

DRAFT

MINUTES – 2 MAY 2016



PORT STEPHENS

COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 2 May 2016.

PRESENT:

Mayor B MacKenzie, Councillors C. Doohan, S. Dover, K. Jordan, P. Le Mottee, J. Morello, J Nell, S. Tucker, General Manager, Corporate Services Group Manager, Acting Facilities and Services Group Manager, Development Services Group Manager and Governance Manager.

RECOMMENDATION:

That the apologies from Cr Geoff Dingle and Cr Peter Kafer be received and noted.

Note: This Meeting of Council was cancelled and the agenda item was not dealt with.

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SUBJECT

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1. COUNCIL INITIATED MERGER PROPOSAL PORT STEPHENS
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COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 16/322952
RM8 REF NO: PSC2016-00754**

**COUNCIL INITIATED MERGER PROPOSAL PORT STEPHENS COUNCIL AND
DUNGOG SHIRE COUNCIL**

REPORT OF: LISA MARSHALL - LEGAL SERVICES MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Initiate legal proceedings seeking to ensure the proposed merger of Port Stephens Council and Dungog Shire Council is investigated and reported on in accordance with the requirements of the *Local Government Act 1993*, prior to any determination by the Minister for Local Government of any proposal to merge affecting Port Stephens Council or Dungog Shire Council.
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BACKGROUND

The purpose of this report is to seek Council resolution to initiate legal proceedings.

At its Ordinary meeting on 8 March 2016, Council resolved to request the Minister for Local Government to refer to the NSW Boundaries Commission a proposal for a merger of Port Stephens Council and Dungog Shire Council (Minute no: 48).

The proposal was forwarded to the Minister on 9 March 2016, with a copy forwarded the same day to the Acting Chief Executive Officer, Office of Local Government (**Acting CEO**). Subsequently, the Minister referred the proposal to the Acting CEO for examination and report pursuant to s218F of the *Local Government Act 1993* (**LG Act**).

On 7 April 2016, the Acting CEO verbally advised Council's General Manager that the proposal was being progressed and that written confirmation in that regard would be received by Council shortly thereafter. Despite repeated requests from Council seeking that written confirmation, nothing has been forthcoming.

The LG Act is clear that the Acting CEO is required to examine and report the proposal to the Boundaries Commission without delay notwithstanding that the LG Act is silent with respect to the time in which the examination and report is to take place.

The matter is urgent. Should the Minister recommend to the Governor and the Governor then proclaims the amalgamation of Newcastle City Council and Port Stephens Council there will be no opportunity to seek to have the Port Stephens proposal considered as Port Stephens Council will have ceased to exist on the date of the proclamation.

MINUTES EXTRAORDINARY COUNCIL - 2 MAY 2016

Similarly, it is crucial to have the Port Stephens proposal considered prior to the Minister making a recommendation to the Governor with respect to any of the Minister's other proposals affecting Port Stephens Council or Dungog Shire Council including the proposals to merge:

- Dungog Shire Council and Gloucester Shire Council
- Dungog Shire Council and Maitland City Council

Despite Council's written request to the Minister that he not make any of the above recommendations prior to the Port Stephens and Dungog Shire Councils merger proposal, the Minister has declined to provide any assurance.

The proceedings can be commenced in the Supreme Court of NSW or the Land and Environment Court. The cost of such proceedings is estimated to be \$50,000 and would be funded from the Council's legal services budget.

COMMUNITY STRATEGIC PLAN

| Strategic Direction | Delivery Program 2013-2017 |
|---|--|
| Port Stephens has strong governance and civic leadership. | Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc. |

FINANCIAL/RESOURCE IMPLICATIONS

The estimated costs of these proceedings can be met from the legal services budget for the current financial year.

| Source of Funds | Yes/No | Funding (\$) | Comment |
|-----------------|--------|--------------|--|
| Existing budget | Yes | 50,000 | There are sufficient funds in the legal services budget to cover the estimated costs of these proceedings. |
| Reserve Funds | No | | |
| Section 94 | No | | |
| External Grants | No | | |
| Other | No | | |

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy impediments to adopting the recommendation.

| Risk | <u>Risk Ranking</u> | Proposed Treatments | Within Existing Resources? |
|---|----------------------------|--|-----------------------------------|
| There is a risk that there will be no opportunity to seek to have the Port Stephens proposal considered as Port Stephens Council will have ceased to exist on the date of the proclamation if the Minister recommends the Governor proclaim the amalgamation of Newcastle City Council and Port Stephens Council. | Extreme | Commence legal proceedings seeking to ensure the proposed merger of Port Stephens Council and Dungog Shire Council is investigated and reported on in accordance with the requirements of the <i>Local Government Act 1993</i> , prior to any determination by the Minister for Local Government of any proposal to merge affecting Port Stephens Council or Dungog Shire Council. | Yes |

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A merger between Port Stephens Council and Dungog Shire Council will:

- Increase the community benefit to areas that otherwise would experience increased costs and decreased service delivery;
- Potentially reduce the number of councils in a regional area without decreasing the ability for Hunter Councils to deal effectively with State agencies by limiting the impact on that body through decreased representation of communities in the region;
- Increase the scale and capacity of Dungog Shire Council through access to those areas of impact that were identified by IPART as being factors in Port Stephens Council having 'scale and capacity';
- Accede to the requests of some of the affected communities to become part of the Port Stephens Local Government Area.

MERGER PROPOSAL IMPLICATIONS

A proposed merger between Port Stephens Council and Dungog Shire Council provides the Minister with a viable and more cost effective alternative to a merger of this Council with Newcastle City Council.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil