

ITEM NO. 8

**FILE NO: 16/322549
RM8 REF NO: PSC2008-1759**

POLICY REVIEW - PARKS AND ROADSIDE MEMORIAL POLICY

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the submissions **(ATTACHMENT 1)** received through the public exhibition for the draft Parks and Roadside Memorial Policy.
 - 2) Endorse the revised Parks and Roadside Memorials Policy shown at **(ATTACHMENT 2)**.
 - 3) Revoke the Roadside Tributes and Memorials Policy dated 14 September 2010 (Minute No.280) **(ATTACHMENT 3)**.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Sally Dover Councillor Steve Tucker That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

160	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Note the submissions (ATTACHMENT 1) received through the public exhibition for the draft Parks and Roadside Memorial Policy.2) Endorse the revised Parks and Roadside Memorials Policy shown at (ATTACHMENT 2).3) Revoke the Roadside Tributes and Memorials Policy dated 14 September 2010 (Minute No.280) (ATTACHMENT 3).
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BACKGROUND

The purpose of this report is to seek Council's endorsement of the revised Parks and Roadside Memorials Policy (**ATTACHMENT 2**) following public exhibition.

The current Roadside Memorials and Tributes Policy were adopted in 2010 after a period of positive community consultation. The Policy established a framework that provides direction for Council Staff and information to the public on issues relating to roadside memorials such as crosses, plaques and tributary items such as flowers, cards and photographs.

In the review of the Roadside Memorials and Tribute Policy it was deemed appropriate to also include the park memorials into one policy. From time to time Council receives requests from individuals or organisations for the installation of memorial plaques or for the donation of park furniture or the planting of trees in memory of a deceased person. These requests were previously managed on an ad hoc basis. The development of a Parks and Roadside Memorial Policy will ensure that applications for memorials, whether on road reserves or within a park are assessed, determined and managed consistently.

The draft policy was presented to Council on 8 September 2015 and underwent review by public exhibition for 28 days from 16 September 2015 to 14 October 2015. A total of 4 submissions were received. These submissions are detailed in (**ATTACHMENT 1**) which provides a summary of the key points and responses to each submission.

As a result of the submissions received, minor amendments have been made to the policy and guidelines. This includes the removal of the requirement for Parks and Reserves Committees to provide a letter of support as there was concern raised around this increasing the administration work for volunteer committees.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Provide passive and active recreation and leisure services and facilities.	Maintain and develop recreational facilities for residents and visitors.

FINANCIAL/RESOURCE IMPLICATIONS

The full cost of a park memorial installation is borne by the applicant with the Public Domain and Services Section completing installation and maintenance for the life of the asset. Roadside memorials are to be installed by the applicant.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council has an obligation to ensure that items within our parks and road reserves are installed safely and the memorials do not place the public in danger. It should be noted that Council does not encourage the placement of memorials within the road reserve. The placement and visiting of a memorial near moving traffic can be considered dangerous at some locations along the road reserve.

Under *Section 138 of the Roads Act*, a person must not:

- Erect a structure or carry out work in, on or over a public road.
- Dig up or disturb the surface of a public road.
- Remove or interfere with a structure, work or tree on a public road, other than with the consent of the appropriate road authority.

While the memorial object and the act of placing a memorial within the road reserve can be considered a risk, this policy does recognise the social and community benefit of memorials if undertaken as per the attached guidelines.

There are no policy or legislation issues for memorials in our parks.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that non-conforming memorials such as distracting non-frangible objects are placed in our road reserve leading to general driving public being placed in danger.	Medium	Adopt the policy so that memorials are consistent and placed in safe locations away from moving traffic.	Yes
There is a risk that Councils reputation may be impacted by removal	Low	Adopt the policy so that if any memorial is required to be moved, removed or	Yes

MINUTES ORDINARY COUNCIL - 14 JUNE 2016

of roadside memorials if not dealt with in a respectful manner leading to reputation risk to Council.		resized a process is followed that allows for respect for the mourning family.	
There is a risk that Council will not have a consistent approach to the implementation of park memorials leading to Council being provided with various assets/objects of differing size and type in our parklands.	Low	Adopt the policy and apply the reference guidelines to allow a consistent approach to managing memorials.	Yes
There is a risk that Council will have to many assets within parks and reserves leading to increased pressure on maintenance budgets.	Low	Adopt the policy and apply the reference guidelines to allow a consistent approach to managing memorials.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A behavioural study conducted into the Roadside Memorial Policy outlines the effects of driver behaviour in the presence of roadside memorials. The study suggests policies allowing the use of memorials helps grieving loved ones, and at the same time, if employed correctly, may also help the driving public understand the objective risk of driving and promote safer driving. The study also revealed memorial use might endanger drivers in the case where distraction is evident and memorials have been allowed to remain present.

Essentially studies have revealed:

- Memorials are more likely to slow some drivers down.
- Memorials are more likely to make some drivers more cautious possibly reducing crashes and crash related costs to the community.
- Incorrectly placed memorials may distract some drivers.
- Drivers prefer policy supporting memorial use.

Overall, drivers appeared to support roadside memorials and reported more positive influences than negative effects.

The continued assessment and regulation of Parks and Roadside Memorials is used to place new or move existing memorials to a safe location. Safe locations increase the distance of persons who may view, visit or maintain a memorial away from moving traffic.

The Parks and Roadside Memorials Policy will assist Council to manage the road corridor by providing a safe clear zone for errant vehicles. Additionally, the placement of memorials outside the clear zone assists roadside mowing contractors to carry out their works without obstruction.

Park memorials are a way of recognising the community's connection with their local parks and reserves. This connection can range from local to even sometimes state or national in their significance and can help educate the public about significant people and events connected with parks.

MERGER PROPOSAL IMPLICATIONS

Adopting the recommendations is in keeping with the General principles of the Office of Local Government Guideline "*Council decision making during merger proposal periods*".

CONSULTATION

Consultation with key stakeholders has been undertaken by the Asset Section.

Internal

- Consultation has occurred with the Public Domain and Services Section as this section will be responsible for the installation and maintenance of park memorials.

External

- Policy was placed on public exhibition from the 16 September 2015 to 14 October 2015 with copies made available on Councils administration building, Tomaree Library and the website. Four submissions were received during this exhibition period.

OPTIONS

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

ATTACHMENTS

- 1) Submission Report.
- 2) Parks and Roadside Memorials Policy - Revised.
- 3) Existing Roadside Memorials and Tributes Policy.
- 4) Guidelines - Assessment of Parks Memorials.
- 5) Guidelines - Assessment of Roadside Memorials.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 8 - ATTACHMENT 1 SUBMISSION REPORT.
ATTACHMENT 1
SCHEDULE OF SUBMISSIONS WITH ASSOCIATED RECOMMENDATIONS

The following table provides details of the submissions received as a result of the Parks and Roadside Memorials Policy to establish a framework that provides Councils position relating to memorials such as crosses, plaques and the placement of tributary items such as flowers, cards and photographs erected on roadsides, as well as memorials such as seats, plantings and plaques within parks.

No.	Submission made by:	Content of Submission	Recommendation
1	Resident 1	<p>Identified process issues:</p> <ul style="list-style-type: none"> Concern for potential direct involvement with the committee, creating more work and responsibility. Implementing rules for individual reserves to prevent memorials being placed anywhere at favourite locations. 	<ul style="list-style-type: none"> Requirement for approval from the local Parks and Reserve Committee has been removed. A line has been included in the policy statement which reads "Ensure use of public parks does not become compromised due to overcrowding of memorials".
2	Resident 2	<p>Supports the proposal but would like to add additional comments to consider:</p> <ul style="list-style-type: none"> The maximum (A5) size is too big. Suggests the (A6) size to be consistent with the tree plantings and this should also simplify the guidelines. Concerns for "Applications must be supported in writing by the local Parks and Reserve Committee" places committees in a difficult situation if they do not support the application. Suggests the process should be conducted internally with Council seeking the committees support. 	<ul style="list-style-type: none"> The maximum size of A5 allows for sufficient space if logos are required on the plaque. This is a maximum size which allows for smaller plaques to be utilised if required. Requirement for approval from the local Parks and Reserve Committee has been removed.

