suspect to have made disclosures.

6.2 NOMINATED DISCLOSURE OFFICERS

The Nominated Disclosure Officers are responsible for receiving, forwarding and/or acting upon disclosures in accordance with the Policy. Nominated Disclosure Officers will:

- a) clearly explain to persons making disclosures what will happen in relation to the information received;
- b) when requested, make arrangements to ensure that disclosures can be made privately and discreetly (if necessary away from the workplace);
- c) reduce to writing and date any disclosure received orally (and have the person making the disclosure sign the document);
- d) deal with disclosures impartially;
- e) forward disclosures to the Disclosure Co-Ordinator for assessment;
- f) take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential; and
- g) support persons who make protected disclosures and protect them from victimisation, harassment or any other form of reprisal.

6.3 DISCLOSURE CO-ORDINATOR

The Disclosure Co-Ordinator has a pivotal position in the internal reporting system and acts as a clearing house for disclosures. The Disclosure Co-ordinator will:

- a) provide an alternative internal reporting channel to Nominated Disclosure Officers and to the General Manager;
- b) impartially assess each disclosure to determine:-
 - i) whether the disclosure appears to be a protected disclosure within the meaning of the Act; and
 - ii) the appropriate action to be taken in relation to the disclosure, for example:-
 - ⇒ no action/decline;
 - ⇒ the appropriate person to take responsibility for dealing with the disclosure;
 - ⇒ preliminary or informal investigations;
 - ⇒ formal investigation;
 - ⇒ prosecution or disciplinary action;
 - ⇒ referral to an investigating authority for investigation or other appropriate action; or
 - ⇒ referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct)
- c) consult with the General Manager;
- d) be responsible for carrying out or co-ordinating any internal investigation arising out of a disclosure, subject to the direction of the General Manager in carrying out his/her functions;
- e) report to the General Manager on the findings of any investigation and recommended remedial action;
- f) take all necessary and reasonable steps to ensure that the identity of the persons who make disclosures, and persons the subject of the disclosures are kept confidential;
- g) support persons who make protected disclosures and actively protect them from victimisation, harassment or any other form of reprisal; and
- h) report actual or suspected corrupt conduct to the General Manager in a timely manner to enable that officer to comply with the ICAC Act.

6.4 GENERAL MANAGER

Disclosures may be made direct to the General Manager rather than by way of the Internal Reporting System established under this Policy. This would include any disclosure regarding the Mayor.

The General Manager will:

- a) impartially assess each disclosure to determine:
 - i) whether the disclosure appears to be a protected disclosure within the meaning of the Act;
 - ii) the appropriate action to be taken in relation to the disclosure, for example:-
 - iii) no action/decline;
 - ⇒ the appropriate person to take responsibility for dealing with the disclosure;
 - ⇒ preliminary or informal investigation;
 - ⇒ formal investigation;
 - ⇒ prosecution or disciplinary action;
 - ⇒ referral to an investigating authority for investigation or other appropriate action; or
 - ⇒ referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct);
- c) receive reports from the Disclosure Co-ordinator on the findings of any investigation and any recommendations for remedial action, and determine what action should be taken;
- d) take all necessary and reasonable steps to ensure that the identity of the persons who make disclosures, and persons the subject of the disclosures are kept confidential;
- e) have primary responsibility for protecting staff who make disclosures, or provide information to any internal or external investigation of a disclosure, from victimisation, harassment or any other form of reprisal;
- f) be responsible for implementing organisational reform identified as necessary following investigation of a disclosure; and
- g) report criminal offences to the police and actual or suspected corrupt conduct to ICAC [S11 ICAC Act]

6.5 THE MAYOR

The Mayor may receive internal disclosures from any member of staff of the Council or any Councillor concerning the General Manager or a Councillor.

The Mayor will:

- a) impartially assess each disclosure made to him/her about the General Manager or a councillor to determine:
 - i) whether the disclosure appears to be a protected disclosure within the meaning of the Act;

Note: in making this assessment the Mayor may seek guidance from the Disclosure Co-ordinator or General Manager (if appropriate); and investigating authority (ie. The ICAC or the Ombudsman); or the Department of Local Government).

- ii) The appropriate course of action to be taken in relation to the disclosure (in consultation with the General Manager, if appropriate), for example:-
 - ⇒ no action/decline;
 - ⇒ the appropriate person to take responsibility for dealing with the disclosure;
 - ⇒ preliminary or informal investigation;
 - ⇒ formal investigation;
 - ⇒ prosecution or disciplinary action;
 - ⇒ referral to an investigating authority for investigation or other appropriate action; or
 - ⇒ referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct);
- b) refer disclosures to the General Manager for appropriate action if they concern the Council's administration, within the day to day responsibilities of the General Manager;
- c) protect/maintain confidentiality of:
 - i) the identity of the persons who make disclosures (unless any of the criteria in S22 of the Act apply); and
 - ii) the identity of persons the subject of the disclosure (unless disclosure is required to enable allegations to be investigated or otherwise appropriately dealt with).

7. ALTERNATIVE AVENUES FOR DISCLOSURES

Alternative avenues available to public officials for making a protected disclosure under the Act (other than by means of the internal reporting system created under this Policy) are as follows:

- to the General Manager; or
- to one of the investigating authorities under the Act (eg. The ICAC and Ombudsman).

Notes:

- While the Act includes the Auditor General as an external investigating authority, the Auditor General's jurisdiction relates to State Government authorities and not local councils.

- The Division of Local Government is not an investigative authority under the Act, however, the ICAC, the Ombudsman or a council may refer a protected disclosure to the Division for investigation, and in such a circumstance any protection conferred under the Act is maintained.

Disclosures made to a journalist or a member of Parliament will only be protected if certain conditions are met:

- a) The person making the disclosure to a journalist or member of parliament must have already made substantially the same disclosure through the internal reporting system, or to the General Manager or an investigating authority in accordance with the Act;
- b) the information provided in the disclosure is substantially true; and
- c) the investigating authority, public authority or office to whom the matter was originally referred has:
 - i) decided not to investigate the matter; or
 - ii) decided to investigate the matter but not completed the investigation within 6 months of the original disclosure; or
 - iii) investigated the matter but not recommended any action in respect of the matter; or
 - iv) failed to notify the person making the disclosure, within 6 months of the disclosure of whether the matter is to be investigated.

8. RIGHTS OF PERSONS THE SUBJECT OF DISCLOSURES

The rights of persons the subject of disclosures will be protected. In this regard:

1. the confidentiality of the identity of persons the subject of disclosures will be protected/maintained (where this is possible and reasonable);
2. disclosures will be assessed and acted on impartially, fairly and reasonably;
3. responsible officials who receive disclosures in accordance with this policy are obliged to:
 - protect/maintain the confidentiality of the identity of persons the subject of disclosures;
 - assess disclosures impartially; and
 - act fairly to persons the subject of disclosures;
4. disclosures will be investigated as discreetly as possible, with a strong emphasis on maintaining confidentiality both as to the identity of persons making protected disclosures and the persons the subject of disclosures;
5. where investigations or other inquiries do not substantiate disclosures, the fact the investigation/enquiry has been carried out, the results of the investigation/enquiry,

and the identity of persons the subject of the disclosures will be kept confidential, unless the persons the subject of the disclosures request otherwise;

6. the persons the subject of the disclosures (whether protected disclosures under the Act or otherwise) which are investigated by or on behalf of a council, have the right to:
 - a) be informed of the substance of the allegations;
 - b) be informed as to the substance of any adverse comments that may be included in a report/memorandum/letter or the like arising out of any such investigation; and
 - c) be given a reasonable opportunity to put their case (either orally or in writing) to the persons carrying out the investigation for or on behalf of the council;

before any decision/ determination/ report/ memorandum/ letter or the like is made or finalised;

7. where the allegations in a disclosure have been investigated by or on behalf of a council; and the person the subject of the allegations is aware of the substance of the allegations, the substance of any adverse comment, or the fact of the investigation, he or she should be formally advised as to the outcome of the investigation, regardless of the outcome; and
8. where the allegations contained in a disclosure are clearly wrong or unsubstantiated, the person the subject of the disclosure is entitled to the support of the council and its senior management (the nature of the support that would be reasonable and appropriate would depend on the circumstances of the case, but could include a public statement of support or a letter setting out the council's views that the allegations were either clearly wrong or unsubstantiated).

9. PROTECTION AVAILABLE UNDER THE ACT

9.1 PROTECTION AGAINST REPRISALS

The Act provides protection by imposing penalties on a person who takes "detrimental action" against another person substantially in reprisal for a protected disclosure. Penalties can be imposed by means of fines and imprisonment. "Detrimental action" means action causing, comprising or involving any of the following:

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment; or
- disciplinary proceeding.

Any member of staff or councillor who believes that "detrimental action" is being taken against them substantially in reprisal for the making of an internal disclosure to the General Manager or in accordance with this Policy should immediately bring the allegations to the attention of the General Manager or Mayor (as appropriate).

If a public official who made an internal disclosure feels that such reprisals are not being effectively dealt with, they should contact the ICAC, or the Investigations and Review Branch of the Division of Local Government.

If an external disclosure was made to an investigating authority, that body will either deal with the allegation or provide advice and guidance to the person concerned.

9.2 PROTECTION AGAINST ACTIONS, ETC.

The Act provides that a person is not subject to any liability for making a protected disclosure and no action, claim or demand may be taken or made of or against the person for making the disclosure. This provision has effect despite any duty of secrecy or confidentiality or any other restriction on disclosure by a public official.

A person who has made a protected disclosure has a defence of absolute privilege in proceedings for defamation.

A person who has made a protected disclosure is taken not to have committed any offence against an Act which imposes a duty to maintain confidentiality with respect to any information disclosed.

9.3 CONFIDENTIALITY

The Act requires investigating authorities, public authorities and public officials to whom protected disclosures are made or referred, not to disclose information that might identify or tend to identify the person who made the disclosures. The exceptions to the confidential requirement are where:

- the person consents in writing to the disclosure of that information; or
- it is essential having regard to the principles of natural justice that the identifying information be disclosed to a person whom the information provided by the disclosure may concern; or
- the investigating authority, public authority, officer, or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively; or
- disclosure is otherwise in the public interest.

Decisions about natural justice, effective investigation and public interest will be made by the Public Officer. In all cases the person who made the disclosure will be consulted before such a decision is made.

Note: if guidance is needed in relation to the requirements of natural justice, effective investigation and public interest, this may be sought from an investigating authority or the Division of Local Government.

9.4 GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT EXEMPTION

Under the *Government Information (Public Access) Act 2009*, a document is exempt from release if it contains matter the disclosure of which would disclose matters relating to a protected disclosure within the meaning of the Act.

10. NOTIFICATION OF ACTION TAKEN OR PROPOSED

A person who makes a protected disclosure must be notified within 6 months of the disclosure being made of the action taken or proposed to be taken in respect of the disclosure.

If a disclosure is made in accordance with this Policy, the Disclosure Co-ordinator is responsible for the 6 month notification to the person who made the disclosure unless this responsibility has been retained by or allocated to another officer by the General Manager.

If a disclosure is made to the Mayor under this Policy, the Mayor is responsible for such notification to the person who made the disclosure, unless he or she directs the General Manager, Disclosure Co-ordinator or another nominated officer to assume this responsibility.

The notification provided to the person who made the disclosure should contain sufficient information to demonstrate that adequate and appropriate action was taken, or is proposed to be taken, in respect of the disclosure. This should include a statement of the reasons for the decisions made or action taken in response to the disclosure.

The notification should include sufficient information to enable the person who made the disclosure to make an assessment as to whether the circumstances listed in Section 19(3)(a)-(c) of the Act (relating to disclosures to members of Parliament and journalists) apply ie. whether:

- a) a decision was made not to investigate the matter; or
- b) a decision was made to investigate the matter, but the investigation was not completed within 6 months of the original decision being made; or
- c) a decision was made to investigate the matter, but the investigation has not been completed within 6 months of the original decision being made; or
- d) the matter was investigated but no recommendation was made for the taking of any action in respect of the matter.

Without such information it would be difficult for the person to be able to properly assess whether it is appropriate or warranted to make a disclosure to an MP or a journalist.

RELATED POLICIES

Code of Conduct

SUSTAINABILITY IMPLICATIONS

The policy provides a mechanism for reporting of corrupt conduct, maladministration and serious or substantial waste of Council resources or money. Through the reporting of such matters should they occur Council would be provided with a potential economic benefit in the reduction of waste.

RELEVANT LEGISLATIVE PROVISIONS

Public Interest Disclosures Act 1994
Local Government Act 1993

IMPLEMENTATION RESPONSIBILITY

Executive Officer

REVIEW DATE

Biennial from adoption

ITEM NO. 14

FILE NO: A2004-0195

POLICY REVIEW: PECUNIARY INTEREST RETURNS POLICY

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Pecuniary Interest Returns policy shown at **(ATTACHMENT 1)**;
- 2) Place the Pecuniary Interest Returns policy, as amended on public exhibition of a period of 28 days;
- 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 4) Revoke the Pecuniary Interest Returns policy dated 19 October 2004, Min No. 375, should no submissions be received.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Chris Doohan Councillor Geoff Dingle</p>
	<p>That the recommendation be adopted.</p>

MOTION

018	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Endorse the amendments to the Pecuniary Interest Returns policy shown at (ATTACHMENT 1); 2) Place the Pecuniary Interest Returns policy, as amended on public exhibition of a period of 28 days; 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council; 4) Revoke the Pecuniary Interest Returns policy dated 19 October 2004, Min No. 375, should no submissions be received.
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BACKGROUND

The purpose of this report is to provide Council with the opportunity to review the Pecuniary Interest Returns policy.

As part of the ongoing policy review program, the above policy, shown at **(ATTACHMENT 1)**, has been reviewed and no significant changes have been identified at this time. The policy was last reviewed in 2004.

Council is requested to consider the policy and adopt the recommendation.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

The *Local Government Act 1993*, requires lodgement of annual Pecuniary Interest Returns from Council officials that are considered designated persons under the Act.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that out of date policies may lead to poor judgment or misinform Council and the community.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Pecuniary Interest Returns policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Adopted: 9 May 1995
Minute No: 185
Amended: 19/10/2004
Minute No: 375

FILE NO: A2004-0195

TITLE: PECUNIARY INTEREST RETURNS - LODGEMENT

RESPONSIBLE OFFICER: EXECUTIVE ASSISTANT –
GENERAL MANAGER

BACKGROUND

Councillors and designated Council staff are required to provide details to Council at the end of financial year or after 3 months of becoming elected or commencing employment with Council.

OBJECTIVE

To inform all Councillors and designated persons of their responsibilities under Chapter 14 of the Local Government Act 1993.

PRINCIPLES

- 1) To provide transparency for the community with regard to Councillors and designated person whilst they undertake their duties.
- 2) To assist Councillors and designated persons identify potential areas of interest.

POLICY STATEMENT

- 1) In May each year a report will be submitted to Council to confirm the list of designated persons.
- 2) Councillors and designated persons will be provided with an information brochure, copy of

Changes

Delete:
RESPONSIBLE OFFICER
Insert:
REPORT OF

Delete: EXECUTIVE ASSISTANT-
GENERAL MANAGER
Insert:
EXECUTIVE OFFICER

- previous return and an original pecuniary interest form by the 15th July of each year.
- 3) The information brochure should include:
- Responsibilities of Councillors and designated persons under the Act;
 - Information required on the pecuniary interest form;
 - Acceptable method of completing the pecuniary interest form;
 - Responsibilities of staff process the forms;
 - Due date;
 - Consequences of late returns
- 4) Monthly reminders to be sent to designated persons if they have not forwarded their returns – including a final reminder on or around 23 September. [Local Government Amendment Bill 1996]. Copies of the reminders are to be placed on the Councillors or employee's personnel file {DLG Circular 97/41 14/7/97}.
- 5) All returns should be lodged with the General Manager or Executive Assistant no later than 5.00pm on the 30 September of each year.
- 6) Upon receipt of returns the General Manager's Executive Assistant will
- Provide written receipt to the Councillor or designated person – a copy of the receipt should be placed on the Councillor file or on the employee's personnel file [Department of Local Government Circular 97/41 14/7/97]
 - Check the return to ensure that it has been completed (to best of your knowledge) particularly that it has been dated and signed. [in accordance with the Local Government Amendment Bill 1996]
 - Stamp the return with date of receipt;
 - File the return in the Pecuniary Interest Register;
 - Store the Pecuniary Interest Register in the Strong Room for safe keeping.
- 7) Under no circumstances is a third party (for example a staff member) to complete pecuniary interest returns on behalf of a Councillor or a designated person.
- 8) Should Councillors or designated persons require a computer print out of their property or

Delete:

[Local Government Amendment Bill 1996]. Copies of the reminders are to be placed on the Councillors or employee's personnel file {DLG Circular 97/41 14/7/97}.

Delete:

[Department of Local Government Circular 97/41 14/7/97].

Delete:

[in accordance with the Local Government Amendment Bill 1996]

Delete:

Secretary via Form 1 annexed to the Information Brochure (see Appendix 1)
Insert: Executive Assistant to provide a computer print out of property/s owned in the LGA.

properties they should formally request the General Manager's Secretary via Form 1 annexed to the Information Brochure (see Appendix 1). Once obtained the computer property the computer print out should be transcribed by the Councillor or designated person onto the form or onto an attachment (other than Council's original computer print out).

- 9) Forms are to be made available from the General Manager's office 30th June each year.
- 10) All lodged returns are to be tabled at the first Council meeting after 30 September together with a report identifying any failures to lodge [in accordance with the Local Government Amendment Bill, 1996]
- 11) Report to the Department of Local Government any person who fails to lodge a Returns required by Section 449. [in accordance with the Local Government Amendment Bill, 1996]

RELATED POLICIES

Nil

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993

IMPLEMENTATION RESPONSIBILITY

Corporate Management

REVIEW DATE

Annually after the adoption of the policy

Insert: print out, (after...Once obtained the computer property....in Item 8)

Delete: Department

Insert: Division

Delete: [in accordance with the Local Government Amendment Bill, 1996]

Delete: Corporate Management

Insert: Executive Officer

Insert:

PROCESS OWNER (before REVIEW DATE)

Delete: Annually after the adoption of the policy

Insert: date 4 years from adoption

ITEM NO. 15

FILE NO: PSC2010-00010

POLICY REVIEW: STATEMENT OF BUSINESS ETHICS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Statement of Business Ethics policy shown at **(ATTACHMENT 1)**;
- 2) Place the Statement of Business Ethics policy, as amended on public exhibition of a period of 28 days;
- 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 4) Revoke the Statement of Business Ethics policy dated 14 December 2010, Min No. 408, should no submissions be received.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Chris Doohan Councillor Geoff Dingle</p>
	<p>That the recommendation be adopted.</p>

MOTION

019	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Endorse the amendments to the Statement of Business Ethics policy shown at (ATTACHMENT 1); 2) Place the Statement of Business Ethics policy, as amended on public exhibition of a period of 28 days; 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council; 4) Revoke the Statement of Business Ethics policy dated 14 December 2010, Min No. 408, should no submissions be received.
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BACKGROUND

The purpose of this report is to provide Council with the opportunity to review the Statement of Business Ethics policy.

As part of the ongoing policy review program, the above policy, shown at **(ATTACHMENT 1)**, has been reviewed. The grey shaded area in **(ATTACHMENT 1)** identifies the changes to the existing policy. The current policy is shown at **(ATTACHMENT 2)**, which was last reviewed in 2010.

Council is requested to consider the policy and adopt the recommendation.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the private sector may not be clear with respect to expected behaviours when dealing with the public sector. This Statement will support Council existing policies and provide clear expectations of private contractors and consultants.	Medium	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Statement of Business Ethics provides guidance for the private sector when doing business with Port Stephens Council. It outlines the Council's ethical standard and

expectations that goods and service providers and contractors will comply with in their dealings with Council.

By complying with these standards, it improves the reputation of Council and the companies it does business with. It also removes the need for investigation into matters of inappropriate behaviour.

CONSULTATION

Independent Commission Against Corruption (ICACI).

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Reviewed Statement of Business Ethics policy;
- 2) Current Statement of Business Ethics policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted: 14/12/2010

Minute No: 408

Amended:

Minute No:

FILE NO: PSC2010-00010

TITLE: STATEMENT OF BUSINESS ETHICS

REPORT OF: EXECUTIVE OFFICER

BACKGROUND

Port Stephens Council is required to comply with the Model Code of Conduct developed by the NSW Division of Local Government. Council needs to meet its obligations under the Model Code of Conduct, by developing this Statement of Business Ethics.

OBJECTIVE

The objective of this Statement of Business Ethics is to provide guidance to all sections of the community, including commercial businesses, when conducting business with or on behalf of Council.

PRINCIPLES

- 1) To encourage openness, transparency and accountability in all dealings relating to procurement, contracting, supply of goods and services and general business relationships.
- 2) To build and maintain ethical relationships with the community and in particular the private sector.
- 3) To ensure all parties/organisations understand Council's public duty obligations.
- 4) To maintain corruption resistant, ethical work practices.
- 5) To manage any potential conflicts of interest, risk and perceptions that can occur in business transactions between public and private sectors.

POLICY STATEMENT

Port Stephens Council is committed to high ethical standards and this Statement of Business Ethics sets out the standards the Council requires of its contractors and business associates. It is essential that all Council officials (councillors and employees), contractors and their employees and other business associates work together to maintain our reputation.

These standards are based upon the standards within Council's Code of Conduct, which apply to all Council officials.

In dealing with Council there is a strong expectation that you are responsible for maintaining our high ethical standards in all contract work. Port Stephens Council expects all parties to perform their duties with integrity, honesty and fairness.

Reference should be made to Council's Code of Conduct for definitions for matters such as "token gifts".

What you can expect from Council.

Council will ensure that all its policies, procedures and processes relating to tendering, contracting and the purchasing of goods or services are consistent with best practice and the highest standards of ethical conduct.

The elected Council and employees of Council are bound by the Port Stephens Council Code of Conduct. When doing business with the private sector, the Mayor, Councillors and staff are accountable for their actions and are expected to:

- Use public resources effectively and efficiently
- Deal fairly, honestly and ethically with all individuals and organisations
- Avoid any conflict of interest (real or perceived)
- All potential suppliers will be treated with impartiality and fairness and given equal access to information and opportunities to provide their services to Council
- All procurement activities and decisions will be fully and clearly documented to provide an effective audit trail and to allow for effective performance review of contracts
- Council will not release confidential and proprietary information without firstly consulting with the owner of the information.

What Council asks of you.

Council requires all private sector providers of goods and services to observe the following principles when doing business with Council:

- Comply with Council's procurement policies and procedures
- Provide accurate and reliable advice and information when required
- Declare actual or perceived conflicts of interest as soon as you become aware of the conflict

- Act ethically, fairly and honestly in all dealing with Council
- Take all reasonable measures to prevent the disclosure of confidential Council information
- Refrain from engaging in any form of collusive practice including offering the Mayor, a Councillor or Council staff inducements or incentives designed to improperly influence the conduct of their duties
- Refrain from discussing Council business or information with the media
- Assist Council to prevent unethical practices in our business relationship.

Why is compliance important?

By comply with Council's statement of business ethics, you will be able to advance your business objectives and interests in a fair and ethical manner. As all Council suppliers of goods and services are required to comply with this statement compliance will not disadvantage you in any way.

You also be aware of the consequences of not complying with the Council's ethical requirements when doing business with Council. Demonstrated corrupt or unethical conduct will lead to:

- termination of contracts
- loss of future work
- loss of reputation
- investigation for corruption
- matters being referred for criminal investigation

The information below is additional information should be considered as part of this Statement.

Conflicts of Interest

If a conflict of interest in your work with Council exists or arises, you must disclose it to Council. A conflict of interest arises if your own interests (that may be business, contractual or social interests), or those of other people close to you, conflict with your obligations to the Council.

A conflict would exist where you have a personal interest, or your relative, company/organisation, employer or other person known to you has an interest, that could lead you to be influenced in the way you carry out your duties for the Council.

Gifts and benefits

Gifts or benefits must not be offered to any Council official which are or could be construed to be designed to gain any advantage for yourself or your organisation, or which the public could reasonably see as likely to cause that Council official to depart from his or her proper course of duty.

You should not accept any gift in relation to your work at Council which could influence, or be seen to influence, your impartiality in relation to the work or services you are providing to Council.

In no circumstances should cash offered to a Council official.

Note: If a gift or benefit is offered to a Council official to influence the way they do their work, they must report it immediately under the Council's policies and procedures.

Confidential and Personal Information

You must take care to maintain the security of any confidential or personal information you become aware of in your work with the Council.

You must abide by the privacy legislation governing the collection, holding, use, correction, disclosure or transfer of personal information obtained through your dealings with the Council.

Personal information is any information about a person where you know who the person is or you can guess who the person is.

No one should access, use or remove from Council premises any Council information or personal information, unless they need it for their work with the Council and have authorisation to use or disclose the information.

Any breach of the security, or misuse, of the Council's confidential or personal information must be reported to the Council's Privacy Contact Officer on 49800255.

Council officials also are required to only release information in accordance with the *Government Information (Public Access) Act 2009*. For further information please contact Council's Right to Information Officer on 49800255.

Council resources

Council resources may only be used to do work for the Council with Council's approval.

Council resources include material, equipment, vehicles, documents, records, data and information.

Public comment

You must not make any public comment or statement that would lead anyone to believe that you are representing Council, or expressing its views or policies.

This includes comments or statements made at public and community meetings, via the media, or when it is reasonably foreseeable that the comments, or statements, will become known to the public at large.

Alcohol and drugs

No one should come to work for the Council, or return to work, under the influence of alcohol or other drugs that could impair their ability to carry out their job or cause danger to their safety or the safety of others.

Offers on secondary employment to Council staff

If you offer a Port Stephens Council staff member a second job, whilst they are still employed with the Council, the Council staff member will need to seek approval from the Council's General Manager.

Approval will not be given if the second job could conflict with their official duties with the Council.

Reporting corruption, maladministration and wastage

When contracted to Port Stephens Council you are considered to be a public official for the purposes of the Independent Commission Against Corruption (ICAC) Act and subject to the ICAC's jurisdiction.

When doing work for the Council you have a responsibility to report any suspected instances of corruption, maladministration or serious and substantial waste to the Council to Council's Disclosures Officer or the General Manager on 49800255.

Alternatively you can report any suspected instances of corruption to the ICAC or maladministration to the Ombudsman.

Breaches of the Code

Failure to comply with this Statement of Business Ethics may cause contract penalty clauses to be invoked and/or civil or criminal proceedings to be brought or other action considered to be appropriate by Port Stephens Council.

Council's Commitment

Port Stephens Council is committed to the standards in this Statement of Business Ethics. They reflect the high standards expected by our community and as such you are expected to maintain these standards and principles when undertaking work for, or on behalf of our Council.

If you have any questions, or are unsure about any matter relating to this Statement of Business Ethics, you can contact the Council's Public Officer on 49800255.

RELATED POLICIES

Port Stephens Council Code of Conduct.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Compliance with the Code of Conduct and this Statement of Business Ethics assures the community of the integrity in the local government system and of Port Stephens Council.

ECONOMIC IMPLICATIONS

Meeting the provisions of the Code of Conduct and this Statement of Business Ethics, will provide Council with a firm basis to deliver value for money to its community.

ENVIRONMENTAL IMPLICATIONS

The Statement of Business Ethics provides a platform for ensuring that Council only deals with ethical businesses, including those that consider the environmental effects of their operations, so providing a higher standard of protection of our environment.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993

Independent Commission Against Corruption Act 1988

IMPLEMENTATION RESPONSIBILITY

Executive Leadership Team
Senior Leadership Team

PROCESS OWNER

Executive Officer

REVIEW DATE

4 years from the date of adoption

ATTACHMENT 2



POLICY

Adopted: 14/12/2010
Minute No: 408
Amended:
Minute No:

FILE NO: PSC2010-00010

TITLE: STATEMENT OF BUSINESS ETHICS

REPORT OF: EXECUTIVE OFFICER

BACKGROUND

Port Stephens Council is required to comply with the Model Code of Conduct developed by the NSW Division of Local Government. Council needs to meet its obligations under the Model Code of Conduct, by developing this Statement of Business Ethics.

OBJECTIVE

The objective of this Statement of Business Ethics is to provide guidance to all sections of the community, including commercial businesses, when conducting business with or on behalf of Council.

PRINCIPLES

- 6) To encourage openness, transparency and accountability in all dealings relating to procurement, contracting, supply of goods and services and general business relationships.
- 7) To build and maintain ethical relationships with the community and in particular the private sector.
- 8) To ensure all parties/organisations understand Council's public duty obligations.
- 9) To maintain corruption resistant, ethical work practices.
- 10) To manage any potential conflicts of interest, risk and perceptions that can occur in business transactions between public and private sectors.

POLICY STATEMENT

Port Stephens Council is committed to high ethical standards and this Statement of Business Ethics sets out the standards the Council requires of its contractors and business associates. It is essential that all Council officials (councillors and employees), contractors and their employees and other business associates work together to maintain our reputation.

These standards are based upon the standards within Council's Code of Conduct, which apply to all Council officials.

In dealing with Council there is a strong expectation that you are responsible for maintaining our high ethical standards in all contract work. Port Stephens Council expects all parties to perform their duties with integrity, honesty and fairness.

Reference should be made to Council's Code of Conduct for definitions for matters such as "token gifts".

CONTRACTORS' AND BUSINESS ASSOCIATES' RESPONSIBILITIES

All contractors, their employees and business associates are responsible for ensuring that they act ethically when dealing with Port Stephens Council and its officials. All parties working with Port Stephens Council are expected to know and understand the principles and standards in this Statement of Business Ethics.

When working for Council you shall at all times be courteous towards the public and Council officials and not bring the Council into disrepute. You must obey all relevant laws and meet all contractual obligations.

The Council is committed to providing a work environment free of harassment or discrimination.

Port Stephens Council has community and environmental responsibilities and you are expected to honour them when doing business with or on behalf of Council.

Safety is paramount and therefore all persons doing work with or for Council should protect their safety and that of others in the work environment and the public arena. Council is responsible for providing a safe work environment and for putting first the health, safety and welfare of Council officials, contractors, their staff and business associates.

CONFLICTS OF INTEREST

If a conflict of interest in your work with Council exists or arises, you must disclose it to Council. A conflict of interest arises if your own interests (that may be business, contractual or social interests), or those of other people close to you, conflict with your obligations to the Council.

A conflict would exist where you have a personal interest, or your relative, company/organisation, employer or other person known to you has an interest, that could lead you to be influenced in the way you carry out your duties for the Council.

GIFTS OR BENEFITS

Gifts or benefits must not be offered to any Council official which are or could be construed to be designed to gain any advantage for yourself or your organisation, or which the public could reasonably see as likely to cause that Council official to depart from his or her proper course of duty.

You should not accept any gift in relation to your work at Council which could influence, or be seen to influence, your impartiality in relation to the work or services you are providing to Council.

In no circumstances should cash offered to a Council official.

Note: If a gift or benefit is offered to a Council official to influence the way they do their work, they must report it immediately under the Council's policies and procedures.

CONFIDENTIAL AND PERSONAL INFORMATION

You must take care to maintain the security of any confidential or personal information you become aware of in your work with the Council.

You must abide by the privacy legislation governing the collection, holding, use, correction, disclosure or transfer of personal information obtained through your dealings with the Council.

Personal information is any information about a person where you know who the person is or you can guess who the person is.

No one should access, use or remove from Council premises any Council information or personal information, unless they need it for their work with the Council and have authorisation to use or disclose the information.

Any breach of the security, or misuse, of the Council's confidential or personal information must be reported to the Council's Privacy Contact Officer on 49800255.

Council officials also are required to only release information in accordance with the Government Information (Public Access) Act 2009. For further information please contact Council's Right to Information Officer on 49800255.

COUNCIL RESOURCES

Council resources may only be used to do work for the Council with Council's approval.

Council resources include material, equipment, vehicles, documents, records, data and information.

PUBLIC COMMENT

You must not make any public comment or statement that would lead anyone to believe that you are representing Council, or expressing its views or policies.

This includes comments or statements made at public and community meetings, via the media, or when it is reasonably foreseeable that the comments, or statements, will become known to the public at large.

ALCOHOL AND DRUGS

No one should come to work for the Council, or return to work, under the influence of alcohol or other drugs that could impair their ability to carry out their job or cause danger to their safety or the safety of others.

OFFERS ON SECONDARY EMPLOYMENT TO COUNCIL STAFF

If you offer a Port Stephens Council staff member a second job, whilst they are still employed with the Council, the Council staff member will need to seek approval from the Council's General Manager.

Approval will not be given if the second job could conflict with their official duties with the Council.

REPORTING CORRUPTION, MALADMINISTRATION AND WASTAGE

When contracted to Port Stephens Council you are considered to be a public official for the purposes of the Independent Commission Against Corruption (ICAC) Act and subject to the ICAC's jurisdiction.

When doing work for the Council you have a responsibility to report any suspected instances of corruption, maladministration or serious and substantial waste to the Council to Council's Disclosures Officer or the General Manager on 49800255.

Alternatively you can report any suspected instances of corruption to the ICAC or maladministration to the Ombudsman.

BREACHES OF THE CODE

Failure to comply with this Statement of Business Ethics may cause contract penalty clauses to be invoked and/or civil or criminal proceedings to be brought or other action considered to be appropriate by Port Stephens Council.

PORT STEPHENS COUNCIL'S COMMITMENT

Port Stephens Council is committed to the standards in this Statement of Business Ethics. They reflect the high standards expected by our community and as such you are expected to maintain these standards and principles when undertaking work for, or on behalf of our Council.

If you have any questions, or are unsure about any matter relating to this Statement of Business Ethics, you can contact the Council's Public Officer on 49800255.

RELATED POLICIES

Port Stephens Council Code of Conduct.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Compliance with the Code of Conduct and this Statement of Business Ethics assures the community of the integrity in the local government system and of Port Stephens Council.

ECONOMIC IMPLICATIONS

Meeting the provisions of the Code of Conduct and this Statement of Business Ethics, will provide Council with a firm basis to deliver value for money to its community.

ENVIRONMENTAL IMPLICATIONS

The Statement of Business Ethics provides a platform for ensuring that Council only deals with ethical businesses, including those that consider the environmental effects of their operations, so providing a higher standard of protection of our environment.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993

IMPLEMENTATION RESPONSIBILITY

Executive Officer

REVIEW DATE

Biennial from the date of adoption.

ITEM NO. 16

FILE NO: A2004-0028

**REVOKE POLICY: ENFORCEMENT OF RESTRICTED PARKING AREAS
REGULATION AT NEWCASTLE AIRPORT POLICY**

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Enforcement of Restricted Parking Areas Regulation at Newcastle Airport policy dated 22 May 2001, Min. No. 201.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor Geoff Dingle
	That the recommendation be adopted.

MOTION

020	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council revoke the Enforcement of Restricted Parking Areas Regulation at Newcastle Airport policy dated 22 May 2001, Min. No. 201.

BACKGROUND

The purpose of this report is to inform Council that the Enforcement of Restricted Parking Areas Regulation at Newcastle Airport policy is now redundant.

The policy was developed to support the delegated functions of parking enforcement to staff of Newcastle Airport Ltd (NAL). In the past the regulatory function of parking enforcement came under the control of Port Stephens Council (and the NSW Police) and as such Council sub-delegated these powers to the NAL staff.

NAL are now authorised under the legislation to issue infringements for enforcement of the parking areas within the airport grounds. Therefore, the delegations and this policy are no longer required. The delegations have previously been revoked.

Council is therefore requested to revoke the policy.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that out of date policies may lead to poor judgment or misinform Council and the community.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Legal Services Manager.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Enforcement of Restricted Parking Areas Regulation policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Adopted: 22/5/01
Minute No: 201
Amended:
Minute No:

FILE NO: 3050-001

TITLE: ENFORCEMENT OF RESTRICTED PARKING AREAS REGULATION AT
NEWCASTLE AIRPORT

BACKGROUND

This policy has been formulated to complement the delegation of authority granted by Council to Newcastle Airport employees to enforce restricted parking within the boundaries of the land on which Newcastle Airport operates.

OBJECTIVE

The aim of this policy is to help ensure enforcement of restricted parking at Newcastle Airport is carried out in a manner consistent with the way in which conduct of delegated authority is envisaged. The policy is also aimed at ensuring Council exercises good corporate governance.

PRINCIPLES

Council has a responsibility to meet community expectation that pursuit of Council's enforcement functions will be undertaken in a consistent and equitable manner.

It also has a responsibility as a regulatory authority and as a party to a service agreement, between Council and the NSW Police Service, to ensure that delegates are provided with guidelines for enforcement of restricted parking at Newcastle Airport.

POLICY STATEMENT

When an NAL employee with delegated authority ('delegate') issues an Infringement Notice for a restricted parking infringement at Newcastle Airport, the delegate is exercising a regulatory function of Council. Further, the delegate is

undertaking an action that is subject to a service agreement between the NSW Police Service and Council. As a result, delegates must ensure that:

- All Infringement Notices in relation to restricted parking infringements at Newcastle Airport are issued in accordance with this policy
- All Infringement Notices and enforcement in general is carried out in a manner consistent with procedures outlined by the NSW Police Service during training to enable the delegate to become an enforcement officer
- They adhere to instructions provided by Newcastle Airport Limited in its role as day-to-day manager of the delegates as enforcement officers

By agreeing to be an enforcement officer, all delegates attest they have undertaken training required by the NSW Police Service and acknowledge that Newcastle Airport Limited has been delegated authority by Port Stephens Council to manage, monitor and report their performance to Council. Should the delegate not comply with the above guidelines and with procedures outlined by the NSW Police during training of the delegate, Council may withdraw its delegation of authority to that person.

Newcastle Airport Limited will be responsible for adjudicating all appeals and dealing with Court elections made in relation to issue of Infringement Notices by NAL employees for restricted parking infringements at Newcastle Airport. The company will also be responsible for meeting all expenses and costs (including legal costs) associated with enforcement of restricted parking at the Airport.

RELATED POLICIES

There are no related policies.

REVIEW DATE

This policy will be reviewed 12 months after the date on which Council adopted it.

RELEVANT LEGISLATIVE PROVISIONS

- Sections 355, 377 and 381, *Local Government Act 1993* (NSW)
- Clause 7, *Road Transport (Short Descriptions and Penalty Notices Offences) Regulation 1999* (NSW)
- Clause 60(1), *Road Transport (Safety and Traffic Management)(Road Rules) Regulation 1999* (NSW)

IMPLEMENTATION RESPONSIBILITY

Newcastle Airport Limited is responsible for ensuring compliance with this policy by NAL employees

ITEM NO. 17

FILE NO: A2004-0028

REVOKE POLICY: NEWCASTLE AIRPORT STRATEGIC POLICY**REPORT OF: PETER GESLING – GENERAL MANAGER****GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the Newcastle Airport Strategic policy dated 21 December 2004, Min. No. 414.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Chris Doohan Councillor Geoff Dingle
	That the recommendation be adopted.

MOTION

021	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council revoke the Newcastle Airport Strategic policy dated 21 December 2004, Min. No. 414.

BACKGROUND

The purpose of this report is to inform Council that the Newcastle Airport Strategic policy is now redundant, given the new Newcastle Airport company structure now in place. Council is therefore requested to revoke the policy.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that out of date policies may lead to poor judgment or misinform Council and the community.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Executive Officer.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Newcastle Airport Strategic policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Adopted: 2608/97
Minute No: 1238
Amended: 21/12/2004
Minute No: 414

FILE NO: A2004-0028

TITLE: NEWCASTLE AIRPORT STRATEGIC POLICY

RESPONSIBLE OFFICER: GENERAL MANAGER

BACKGROUND

The Newcastle Airport Strategic Policy has been developed by Newcastle Airport Limited.

POLICY STATEMENT

The policy statement outlines the philosophy for the future planning and management of the airport and associated facilities.

RELATED POLICIES

Newcastle Airport Ltd supports Council's objectives within the Economic Development Strategy for Port Stephens.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Newcastle Airport offers affordable transport access for social and business activity to and from the Hunter Region. Social considerations are a key element of the Strategic Plan.

ECONOMIC IMPLICATIONS

The Newcastle Airport and environs is an integral element of Council's Economic Development Strategy. Benefits include increased tourism and business activity, flow-on economic stimulus including increased direct and indirect employment. The Airport is expected to drive aviation related industrial and commercial development.

ENVIRONMENTAL IMPLICATIONS

The strategy references values in relation to ecologically sustainable operations. Airport development is subject to development approval through Port Stephens Council, including an assessment of all relevant environmental implications.

RELEVANT LEGISLATIVE PROVISIONS

Nil

IMPLEMENTATION RESPONSIBILITY

General Manager and Newcastle Airport

REVIEW DATE

Determined by Newcastle Airport Limited

Newcastle Airport Strategic Policy 2004

**The Outcome of a Review of the Newcastle Airport Limited (NAL)
Strategic Policy by the NAL Board and Senior Staff on 27 August 2004.**

Newcastle Airport Limited Strategic Policy 2004

1

I. Introduction by the Chairman

After the formation of Newcastle Airport Limited (NAL) in 1993, the first strategic policy was developed in 1997. The airline industry has since undergone significant upheaval; notably the collapse of Ansett Airlines in Australia and the September 11 incident in the USA. The introduction of low cost jet airline services has also significantly changed NAL's operations tempo, more than doubling passenger traffic in the last twelve months. The net outcome has been a volatile global airline industry and with some great short term opportunities. These developments have led to unique infrastructure pressures for NAL in both the terminal services and car parking areas. At the same time the airport has become more significant to the region as a transport hub for both business and tourism. In light of these developments the Board agreed that a review of strategic policy was both timely and essential.

The NAL Board, senior members of the staff and some shareholders convened in August 2004 to develop a new strategic policy. The purpose of the planning meeting was to position the company to manage current and future pressures, risks and opportunities. The shareholders were represented by the Mayors of Newcastle City Council and Port Stephens Council.

This strategic plan has been a disciplined effort to produce fundamental decisions and actions that shape and guide what NAL is, what it does and why it does it, with a focus on the future. The strategic plan sets the scene for more detailed business planning, a task reserved for management that follows the formal consideration of this plan by the shareholders. This business plan will become a working appendix to this document before the end of CY04. The key features and benefits of this plan are that it;

- Sets clear goals and objectives that lead to action
- Builds a cohesive vision and mission that are values based
- The Board and Management share ownership
- Accepts accountability to the community by employing principles such as ecologically sustainable development and equity
- Is externally focussed and sensitive to NAL's environment
- Is based on quality data and creates an awareness of available resources and acceptable risk levels
- Is a key component of effective management

II. Vision

To be Australia's leading regional aviation hub.

III. Mission

To consolidate and grow the airport's contribution to the regional and national economy by promoting competitive air services that underpin the efficiency of business and tourism, and by establishing an aerospace industry cluster. NAL will:

- Establish partnerships with key stakeholders including the airlines, business community, tourism industry and relevant local, state and federal government bodies;
- Optimise the relationship with the RAAF and Department of Defence to achieve maximum mutual benefit from the Head Lease and Operating Agreement;
- Deliver a superior customer experience;

- Effectively manage the airport's business and assets through astute corporate governance and financial management and by optimising the infrastructure, and
- Empower NAL's people by encouraging effective leadership in a supportive and co-operative environment.

IV. Organisation Profile and History

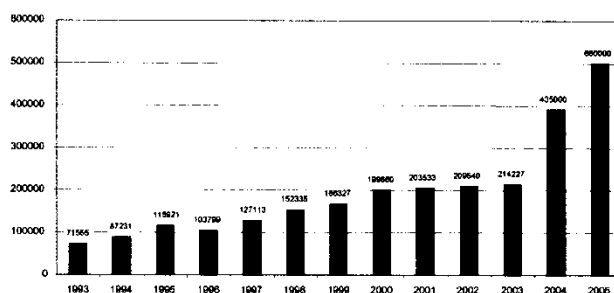
Williamtown Civilian Airport began in 1947, when the Commonwealth Government agreed to allow civilian flight operations at the Royal Australian Air Force Base, Williamtown. The Commonwealth Government continued to run the airport until 1990 when Newcastle City Council and Port Stephens Council accepted an invitation by the Government to jointly operate the civil area at RAAF Williamtown. The two Councils accepted full responsibility for operating, maintaining and developing what was to become Newcastle Airport. As a consequence, Newcastle Airport Limited, a company limited by guarantee, was formed on 25 May 1993 by the two Councils and a 30-year lease was signed with the Commonwealth Government for 23 hectares including the site of the terminal and land for commercial development.

With the opening of Williamtown to civilian aircraft the services grew gradually. For many years the passenger terminal was little more than a 'tin shed'. This was remedied with the opening of new terminal facilities in March 1975 by the Federal Minister for Transport Mr Charles Jones. In 1994 and 2000 Newcastle Airport underwent further major upgrades which included the doubling of the terminal floor area, total refurbishment of the interior and exterior of the building and the provision of office suites for airlines.

Jet services commenced operating from Williamtown in 2000 with Impulse Airlines using the B717 aircraft to service the Newcastle-Sydney-Melbourne route. In November 2003 Virgin Blue introduced B737 aircraft on daily services to Melbourne and in May 2004 daily services to Brisbane. In May 2004 Jetstar also commenced services between Newcastle and Melbourne and Newcastle and Brisbane using the B717 aircraft.

Today, five airlines service Newcastle Airport: Virgin Blue, Jetstar, QantasLink, Aeropelican and Brindabella Airlines. Combined, they provide 216 flights each week linking Newcastle to Melbourne, Brisbane, the Gold Coast, Canberra and Sydney. With the introduction of daily jet services to both Melbourne and Brisbane, NAL is contributing significantly to the domestic and international growth of business and tourism to the Hunter, Northern Beaches and regions even farther a field.

Since Virgin blue and Jetstar introduced services into Newcastle Airport, the number of passengers has more than doubled from 214,000 in 2003 to around 500,000 projected for the 2004 calendar year. Newcastle Airport has become the fastest growing regional airport in Australia.



Newcastle Airport Limited Strategic Policy 2004

Fig. 1 Annual passenger growth

Newcastle Airport's traditional role as a business airport has changed as new passengers emerge to take advantage of the low fares and jet comfort offered by Virgin Blue and Jetstar. Some 69% of all passengers using Newcastle Airport are tourists and people visiting friends and relatives.

In addition to NAL's airport aviation business, the company signed an agreement with Sangreal Holdings, a company specially formed to optimise the available land for aviation focussed commercial development. These potential developments include but are not limited to workshops, hangars, offices and an airport hotel. At the same time, the Minister agreed to the formulation of a new lease for 40 years, and preparations for the signing the new lease are in the final stages.

V. Corporate Values

People – Achieve results by empowering our people to deliver their best in a collegiate environment.

Partnering - Work co-operatively with the airlines by developing partnerships to achieve mutually beneficial outcomes that also meet NAL's objectives and serve the region in a sustainable manner.

Customers – Ensure the airport experience is a pleasurable start or finish to their holiday or business travel.

Integrity – Be accountable in all business and working relationships.

Social responsibility – Actively support the community and conduct airport operations in a manner that minimises any adverse impacts on the surrounding communities.

Environment – Ensure that airport operations and developments are carried out in an ecologically sustainable and best practice manner.

Safety & security – Create a safe and secure environment for staff and visitors to the airport by meeting or exceeding regulatory requirements.

Continual improvement – Constantly challenge business methods to enhance the efficiency and effectiveness of NAL.

Leadership – Position Newcastle Airport as a leading regional airport that is recognised as an industry leader.

VI. Critical Issues and Strategies

The global airline industry is demonstrably volatile. Since September 2001 the world's airlines have together lost more than \$30 billion. While Qantas announced a \$648 million profit for the 2003/04 financial year, and in so doing became the world's most profitable airline, Australia's airlines are affected by international pressures that include:

- Rising oil prices
- Threats of terrorist activities
- The impact of health epidemics
- Rising security and insurance costs
- Growing community expectations in relation to the environmental impact of aerospace operations

The current financial health of Australia's airlines is superior to the vast majority of the world's international and domestic carriers. However, the pressures noted above create an environment of considerable risk, and as a consequence NAL must carefully manage its operation and business ventures.

A detailed analysis has highlighted internal and external strengths, weaknesses, opportunities and threats. These attributes led to the following company strategies that build on NAL's strengths and mitigate against the risks to the company's viability.

1. **Consolidate and grow partnerships with key industry and government stakeholders.**
2. **Continually improve customer experiences.**
3. **Engage the community.**
4. **Invest in strengthening internal skills and capabilities.**
5. **Apply best practice corporate governance.**
6. **Effectively manage NAL's finances and assets.**
7. **Create long term, sustainable airport developments.**

VII. NAL Strategic Goals & Objectives

Goals	Objectives
Position Newcastle Airport as a leading regional airport that is recognised by its peers as an industry leader	<ul style="list-style-type: none"> a. reinvest in operational infrastructure to provide sustainable growth and sufficient capacity b. maintain a competitive cost structure c. maintain safe and secure environment that meets or exceeds regulatory requirements d. optimise commercial relationships with key stakeholders including the airlines, tenants and licensees e. Diversify revenue streams to protect long term viability
Encourage the sustainable growth of competitive air services that facilitate business travel and generate new regional tourism opportunities	<ul style="list-style-type: none"> a. develop and implement a growth strategy with tourism and airlines b. encourage business-friendly air services c. maintain and enhance strategic partnerships with airlines to generate greater demand

Newcastle Airport Limited Strategic Policy 2004

5

Goals	Objectives
	<ul style="list-style-type: none"> d. develop new products to enhance revenue and customer experience e. maximise revenue from aviation and commercial operations through asset utilisation f. sustain an operational surplus in order to maintain operations and to reinvest in facilities and to ensure access to future funding
Ensure Newcastle Airport is an integral part of local, state and federal development strategies	<ul style="list-style-type: none"> a. develop and implement a strategy of engagement with relevant policy advisors at all levels of government b. ensure policies support airport growth strategy c. positively influence government policy that is adverse to NAL's operations and business plan
Establish Newcastle Airport as a hub for regional services that link with trunk domestic services	<ul style="list-style-type: none"> a. work with the regional airline industry to increase network of regional feeder services b. encourage link arrangements between regional and trunk carriers c. ensure equal emphasis on commercial and operational revenue opportunities
Optimise the development of land available for commercial development	<ul style="list-style-type: none"> a. ensure Head Lease provisions allow viable and sustainable commercial development b. develop, maintain and enhance strong relationship with commercial development partners c. develop and implement master plan to ensure long term compatibility between commercial develop and operations d. continually review performance of commercial development partners
Enhance Corporate Governance	<ul style="list-style-type: none"> a. Introduce a risk management system to support operations and business management decisions with special emphasis on security, safety, environmental and financial aspects. b. align NAL policies and procedures with the council/shareholder strategies c. create and maintain schedule of review of commercial agreements and licences d. develop and implement an information and data management system e. provide access to up-to-date business tools and resources f. develop and implement an ESD strategy g. Review the corporate governance charter and constitution at least annually h. benchmark NAL against like Australian and overseas airports i. maintain a regulatory compliance framework and reporting j. maintain and continually review OH&S policies that meet or exceed legislated requirements
Consolidate and enhance the relationship with Department of Defence and the RAAF to deliver sustainable operational and commercial developments	<ul style="list-style-type: none"> a. minimise adverse impacts on NAL operations by working proactively with RAAF staff to develop mutually-acceptable solutions b. engage with defence to develop policies

Goals	Objectives
	that enable NAL to implement supplementary operational services, facilities and assets to sustain commercial airline activity as and when required
Introduce an effective people management and performance measurement program	<ul style="list-style-type: none"> a. develop and implement a performance management system b. identify and continually review internal resources to be able to implement the strategy and business plan c. develop and implement a training program to meet the needs of the people and the company d. develop and implement staff performance recognition scheme e. develop and implement Human Resources Information System (HRIS) f. maintain and enhance internal communications that promotes a team environment that fosters mutual recognition and support g. develop and implement mentoring program h. develop and implement succession plan i. continually review HR policy in relation to legislation
Promote passenger loyalty to generate higher rates of business returns	<ul style="list-style-type: none"> a. maintain terminal infrastructure that meets/exceeds customer expectation b. develop and implement customer satisfaction benchmarking, measurement and reporting systems c. develop new products and services including an airport lounge, enhanced range of carparking products and retail offering d. facilitate improved public/private transport options e. maintain competitive cost structure for passengers/visitors
Promote an open relationship between the airport and the broader community in order to create community support and encouragement of airport development	<ul style="list-style-type: none"> a. undertake a community attitude survey b. develop and implement a community relations program c. regularly communicate with the community via the media d. maintain and enhance strong relationship with media e. develop and implement a strategy of engagement with relevant community leaders and influences f. raise community awareness of the airport's value g. work co-operatively with DoD and RAAF on noise management and community plans

VIII. Management Goals and Objectives

To be completed by management

ITEM NO. 18

FILE NO: PSC2011-01024

LOCAL GOVERNMENT MANAGERS AUSTRALIA CONGRESS & BUSINESS EXPO 2014

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate Council delegates to attend the Local Government Managers Australia National Congress and Business Expo 2014 which is to be held on 30 April 2014- 2 May 2014 at the Pullman, Albert Park, Melbourne;
- 2) Allow a "one-off" increase of the Conference allowances under the Policy for Councillors nominated to attend this Conference.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>That Council:</p> <ol style="list-style-type: none"> 1) Endorse attendance by any interested Councillor and that those Councillors interested nominate through the General Manager's Office should they wish to attend the Local Government Managers Australia National Congress and Business Expo 2014 which is to be held on 30 April 2014- 2 May 2014 at the Pullman, Albert Park, Melbourne; 2) Allow a "one-off" increase of the Conference allowances under the Policy for Councillors nominated to attend this Conference.
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MOTION

022	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Endorse attendance by any interested Councillor and that those Councillors interested nominate through the General Manager's Office should they wish to attend the Local Government Managers Australia National Congress and Business Expo 2014 which is to be held on 30 April 2014- 2 May 2014 at the Pullman, Albert Park, Melbourne; 2) Allow a "one-off" increase of the Conference allowances
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MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

	under the Policy for Councillors nominated to attend this Conference.
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BACKGROUND

The purpose of this report is to inform Council of the Local Government Managers Australia National Congress and Business Expo 2014 which is to be held on 30 April 2014- 2 May 2014 at the Pullman, Albert Park, Melbourne;

The Conference Programme is shown at **(ATTACHMENT 1)**.

The Conference is open to all Councillors.

As Councillors would be aware the Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation would be covered from the budget, subject to an individual Councillor not exceed the conference budget limits in the Policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Registration costs are not known at this stage. These costs are covered under the policy and the existing budget. Travel & Accommodation shall be additional.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Payment of Expenses and Provision of Facilities to Councillors Policy requires Council to approve all Councillor conference attendances outside the Hunter Region. Councillors' conference costs are limited to \$3,500.00 per year under the Policy.

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may have its' reputation damaged by not attending and not participating in the national debate on key Local Government matters.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending this Conference to ensure the Local Government Area has a voice in the national development of policy and initiatives.

CONSULTATION

Nil.

OPTIONS

Nil.

ATTACHMENTS

1) Conference Programme.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



LGMA NATIONAL CONGRESS
& BUSINESS EXPO

30 APRIL - 2 MAY 2014
Melbourne, Victoria

Productive Communities

Why we need to care about productivity

It's big news in the private sector, and within governments abroad, but current thinking around productivity has barely rated a mention in the Australian local government sector. The 2014 LGMA National Congress & Business Expo will explore the concepts, leading practice and impacts of productivity, and what it might look like for councils.

Join economist Nicholas Gruen, innovator Roy Green, the Grattan Institute's Jane-Frances Kelly and the Productivity Commission's former Chairman Gary Banks in Melbourne for two days of discussion and debate. Register today for the early bird rate.

Big discounts are available for Management Challenge and Mentee Program participants.

For more information and to register online, visit www.lgma.org.au

PRESENTED BY
LGMA LOCAL GOVERNMENT MANAGERS AUSTRALIA NATIONAL OFFICE

PRINCIPAL PARTNER
CIVICA

LoGIS

In 2014, LGMA National will be offering the traditional LoGIS Leadership Package with added value for councils wanting to offer genuine professional development opportunities to their teams.

CONGRESS PLUS



Boost your Congress experience through a range of exciting social events, with plenty of networking opportunities.

Major infrastructure projects workshop

2014 local government research forum

Welcome reception

Women in local government networking breakfast

Social evening at Neil Perry's exclusive Spice Temple restaurant

ICMA international breakfast

Gala dinner

Partner tours

For those not attending the Congress, our partner tours offer something for everyone...

Cheese, chocolate and chardonnay

A relaxing, rejuvenating and rewarding day discovering Mornington Peninsula. You'll experience beautiful beaches, stunning scenery and some of the best food and wine in the region.

Melbourne shopping tour and four course lunch aboard the Colonial Tramcar Restaurant

Indulge your love of fashion in arguably Australia's best shopping destination! We will take you to the best spots to snap up a bargain and whirl you around the city on the world's first traveling tramcar restaurant, marrying fine dining with a spot of sightseeing.

Fine dining is synonymous with Melbourne and delegates won't be disappointed with an evening out at Neil Perry's Spice Temple restaurant in the Crown Complex.

"...unquestionably the most exciting Chinese in town."

Age Good Food Guide 2012

**Congress will be held at the Pullman Hotel, Albert Park, Melbourne.
For more information and to register online, visit www.lgma.org.au**

Emerging leaders – make your mark!