ITEM 8 - ATTACHMENT 1 SUBMISSION REPORT.

No.	Submission made by:	Content of Submission	Recommendation
3	Resident 3	<ul style="list-style-type: none"> • Suggests parks are inappropriate spaces for memorials and should only be installed in specific circumstances. • No need for Port Stephens Council to have a 'Roadside Memorial Policy' when Roads and Maritime manages memorials. • No need for the Policy to provide requirements for memorials while the person is still living since acknowledgement can be made through Councils award process and/or State Federal Government. • Change the wording from "memorial" to "tribute" preventing a sombre and serious tone. • Careful consideration to installing memorials in the park as this will encourage members of the public when they did not previously consider it. • Consideration to regular ongoing maintenance of memorials and creating trip hazards. • Alternatives to planting trees with opportunities to make a tribute by way of public art or sculptures. • Plaques on park seats should not be seen as an easy means of funding new park furniture. • Photographic data should be obtained of existing memorials and should be included in the asset inspections. • Policy to be clear who owns the seat and the removal of plaques. • Current fees and costs should be easily accessed from Councils website. 	<ul style="list-style-type: none"> • Noted. • Necessary for Local Roads under the care and control of Council. • This provision is included to allow the acknowledgement of a living person if required. • Noted. • The installation does come at a cost to the applicant which will ensure that each applicant considers the application before applying. • Each memorial will be maintained in line with Councils parks maintenance program. • This would fall within Councils Public Art Policy. • Noted. • Noted. • A line has been included in the policy statement which reads "Ensure applicants realise that replacement of memorials will not be performed by Council". • Noted. • Noted. • Requirement for approval from the local Parks and Reserve Committee has been removed. • Noted.

ITEM 8 - ATTACHMENT 1 SUBMISSION REPORT.

No.	Submission made by:	Content of Submission	Recommendation
		<ul style="list-style-type: none"> A statement with appropriate seat styles should be covered in the Policy to determine appropriate seating for each site. Written support from the local Parks and reserves group is unnecessary and an added burden to the committee volunteers. Policy presumes requests come from family members; this is not always the case they could be requested by community groups. 	
4	Carlette Parks Reserves & Landcare Group	<ul style="list-style-type: none"> The applicant should not be required to obtain supporting information from the Local parks and reserves Committee. If limits are not set small reserves could become overcrowded. If left to the applicant, poor overall outcomes for placement of furniture and trees will result. Preferences of seats should not be specified as consistency with other park furniture will change over time. 	<ul style="list-style-type: none"> Requirement for approval from the local Parks and Reserve Committee has been removed. A line has been included in the policy statement which reads <i>"Ensure use of public parks does not become compromised due to overcrowding of memorials"</i>. Memorial location will be determined by the relevant section of Council to ensure placement is appropriate. Noted.

ITEM 8 - ATTACHMENT 2 PARKS AND ROADSIDE MEMORIALS POLICY - REVISED.**Policy**

FILE NO: PSC2008-1759
TITLE: PARKS AND ROADSIDE MEMORIALS POLICY
POLICY OWNER: ASSETS SECTION MANAGER
PURPOSE:

To establish a framework that provides Council's position relating to memorials such as crosses, plaques and the placement of tributary items such as flowers, cards and photographs erected on roadsides, as well as memorials such as seats, plantings and plaques within parks.

CONTEXT/BACKGROUND:

Requests for memorials are becoming more prevalent with the changing cultural practices relating to the memorialisation of the deceased.

Roadside memorials symbolically mark a location where a person has died as a result of a motor vehicle crash or other road related incident. Structures such as crosses or objects such as wreaths, cards, photographs and ornaments are often placed as close as possible to the location of the crash.

Park memorials are a way of recognising the community's connection with parks and reserves. Memorials can help educate the public about significant people and events connected with parks and reserves.

SCOPE:

The placement of memorials is a matter for individual families. Council respects the wishes of families wanting to place memorials and will provide sympathetic advice for people making enquiries of this nature.

Road Reserve:

Council does not however, encourage the placement of roadside memorials and tributary items and will not install or maintain memorials on behalf of families or individuals. The placement of memorials and tributary items within road environments will be managed in accordance with the Roadside Memorials Assessment Process, Assessment of Roadside Memorials Guideline and Assessment Template.

Policy

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Issue Date: xx/xx/xxxx

Printed: 29/05/2015

Review Date: xx/xx/xxxx

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ITEM 8 - ATTACHMENT 2 PARKS AND ROADSIDE MEMORIALS POLICY - REVISED.

Policy



Roadside memorials include:

- Crosses;
- Wreaths;
- Cards;
- Photographs; and
- Ornaments

Parks and Reserves:

Council provides a framework which allows families or individuals to place memorials within Council owned or managed parks and reserves. The placement of memorials within Councils Parks and Reserves will be managed in accordance Park Memorial Guidelines and the Park Memorial Application Process.

Park Memorials include;

- Seats;
- Seats with plaque;
- Trees;
- Trees with plaque.

DEFINITIONS:

Memorial - An object established in memory of a person or event.

Plaque - A flat tablet of metal or other appropriate material which includes text and/or images which commemorate a person or an event and/or provide historical text or information relevant to its location.

POLICY STATEMENT:

1. Council recognises the social and community benefits of memorials in our parks, reserves and roads.
2. Council recognises the deep emotions attached to memorials and to be sensitive in dealing with the issues regarding their location within or adjacent to Council's parks and roads.
3. Provide consistent information on the placement, modification, relocation or removal of memorials.
4. Limit Council's exposure to the potential road safety and public liability risks.
5. Follow the relevant guideline in the assessment of memorials.
6. Ensure applicants realise that replacement of memorials will not be performed by Council.
7. Ensure use of public parks does not become compromised due to overcrowding of memorials.

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ITEM 8 - ATTACHMENT 2 PARKS AND ROADSIDE MEMORIALS POLICY - REVISED.

Policy



POLICY RESPONSIBILITIES:

Civil Assets Planning Manager – Responsible for the overall implementation of the policy for roadside memorials.

Community and Recreation Coordinator – Responsible for the overall implementation of the policy for park memorials.

RELATED DOCUMENTS:

Assessment and Maintenance of Roads Policy
Assessment and Maintenance of Footpaths and Cycleways Policy
Guideline – Assessment of Roadside Memorials
Roadside memorials Assessment

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TRIM container No	PSC2015-01000	TRIM record No	648
Audience	Community, Public Domain and Services Section, Assets Section and Corporate Risk Management		
Process owner	Assets Section Manager		
Author	Assets Section Manager		
Review timeframe	Every 4 years	Next review date	1/7/2017
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
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Policy

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ITEM 8 - ATTACHMENT 2 PARKS AND ROADSIDE MEMORIALS POLICY - REVISED.

Policy



1	28/01/03	Transport Planning Manager	Roadside Tributes and Memorials Policy	24
2	14/09/10	Manager Integrated Planning	Roadside Memorials Policy	280

Policy

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**ITEM 8 - ATTACHMENT 3
POLICY.**

Port Stephens
C.O.U.N.C.I.L

POLICY

Adopted: 28/01/03
Minute No:024
Amended:14/09/10
Minute No:280

FILE NO: PSC2008-1759
Community Relations – Memorials– Roadside Memorials

TITLE: ROADSIDE MEMORIALS AND TRIBUTES

REPORT OF ROAD SAFETY OFFICER

BACKGROUND

A roadside memorial or tribute symbolically marks a location where a person has died as a result of a motor vehicle crash or other road related incident. Structures such as crosses or objects such as wreaths, cards and photographs are often placed as close as possible to the location of the crash.