LGMA National is offering a Mentee Program registration rate for CEOs who would like to give their talented young leaders the opportunity to attend Congress. Visit www.lgma.org.au for details.

KEYNOTE SPEAKERS



Nicholas Gruen

Economist

What is productivity and why should we care about it?

With a long, distinguished career in public policy and ideas, prominent economist Nicholas Gruen will set the scene for two days of discussion on productivity.

Chair of the Australian Centre for Social Innovation and formerly of the Productivity Commission, Mr Gruen is one of Australia's leading public economic commentators with columns in the *Financial Review*, *Age* and *SMH*. He chaired the Australian Government's Government 2.0 Taskforce, was on the Business Council of Australia and is currently a board member of Innovation Australia.

Don't miss this opportunity to hear what Mr Gruen has to say about productivity in the context of local government.



Jane-Frances Kelly

The Grattan Institute

Productivity and people

Where people live, work and how they get around are inherent factors in productive communities. But there are 'strains in the triangle in many Australian cities', according to Jane-Frances Kelly, co-author of the Grattan Institute's *Productive Cities* report. A must-read for delegates before Congress, Ms Kelly will share her insights and discuss the important role local government can play in enabling productive communities.

Ms Kelly has had a long career developing high-level policy in the public, private and non-profit sectors in Australia and the United Kingdom. Since moving to Australia in 2004, she has led strategic policy stocktakes for the Victorian and Queensland Governments, worked in a senior capacity at the Department of Prime Minister and Cabinet and played a central role in organising the 2020 Summit. She has also worked with the Chief Commissioner of Victoria Police, Cape York Indigenous leader Noel Pearson and the Vice-Chancellor of the University of Melbourne.



Professor Roy Green

Dean, UTS Business School

Innovation; what is it and why does it matter?

Time and again, innovation is identified as one of the key drivers of productivity. But innovation and local government are not often found in the same sentence together, and so one of Australia's most passionate advocates on the topic has been invited to inspire delegates to think more deeply about the role it could play in councils.

Professor Roy Green is Dean of the UTS Business School at the University of Technology, Sydney. He gained his doctorate from the University of Cambridge and has worked in universities, business and government in Australia and overseas. He has also undertaken projects with industry and public agencies such as the OECD and European Commission. Professor Green has been published widely in the areas of innovation policy and management and brings a wealth of knowledge and ideas on innovation to Congress.

Thank you ...

LGMA National is pleased to continue its association with Civica as the Principal Partner of the 2014 National Congress.

CIVICA



Professor Gary Banks AO
Dean and CEO ANZSOG

Gary throws down the gauntlet!

Gary Banks has spent most of his professional life in organisations devoted to improving policy outcomes for society. He recently commenced as Dean/CEO of the Australia and New Zealand School of Government (ANZSOG), having been Chairman of the Productivity Commission since its inception in 1998. In that capacity, he also chaired COAG's Review of Government Services and was responsible for the Office of Regulation Review. He personally headed a number of major public inquiries by the Commission and chaired the Prime Minister's Regulation Taskforce in 2006. Professor Banks has worked for international organisations and in economic consultancy and currently chairs the OECD's Regulatory Policy Committee. He has been tasked with challenging Congress delegates to mull over the learnings of two intensive days and apply it to their own organisations. What can local government leaders do better, to create their own productive communities?

Productivity – we break down the big issues for local government



Five minutes, one idea

Innovation is a key driver of productivity and according to the late Steve Jobs it "... distinguishes between a leader and a follower". This session will be a rapid-fire, dynamic format, with presenters given just five minutes to pitch their innovative ideas for local government to delegates.

Infrastructure

Infrastructure is an enabler of productivity growth. A lack of spending on infrastructure is one of the reasons behind Australia's drop in productivity. Looking to the future we face escalating energy costs, the need to reduce carbon emissions and the need to adapt to unavoidable climate change. Infrastructure funding and management is a big issue for local government and key to improving productivity.

Technology

We know that digitally inclusive communities improve access, information and literacy available to residents and provide them with more ways to succeed in their community. But is local government keeping pace with disruptive technologies and making the most of the opportunities available to achieve organisational transformation?

Workforce

The prime objective of productivity is getting more for less. Could councils better manage human capital to achieve this and provide residents with better value? Are there ways we could increase the contribution of our employees by transitioning them from process workers to becoming knowledge workers?

Placemaking

Placemaking is a multi-faceted, holistic approach that connects the concept of liveability, productivity and sustainability to the specific places used by people in communities. Dr Katherine Loflin, through the Soul of the City initiative, a three year project involving interviews with 43,000 people in 26 US communities, highlights those areas with a higher proportion of place attachment see direct economic results with higher levels of GDP than those places people are less attached to. What is best practice for urban design and placemaking? What productivity outcomes can we expect?

ITEM NO. 19

FILE NO: PSC2013-05547

SMART URBAN FUTURES CONFERENCE – MARCH 2014

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the attendance of Cr Sally Dover and Cr Geoff Dingle at the Smart Urban Futures Conference to be held on 26-27 March 2014 at the Conference Centre, Melbourne;
- 2) Allow a "one-off" increase of the Conference allowance under the Policy for Cr Sally Dover to attend the Conference.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor John Morello
	That the recommendation be adopted.

MOTION

023	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council: <ol style="list-style-type: none">1) Endorse the attendance of Cr Sally Dover and Cr Geoff Dingle at the Smart Urban Futures Conference to be held on 26-27 March 2014 at the Conference Centre, Melbourne.2) Allow a "one-off" increase of the Conference allowance under the Policy for Cr Sally Dover to attend the Conference.

BACKGROUND

The purpose of this report is to inform Council of the Smart Urban Futures Conference to be held on March 26-27 2014 at the Conference Centre, Melbourne.

The Conference Programme is shown at **(ATTACHMENT 1)**.

The Conference is open to all Councillors.

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

As Councillors would be aware the Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation would be covered from the budget, subject to an individual Councillor not exceed the conference budget limits in the Policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	1,100	Registration Costs are \$550 per person. These costs are covered under the policy and the existing budget. Travel & Accommodation shall be additional.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Payment of Expenses and Provision of Facilities to Councillors Policy requires Council to approve all Councillor conference attendances outside the Hunter Region. Councillors' conference costs are limited to \$3,500.00 per year under the Policy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
This conference provides the Port Stephens community to be represented at a State level on matters affecting local government. It is important for the area to have input into these matters.	Low	That the Mayor and Councillors represent the Port Stephens local government area.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending this Conference to ensure the Local Government Area has a voice in the national development of policy and initiatives.

CONSULTATION

Nil.

OPTIONS

Nil.

ATTACHMENTS

- 1) Conference Programme.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

SMART URBAN FUTURES



March
26 & 27
2014

Spring Street
Conference Centre,
corner Spring and
Flinders Streets,
Melbourne

Building Liveable, Walkable, Sustainable Communities

The world is transforming rapidly. Communities of the future will have older populations and be more energy conscious, with residents struggling to balance their lifestyle and health. Cities and towns will compete with each other to provide the best lifestyle, in order to attract residents, visitors and businesses. Communities that are not built for people will face a declining future.

This conference will examine how to design communities to meet the challenges of the 21st century. Key themes include:

- Cities for everyone – planning for mobility including children, seniors and disadvantaged communities.
- Urban sustainability and retrofitting/regenerating existing urban areas
- The walking economy – why the knowledge economy will be powered by feet.
- Common solutions to the multiple challenges of climate change, the obesity epidemic and an ageing population in a time-poor society.
- Climate change, peak oil and energy vulnerability
- Healthy communities and strategies to combat obesity
- Technology and the impact on lifestyle
- Ageing populations
- The need for social inclusion and local connectivity
- Designing streets for people
- Optimising local business outcomes
- Localisation
- Empowering the community to own their own streets

This ground-breaking, inclusive event will feature a range of significant local and international case studies and world-class presenters including:

- **Larry Frank**, Bombardier transportation chair at the University of British Columbia in Vancouver
- **Rodney Talley**, Staffordshire University (UK), author of "The Greening of Urban Transport: Planning for Walking and Cycling in Western Cities", Director of Walk21
- **Janette Sadik-Khan**, Transportation Commissioner for New York City
- **Charlie Hales**, Mayor of Portland, Oregon

Who Should attend: Councillors, Directors, Strategic Planners, Urban Designers, Sustainability Officers, Transport Planners, Asset Managers, Organisational Development Managers, Corporate Planners, Stakeholders and Health Promotion Practitioners.

Conference presented by MAV and Victoria Walks






Wednesday, March 26

8.30am	Registration and coffee
9am	Welcome from MAV President and Victorian Walks Chair
9.15am	'The Walking Economy,' Dr Rodney Tolley, Staffordshire University, Director Walk 21
	RRod has authored and edited a number of books, most notably "The Greening of Urban Transport: Planning for Walking and Cycling in Western Cities". We 'know' that walking is good for us, personally, in terms of improving physical and mental health. However, there is a growing realisation across governments that by encouraging walking a myriad of topical community issues can be addressed, including traffic congestion; air pollution and greenhouse gas emissions; urban sprawl; social exclusion; community alienation; death and injury in crashes; and all of these – and more besides – have powerful economic effects. It is also becoming clearer how important walkers are to expenditure in shops, the economic vitality of city centres and in supporting the knowledge economy. This presentation will bring up to date our understanding of the economic and other benefits of more people walking more often.
10.05am	'The 20 Minute City', Rob Adams, Director, City Design, City of Melbourne
	Professor Rob Adams is one of the champions of urban design in Australia today, with more than 38 years' experience as a practising designer in private enterprise and public service. More recently, he has made a significant contribution to the City's 'Zero Emissions 2020' project through such buildings as the East Melbourne Library, Queen Victoria Market solar panels and the multi-award winning CH2 building – Australia's first six star commercial building. Rob's division has received more than 120 state and national awards for design excellence. Currently, he is exploring what the '20-minute city' could mean for Melbourne: a central concept underpinning the ideas, debate and discussion about the economics of building the necessary infrastructure; how transport priorities are determined; the sociology underpinning behavioural change; and the latest planning methodologies, technological innovations and social media available to assist.
10.50am	Morning tea
11.20am	'Remaking the Streets of New York', Janette Sadik-Khan, Transportation Commissioner for New York City (video)
	In the six years that Janette Sadik-Khan has headed the New York City Department of Transportation, streets have been transformed. Across the five boroughs, 26 acres of asphalt were converted into 50 pedestrian plazas. New bus lanes are speeding transit trips on major thoroughfares in Manhattan, the Bronx, Staten Island, and soon Brooklyn. The city added dozens of miles of protected on-street bike lanes – groundbreaking designs for an American city – and 350 miles of bikeways overall. The biggest bike-share system in the country launched this May, and now regularly sees 40,000 trips per day. So what is the lesson from this new era of change on New York City's streets? "You can remake your streets, quickly, inexpensively – they can provide immediate benefits and it can be quite popular," says Sadik-Khan. These changes have improved safety, boosted retail performance, and elicited impressive public approval ratings. Janette emphasises that it wouldn't have been possible to accomplish so much in such a short time frame if it weren't for the original stroke of genius: the decision to test things out to see what succeeds.
11.45am	'Retro-fitting urban communities to improve outcomes', Joan Ko, Senior Sustainability Consultant, Arup.
	Joan is a sustainability consultant working with local governments, property developers and industry associations around the world on organisational strategy, urban development, planning policy and sustainability management. Her background in carbon management and assessment has fed her interest in how to develop neighbourhood-scale sustainable infrastructure through development strategy, planning provisions and community trusts. She has helped the City of Melbourne set efficiency benchmarks for new buildings and precincts as part of its planning process. Joan will present findings on analysis undertaken on 20 examples of major community-scale retrofit programmes around the world.
12.20pm	'Urban design and social inclusion', Janet Stanley, Chief Research Officer, Monash Sustainability Institute.
	Prior to her current role, Janet was Senior Manager, Research and Policy at the Brotherhood of St. Laurence. Janet's current research interests are in relation to social policy, transport, equity and policy on climate change, bushfire arson, social exclusion, social capital and community development, and project evaluation. Janet is a member on the Ministerial Advisory Council for the Victorian Minister for the Environment, Climate Change and Innovation. Janet has co-authored 'No Way to Go: Transport and Social Disadvantage in Australian Communities'.
12.55pm	Lunch

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014



1.45pm	'Urban Renewal Models in NYC and Unintended Cities', Marcus Spiller, SGS Principal and former President, Planning Institute of Australia
	Dr Marcus Spiller is a Principal, Partner and Director of SGS Economics & Planning Pty Ltd. His consulting experience spans land economics, regional development, housing policy, infrastructure funding and policy co-ordination systems. He has taken up secondments as lecturer in urban economics at the University of Melbourne, adviser to the Minister for Planning and Housing in Victoria and senior executive in the Queensland Department of Housing, Local Government and Planning. He is an Adjunct Professor in Urban Management at the University of Canberra, a former member of the National Housing Supply Council and a former National President of the Planning Institute of Australia.
2.25pm	Panel session: 'How to improve urban sustainability: design versus politics'.
	Dr Rodney Tolley, Rob Adams, Joan Ko, Janet Stanley, Marcus Spiller
2.55pm	Case studies
	<ul style="list-style-type: none"> • 'Network Planning for Walking: the Frankston Principal Pedestrian Network', Clare Davey, Traffic and Transport Coordinator, Frankston Council • 'Linking school travel planning to infrastructure', David Meiklejohn, Senior Consultant, Urbantrans and Lisa Bagnati, Transport Officer, City of Moonee Valley • 'Planning, designing and building open space in Ryde City Council', Fiona Morrison, Open Space Planner, Ryde City Council
3.55pm	Afternoon tea
4.15pm	'Seniors and walking: Obstacles and opportunities', Jan Garrard, Deakin University
	Jan Garrard is a Senior Lecturer in the School of Health and Social Development at Deakin University. Her research interests are in physical activity, active transport, women's participation in cycling, and road safety. Jan recently completed an extensive study on seniors and walking for Victoria Walks and the Council on the Aged. Other recent research projects have included evaluation of the Victorian Ride2School program, assessment of the cost and health benefit of active transport in Queensland, and a comparative analysis of trends in active travel to school in Victoria and New South Wales. Jan is a member of the Expert Advisory Committee of the Cycling Promotion Fund, a member of the Board of Road Trauma Support Services, Victoria, and, together with Julie Hatfield, is an Australian representative on the OECD/ITF Cycling Safety Working Group.
4.45pm	'Designing communities for children and busy parents', Paul Tranter
	Associate Professor Paul Tranter is a Geographer in the School of Physical, Environmental and Mathematical Sciences (PEMS) at UNSW Canberra (the Australian Defence Force Academy) in Canberra. He lectures in global change, social geography and transport geography, and has been the recipient of three teaching awards. His research has made a pioneering contribution in the areas of child-friendly environments, active transport, and healthy and sustainable cities. These themes are brought together in a recent book – Children and Their Urban Environment: Changing Worlds, which Paul co-authored with Claire Freeman.
5.15pm	Informal networking function
6pm	Close

Thursday, March 27

9am	'Healthy Urban Initiatives', Carolyn Whitzman, Associate Professor in Urban Planning at the University of Melbourne
	Carolyn Whitzman is an Associate Professor in Urban Planning at the University of Melbourne. She is the author of Suburb, Slum, Urban Village: Transformations in Toronto's Parkdale Neighbourhood and the co-author of Safe Cities: guidelines for planning, design, and management. Previously, she worked for the City of Toronto on healthy city initiatives. Dr. Whitzman has an international reputation for her work on the prevention of violence. Her current research interests include: the policy implications of planning for liveable and equitable cities in a national and international context, planning interventions to increase independent mobility for children, and the development of participatory planning tools with women, children, and people with disability.

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

9.45am	Health and Community Design: The Impact Of The Built Environment On Physical Activity', Larry Frank, Canada
	Dr. Frank is a Professor and Director of the Health and Community Design Lab at the School of Community and Regional Planning, University of British Columbia. He is cross-appointed with the School of Population and Public Health and specializes in the interaction between land use, travel behaviour, air quality, and health. He has been studying the effects of neighbourhood walkability on travel patterns and sustainability for nearly 20 years. He has lead or co-authored dozens of papers and two books Health and Community Design, The Impacts of The Built Environment on Physical Activity and Urban Sprawl and Public Health. He and his colleagues have also been conducting detailed assessments of fuel consumption and climate change impacts of urban form policies. Over the past decade Dr. Frank has been working directly with local governments to help translate results from research into practice-based tools that can provide direct feedback on the health and environmental impacts of alternative transportation and land development proposals.
10.35am	Morning Tea
11.05am	'Sustainable City and Community Futures', Paul Donegan, Deputy Program Director, Grattan Institute
	Paul commenced at Grattan in 2013 as an urban development specialist after public strategy and policy roles in the Commonwealth and Victorian governments. He has led and contributed to public service advice on issues including economic policy, infrastructure procurement, health, industry support, social security, Commonwealth-State relations and public administration. Paul was the Disability Reform Adviser to the Commonwealth Minister for Families, Housing, Community Services and Indigenous Affairs at the introduction of Disability Care Australia.
11.35am	'Reflections on our changing journeys: past, present and future', Ben Rossiter, Executive Officer, Victoria Walks
	Ben has a background in cross sectoral partnerships, research, policy and program development, community development and health promotion. He has led Victoria Walks since its inception in 2008. Ben has presented papers, published articles and book chapters on walking and the urban experience. He is a member of the Victorian Pedestrian Advisory Council, the Victorian Government's Cycling Reference Group and a board member of the International Federation of Pedestrians. Ben's presentation will explore the recent evolution of walking promotion and creation of walkable environments and set out directions for the future.
12.10pm	Panel session: 'How can we make it happen?'
	Carolyn Whitzman, Larry Frank, Paul Donegan, Ben Rossiter
12.40pm	Lunch
1.30pm	Case studies
	<ul style="list-style-type: none"> • 'Design Parramatta: New Ideas To Shape The City', Kati Westlake, Senior Urban Designer, Parramatta City Council • 'Retrofitting the suburbs for people,' Charles Nilsen, Manager, Urban Design, Monash City Council • 'Realising emission reductions via passive transport strategies', Jane Waldock, Manager Sustainability and Strategic Transport City of Yarra
2.35pm	'Ensuring Portland (Oregon) is a liveable and healthy city', Charlie Hales, Mayor (video)
	As Mayor of Portland, Charlie has vowed to ensure the quality of life for all by working with neighborhoods to identify their needs. Portland is already a model for sustainable transport – Walkscore calls it the most 'bikeable' large city in the U.S. – but Charlie sees much room for improvement. The next step is to improve safety and comfort for all by creating more Complete Streets, filling the gaps in the active transportation network, extending street design features such as advance bike boxes at intersections, 20 mph residential speed limits, and pedestrian/bicycle signal improvements. Charlie's work has been honored by the Bruner Foundation for Urban Excellence, the American Society of Landscape Architects, the Oregon Chapter of the American Planning Association, the League of Oregon Cities and the Portland Bicycle Transportation Alliance.
3pm	'Implications and actions for local government': general brainstorming and planning session
3.30pm	Close

Cost:

\$550 (including GST)

To Register:

For online registration and conference details go to www.mav.asn.au/events (click on 'upcoming events' and scroll down to March 26).

Queries:

jhennessy@mav.asn.au

Note: Program subject to change.

Accommodation:

Mercure Hotel, 13 Spring Street, Melbourne. Toll free: 1800 813442
Rydges Melbourne, 186 Exhibition Street (03 96620511)



ITEM NO. 20

FILE NO: 1190-001

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a) Rapid Response – Cr Steve Tucker – Central Ward Funds – Hands on Youth Event – Donation towards Stage 1 Tilligerry Skate Park Upgrade - \$150;
 - b) Requisition for Funds – East Ward Councillors – Port Stephens Council Facilities & Services – Costs to install Christmas lighting at Apex Park, Nelson Bay - \$4,500;
 - c) Requisition for Funds – East Ward Councillors – Baylife Church Inc. – Donation towards Christmas Carols 2013 - \$1,396;
 - d) Rapid Response – Cr Peter Kafer - West Ward Funds – Karuah Progress Association – Donation towards costs for Christmas Carols 2013 - \$150;
 - e) Rapid Response – Cr Chris Doohan – Central Ward Funds – Rotary Club of Williamtown Christmas Carols 2013 Event at Medowie – Donation towards cost of oval hire charge incurred - \$300;
 - f) Rapid Response – Mayor MacKenzie – Mayoral Funds – Port Stephens Historical Society – Reimbursement for hall fees - \$130.80.

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Steve Tucker Councillor John Morello</p> <p>That Council approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-</p> <ol style="list-style-type: none"> a) Rapid Response – Cr Steve Tucker – Central Ward Funds – Hands on Youth Event – Donation towards Stage 1 Tilligerry Skate Park Upgrade - \$500; b) Requisition for Funds – East Ward Councillors – Port Stephens Council Facilities & Services – Costs to install Christmas lighting at Apex Park, Nelson Bay - \$4,500; c) Requisition for Funds – East Ward Councillors – Baylife Church Inc. – Donation towards Christmas Carols 2013 - \$1,396; d) Rapid Response – Cr Peter Kafer - West Ward Funds – Karuah Progress Association – Donation towards costs for Christmas
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MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014
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	<p>Carols 2013 - \$150;</p> <p>e) Rapid Response – Cr Chris Doohan – Central Ward Funds – Rotary Club of Williamstown Christmas Carols 2013 Event at Medowie – Donation towards cost of oval hire charge incurred - \$300;</p> <p>f) Rapid Response – Mayor MacKenzie – Mayoral Funds – Port Stephens Historical Society – Reimbursement for hall fees - \$130.80.</p>
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MOTION

024	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p>
	<p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-</p> <p>a) Rapid Response – Cr Steve Tucker – Central Ward Funds – Hands on Youth Event – Donation towards Stage 1 Tilligerry Skate Park Upgrade - \$500;</p> <p>b) Requisition for Funds – East Ward Councillors – Port Stephens Council Facilities & Services – Costs to install Christmas lighting at Apex Park, Nelson Bay - \$4,500;</p> <p>c) Requisition for Funds – East Ward Councillors – Baylife Church Inc. – Donation towards Christmas Carols 2013 - \$1,396;</p> <p>d) Rapid Response – Cr Peter Kafer - West Ward Funds – Karuah Progress Association – Donation towards costs for Christmas Carols 2013 - \$150;</p> <p>e) Rapid Response – Cr Chris Doohan – Central Ward Funds – Rotary Club of Williamstown Christmas Carols 2013 Event at Medowie – Donation towards cost of oval hire charge incurred - \$300;</p> <p>f) Rapid Response – Mayor MacKenzie – Mayoral Funds – Port Stephens Historical Society – Reimbursement for hall fees - \$130.80.</p>

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Financial Assistance Policy gives Councillors a wide discretion to either grant or to refuse any requests.