This policy provides guidance for Council staff in the assessment of crosses and items of tribute that have been installed or placed in the road environment following fatal crashes.

OBJECTIVE

To establish a framework that provides direction for Council staff and information to the public on issues relating to roadside memorials such as crosses, plaques and the placement of tributary items such as flowers, cards and photographs.

PRINCIPLES

- 1) To recognise the deep emotions attached to roadside memorials and tributes and to be sensitive in dealing with the issues regarding their location within or adjacent to Council's roads.
- 2) To provide consistent information on the placement, modification, relocation or removal of roadside memorials and tributes.
- 3) To limit Council's exposure to the potential road safety hazard and public liability risks to roadside memorials and tributes.
- 4) To assist Council to manage the road assets under its care and control.

ITEM 8 - ATTACHMENT 3 EXISTING ROADSIDE MEMORIALS AND TRIBUTES POLICY.**POLICY STATEMENT**

The placement of roadside memorials and tributes is a matter for individual families. Council respects the wishes of families wanting to place memorials and tributes and will provide sympathetic advice for people making enquiries of this nature. Council does not however, encourage the placement of memorials and tributes, and will not install or maintain memorials or tributes on behalf of families or individuals.

The placement of memorials and tributes within road environments will be reviewed in accordance with the following:

Council will not permit any person to place a memorial or tribute, other than a floral tribute, along a road within a built up areaⁱ.

Roadside memorials such as crosses if placed in rural road environments will not be permitted to exceed a height of 500 mm and width of 400 mm. Structures will be made of frangible materialⁱⁱ and the location will be considered in respect to the potential risk to road users.

Where Council is the road authority:

- Intervention will take place in order to preserve road safety and to inhibit exposure to public liability.
- Unsightly or inappropriately placed objects and structures will be removed.

Additionally, Section 138 of the Roads Act states:

- (1) A person must not:
- a. Erect a structure or carry out a work in, on or over a public road, or
 - b. Dig up or disturb the surface of a public road, or
 - c. Remove or interfere with a structure, work or tree on a public road....otherwise than with the consent of the appropriate road authority.

Council will take any necessary and appropriate action to ensure that memorials do not present themselves as road side hazards. Through assessment, memorials that are constructed of solid materials, placed within the clear zoneⁱⁱⁱ or restrict a road users line of sight will be recommended for removal or relocation where possible in consultation with the family. In the event of road construction or maintenance activities, removal or relocation may also be necessary.

In the event there are concerns regarding a memorial or tribute, approval and action on the removal, relocation or modification will be undertaken by the Facilities and Services Group Manager or nominated delegate responsible for the local road network.

**ITEM 8 - ATTACHMENT 3
POLICY.**

EXISTING ROADSIDE MEMORIALS AND TRIBUTES

RELATED POLICIES

Port Stephens Council Code of Conduct
Roads and Traffic Authority Policy Number PN 148 - Roadside Tributes

RELEVANT LEGISLATIVE PROVISIONS

Roads Act 1993 No 33

Section 138 Works and Structures

IMPLEMENTATION RESPONSIBILITY

Facilities and Services Group (Assessment of memorials, Direction to modify, relocate or remove)

REVIEW DATE

2013

ⁱ Built-up area. In relation to a length of road, means an area in which there are buildings on land next to the road, or there is street lighting, at intervals not over 100 metres for a distance of at least 500 metres or, if the road is shorter than 500 metres, for the whole road. (Australian Road Rules)