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

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

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

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

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

WEST WARD – Councillors Jordan, Kafer & Le Mottee

Karuah Progress Association	Donation towards Christmas Carols 2013	\$150
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CENTRAL WARD – Councillors Dingle, Doohan & Tucker

Hands on Youth Event	Donation towards stage 1 of Tilligerry Skate Park upgrade.	\$500
Medowie Christmas Carols	Donation towards cost of oval hire	\$300

EAST WARD – Councillors Dover, Morello & Nell

Port Stephens Council Facilities & Services	Costs to install Christmas lighting at Apex Park, Nelson Bay	\$4,500
Baylife Church Inc.	Donation towards Christmas Carols 2013	\$1,396

MAYORAL FUNDS – Mayor MacKenzie

Port Stephens Historical Society	Reimbursement of hall fees	\$130.80
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FINANCIAL/RESOURCE IMPLICATIONS

Council Ward, Minor Works and Mayoral Funds are the funding source for all financial assistance.

MINUTES FOR ORDINARY MEETING – 11 FEBRUARY 2014

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	6,976.80	\$150 West Ward Funds \$800 Central Ward Funds \$5,896 East Ward Funds \$130.80 Mayoral Funds
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation that funds will always be available.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

OPTIONS

- 1) Adopt the recommendation;
- 2) Vary the dollar amount before granting each or any request;
- 3) Decline to fund all the requests.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 21

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 11 February, 2014.

No:	Report Title	Page:
1	Quarterly Report of Mayor & Councillor Expenses – Oct – Dec 2013;	174
2	Mayor Delegations.	176

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Geoff Dingle Councillor John Morello
	That the recommendation be adopted.

004	Councillor Steve Tucker Councillor John Morello
	It was resolved that Council move out Committee of the Whole.

MOTION

025	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 11 February, 2014.

INFORMATION PAPERS



INFORMATION ITEM NO. 1

QUARTERLY REPORT OF MAYOR AND COUNCILLOR EXPENSES –
OCTOBER – DECEMBER 2013

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS GROUP

FILE: PSC2010-04205

BACKGROUND

The purpose of this report is to provide the quarterly expenses of the Mayor and Councillors which have been incurred in accordance with the Payment of Expenses and Provision of Facilities to Councillors policy.

The table at **(ATTACHMENT 1)** also includes the total number of meetings attended during the period.

ATTACHMENTS

- 1) Quarterly Report of Mayor and Councillor Expenses.

ATTACHMENT 1

QUARTERLY REPORT – OCTOBER TO DECEMBER 2013

			Cr Bruce Mackenzie	Cr Chris Doohan	Cr Geoff Dingle	Cr John Morello	Cr John Neil	Cr Ken Jordan	Cr Paul Le Moiffe	Cr Peter Kaler	Cr Sally Dover	Cr Steve Tucker	TOTALS
Total Council Meetings Attended (5 held)			4	4	5	5	5	4	5	4	5	5	46
		Limits as per policy											
Councillor Mobile Rental	802.123	\$200 per month	\$0.00	\$281.00	\$122.00	\$117.00	\$89.00	\$127.00	\$646.00	\$0.00	\$229.00	\$0.00	\$1,611.00
Councillor Mobile Calls	803.123		\$364.00	\$0.00	\$61.00	\$235.00	\$45.00	\$418.00	\$306.00	\$199.00	\$0.00	\$473.00	\$2,101.00
Councillor Landline Phone Rental	804.123		\$0.00	\$0.00	\$161.00	\$46.00	\$164.00	\$55.00	\$0.00	\$0.00	\$8.00	\$194.00	\$628.00
Councillor Landline Phone Calls	805.123		\$0.00	\$0.00	\$13.00	\$94.00	\$0.00	\$127.00	\$92.00	\$0.00	\$109.00	\$6.00	\$441.00
Councillor Fax Rental	807.123		\$0.00	\$0.00	\$0.00	\$0.00	\$16.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$16.00
Councillor Fax Calls	808.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$218.00	\$0.00	\$0.00	\$0.00	\$0.00	\$218.00
Councillor Internet	806.123	\$60 per month	\$0.00	\$109.00	\$164.00	\$109.00	\$164.00	\$0.00	\$327.00	\$0.00	\$164.00	\$218.00	\$1,255.00
Councillor Intrastate Travel Expenses	801.123	\$6,000 per year	\$152.00	\$691.00	\$645.00	\$522.00	\$1,162.00	\$951.00	\$1,158.00	\$0.00	\$1,283.00	\$1,079.00	\$7,643.00
Councillor Intrastate out of pocket expenses	809.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Travel (out of NSW)	810.123		\$83.00	\$671.00	\$0.00	\$0.00	\$0.00	\$0.00	\$592.00	\$0.00	\$0.00	\$351.00	\$1,697.00
Councillor Interstate out of pocket expenses	813.123		\$872.00	\$42.00	\$0.00	\$0.00	\$0.00	\$124.00	\$435.00	\$0.00	\$0.00	\$177.00	\$1,650.00
Councillor Interstate Accommodation (out of NSW)	811.123	\$3,500 per year	\$2,386.00	\$1,045.00	\$0.00	\$0.00	\$0.00	\$1,045.00	\$886.00	\$0.00	\$0.00	\$1,045.00	\$6,407.00
Councillors Intrastate Accommodation	812.123		-\$480.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	-\$480.00
Councillor Conferences	814.123		-\$100.00	\$1,614.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,614.00	\$0.00	\$0.00	\$273.00	\$3,401.00
Councillor Training	815.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Partner Expenses	816.123	Mayor \$1,000 per term Crs \$500 per term	\$727.00	\$0.00	\$0.00	\$0.00	\$0.00	-\$459.00	\$0.00	\$0.00	\$45.00	\$44.00	\$357.00
Councillor Computers	817.123	\$3,000 per term	\$747.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$90.00	\$837.00
Councillor Stationary	818.123	No limit.	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Awards/Ceremonies/Diners	819.123	\$100 per day	\$783.00	\$233.00	\$0.00	\$0.00	\$9.00	\$115.00	\$228.00	\$16.00	\$55.00	\$213.00	\$1,652.00
Councillor Child Care Costs	820.123	\$2,000 per term	\$0.00	\$145.00	\$0.00	\$0.00	\$0.00	\$818.00	\$0.00	\$0.00	\$0.00	\$0.00	\$963.00
Councillor Allowances		Mayor \$55,650per annum. Crs - \$17,490per annum	\$13,912.00	\$4,372.00	\$4,372.00	\$4,372.00	\$4,372.00	\$4,372.00	\$4,372.00	\$4,372.00	\$4,372.00	\$4,372.00	\$53,260.00
TOTALS			\$19,446.00	\$9,203.00	\$5,538.00	\$5,495.00	\$6,021.00	\$7,911.00	\$10,656.00	\$4,587.00	\$6,265.00	\$8,535.00	\$83,657.00

INFORMATION ITEM NO. 2

MAYOR DELEGATIONS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2009-00965

BACKGROUND

The purpose of this report is to inform Council that the Mayor has exercised his delegation between Council meetings.

The Mayor is able to exercise his delegations between Council meetings when a decision of Council is required and the matter is not able to wait until the next Ordinary Council meeting.

Following a request from East Ward Councillors, the Mayor exercised his delegation to approve a "one off" request to vary the Financial Assistance policy, to provide funds towards the installation of Christmas lighting and park hire fees for Christmas Carols at Nelson Bay.

The approval was sought given the funds were required to be expended prior to the end of the year. All funds were internal transfers.

The funding provided is as follows:-

Installation of Christmas lighting at Apex Park – \$4,500.

Funds towards the Christmas Carols Council park hire fee - \$1,396.

ATTACHMENTS

Nil.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

PSC2005-3701V2

CROWN LAND AT GAN GAN ROAD, ANNA BAY

COUNCILLOR: SALLY DOVER

THAT COUNCIL:

- 1) Prepare a report on the cost, feasibility and timing of creating an interim parking area on NSW Crown Lands Lot 312 DP 753204 (known as 98 Gan Gan Road Anna Bay) for tourist coaches to drop off and pick up their customers thus removing these coaches from the Birubi Headland.

BACKGROUND REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES SECTION MANAGER

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014 MOTION

026	Mayor Bruce MacKenzie Councillor Chris Doohan
	It was resolved that a report be prepared on the cost, feasibility and timing of creating an interim parking area on NSW Crown Lands Lot 312 DP 753204 (known as 98 Gan Gan Road Anna Bay) for tourist coaches to drop off and pick up their customers thus removing these coaches from the Birubi Headland.

BACKGROUND

Council is the Crown Trustee for the Birubi Point Reserve (Reserve Number 91451, known as 73 James Patterson Street Anna Bay) which incorporates the localities known as Birubi Beach Reserve, Birubi Point Surf Life Saving Club, Birubi Beach Lower Car Park and Robinson Reserve. Council is not the Crown Trustee of Lot 312 DP 753204 (known as 98 Gan Gan Road Anna Bay).

Tourist coaches and small buses regularly use the upper and lower car park to drop off and pick up their customers. The coaches also park along the loop road at the upper car park.

Council made a submission to the Hunter Infrastructure Investment Fund (HIIF) in 2012 that was endorsed by Crown Lands for a Tourist Interchange on the Crown Land Lot 312 DP 753204 (known as 98 Gan Gan Road Anna Bay). The submission was unsuccessful, however it now forms the basis for a medium term goal for the area that will create a final solution for the ongoing problem of coaches and bus congestion on the headland. The idea of creating an interim parking arrangement in the immediate future while the larger Tourist Interchange project is scoped and funded would be a good first stage approach.

Council wrote to NSW Crown Lands on 30 October 2013 detailing a potential four (4) staged approach to developing this land into a tourist interchange. Broadly the stages are described as:

Stage 1 – immediate land use by way of an interim lease between NSW Crown Land and Port Stephens Council; build a flat hardstand area, install fences and gates, signs.

Stage 2 – Concept designs for a tourist interchange, consultation with stakeholders.

Stage 3 – Detailed designs, business case, partnership agreements with key stakeholders, funding strategy

Stage 4 – Construction, land management, commercial aspects of the land tenure.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

PSC2011-02343

NELSON BAY CROQUET CLUB

COUNCILLOR: SALLY DOVER

THAT COUNCIL:

- 1) Investigate the expansion of the Nelson Bay Croquet Club Inc. at their current premises next to the Elizabeth Warring Sports Centre, Salamander Bay;
- 2) Prepare the plans for extensions in co-operation with the Nelson Bay Croquet Club committee;
- 3) Estimate the cost involved exploring a partnership with the club, Tomaree Sports Council and Port Stephens Council;
- 4) Include this work in the public works program for 2014-2015 financial year.

BACKGROUND REPORT OF: JOHN MARETICH - CIVIL ASSETS SECTION MANAGER

ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014

MOTION

027	Mayor Bruce MacKenzie Councillor Paul Le Mottee
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Investigate the expansion of the Nelson Bay Croquet Club Inc. at their current premises next to the Elizabeth Warring Sports Centre, Salamander Bay;2) Prepare the plans for extensions in co-operation with the Nelson Bay Croquet Club committee;3) Estimate the cost involved exploring a partnership with the club, Tomaree Sports Council and Port Stephens Council;4) Receive a report on the feasibility and financing the project.

BACKGROUND

Nelson Bay Croquet Club utilises a two court facility located at Tomaree Sports Complex. The facility also includes a storage shed which houses maintenance equipment and provides a shaded area for spectators.

Possible expansion of the croquet facility should be planned in conjunction with Tomaree Sports Council. This will ensure the expansion does not affect other facilities within Tomaree Sports Complex and are in line with future expansion plans for the Complex.

There being no further business the meeting closed at 6.15pm.

I certify that pages 1 to 181 of the Open Ordinary Minutes of Council 11 February 2014 were confirmed by Council at its meeting held on 25 February 2014.

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Bruce MacKenzie
MAYOR