ⁱⁱ Frangible material. Designed to fracture, break away, give way or bend such that the damage to a colliding vehicle and risk of injury to vehicle occupants upon impact is minimised (Aust Roads)

ⁱⁱⁱ Clear zone. The horizontal width measured from the edge of the traffic lane that is kept free from hazards to allow an errant vehicle to recover. (Aust Roads)

ITEM 8 - ATTACHMENT 4**GUIDELINES - ASSESSMENT OF PARKS MEMORIALS.****GUIDELINE
PARKS MEMORIALS**

Author: B Callander
Date: 06/07/2015
Policy Ref: 166

Background information/Situation**Program aim/objective**

From time to time Council receives requests from individuals or organisations for the installation of memorial plaques or for the donation of park furniture or the planting of trees in memory of a deceased resident. The purpose of this policy document is to ensure that application for memorial plaques or the donation of park furniture and trees are determined and managed consistently.

Consideration of Applications

A request will be considered where a person is deceased and:

- a. is widely known and respected within the local community; OR
- b. has a recognised historical link with the locality or is generally acknowledged as having made a significant contribution to the social, economic, sporting and/or cultural development of the community; AND
- c. is of good repute and not likely to be the subject of controversy

Under special circumstances, consideration may be given to a living person where the naming is deemed to be in accordance with (a) or (b) and (c) and the recognition is considered appropriate by the General Manager.

Applications for Memorial Plaques

Applications for Memorial Plaques must be made via the Memorials Application Form. Applications must include a supporting statement for the nominee detailing how the nominee meets the conditions as stated in this policy.

In those circumstances where an application for a memorial plaque is potentially controversial or questionable, the application will be advertised for a period of twenty one (21) days to provide opportunity for community comment. Advertisements calling for comment will be co-ordinated to occur quarterly to streamline the application and feedback process. Applications and community feedback received will be given careful consideration prior to being presented to Council with recommendation(s) for review and decision.

Memorial plaques will be limited to A5 in size (148mm high x 210mm wide) and A6 in size for tree plantings (105mm high x 148mm wide), and may only be installed in a concrete base around the park furniture or tree, or affixed directly to the park furniture. The applicant shall bear the cost of supplying the plaque.

Wording would follow a simple and standard format and avoid terminology used in cemeteries. The wording would recognise the nominee and their qualities / attributes or an appropriate phrase as outlined in the application, and must be approved by the Group Manager Facilities and Services.

Applications for Park Furniture or Tree

Applications for the Donation of Park Furniture and Trees must be made via the Memorials Application Form. Council will permit the donation of park furniture and trees (exclusive of memorial plaques) subject to Council's direction with respect to appropriateness, location, standards of park furniture type and style, or tree species choice. This may be done without the requirement for written references.

The donated park furniture or tree(s) may be placed as near as possible to the position requested by the applicant. Consideration will need to be given to relevant plans of management, master plans, capital works programs, maintaining safe passage for pedestrians and other park users, avoidance of any damage to the natural environment, and ensuring the donation meets with general community expectations for the area, including due consideration of any indigenous connection with the site.

The type of park furniture would be consistent with other park furniture or infrastructure in the locality. The donation of park furniture may be recognised with a memorial plaque consistent with the requirements outlined in relation to memorial plaques. The applicant shall bear the cost of supply and installation the park furniture including any necessary concreting.

ITEM 8 - ATTACHMENT 4 GUIDELINES - ASSESSMENT OF PARKS MEMORIALS.

The type of tree would be consistent with surrounding environment and must be a minimum of 45 litres in size. The type of tree will be approved by Councils Parks Coordinator. The donation of a tree may be recognised with a memorial plaque consistent with the requirements outlined in relation to memorial plaques and may only be installed in a concrete or stone plinth under the tree.

When is an application made?

Applications can be made at any time using the process as outlined in these guidelines.

Costs

The applicant is required to meet all costs associated with the purchase, delivery and installation of the approved memorial plaques and/or the approved park furniture and tree(s). A Memorials Application Form is to be completed and payment made. The Form details the applicable fees and charges.

Maintenance

The donated park furniture or tree(s) would be subject to the same level of maintenance as other infrastructure located in the park or reserve. The donation would remain in place as long as it remained in good working condition and complied with council standards.

Council shall accept no responsibility or obligation for repair or damage to or theft of the structure. Applicants may re-apply should the park furniture or tree(s) need to be removed or replaced.

ITEM 8 - ATTACHMENT 5 GUIDELINES - ASSESSMENT OF ROADSIDE MEMORIALS.



GUIDELINE – Assessment of Roadside Memorials

Author: Road Safety and Traffic Officer

Date: November, 2014

▪ Background Information/Situation:

This guideline provides information for Council Officers in the Assessment of Roadside Memorials and the steps taken in the event of the need to remove a Roadside Memorial.

Requests for assessment of Roadside Memorials can originate from Council Staff or members of the Community, and it is the responsibility of the Road Safety and Traffic Officer to make assessment of size, material and clear zone compliance. An assessment report will be completed and photographs taken of the memorial.

Following assessment, recommendations will be made on the safety of the memorial. In the event there are safety concerns, approval and action on the relocation or removal will be undertaken by the Facilities and Services Group Manager or nominated delegate responsible for the local road network in consultation with the family. In the event of road construction or maintenance activities, removal or relocation may also be necessary.

Council will not permit any person to place a memorial, other than a floral tribute, along a road within a built up area¹.

Roadside memorials such as crosses if placed in rural road environments will not be permitted to exceed a height of 500 mm and width of 400 mm. Structures will be made of frangible material² and the location will be considered in respect to the potential risk to road users.

Where Council is the road authority:

- Intervention will take place in order to preserve road safety and to inhibit exposure to public liability.

¹ Built-up area. In relation to a length of road, means an area in which there are buildings on land next to the road, or there is street lighting, at intervals not over 100 metres for a distance of at least 500 metres or, if the road is shorter than 500 metres, for the whole road. (Australian Road Rules)

² Frangible material. Designed to fracture, break away, give way or bend such that the damage to a colliding vehicle and risk of injury to vehicle occupants upon impact is minimised (Aust Roads)

ITEM 8 - ATTACHMENT 5 GUIDELINES - ASSESSMENT OF ROADSIDE MEMORIALS.

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- Unsightly or inappropriately placed objects and structures will be removed.

Additionally, Section 138 of the Roads Act states:

- (1) A person must not:
- a. Erect a structure or carry out a work in, on or over a public road, or
 - b. Dig up or disturb the surface of a public road, or
 - c. Remove or interfere with a structure, work or tree on a public road,...otherwise than with the consent of the appropriate road authority.

Council will take any necessary and appropriate action to ensure that memorials do not present themselves as road side hazards. Through assessment, memorials that are constructed of solid materials, placed within the clear zone³ or restrict a road users line of sight will be recommended for removal or relocation where possible in consultation with the family. In the event of road construction or maintenance activities, removal or relocation may also be necessary.

In the event there are concerns regarding a memorial or tribute, approval and action on the removal, relocation or modification will be undertaken by the Facilities and Services Group Manager or nominated delegate responsible for the local road network.

- **Target Audience/Users:**

Council Staff

- **Applicable Standards:**

Roads Act 1993 No 33, Section 138 Works and Structures

- **Related Plans:** Assessment of Roadside Memorials - Procedure

- **Review Date:** 2018

³ Clear zone. The horizontal width measured from the edge of the traffic lane that is kept free from hazards to allow an errant vehicle to recover. (Aust Roads)

ITEM NO. 9

**FILE NO: 16/338740
RM8 REF NO: PSC2016-00754**

PORT STEPHENS COUNCIL SUBMISSION ON MERGER WITH DUNGOG SHIRE COUNCIL

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft submission to the Delegate Peter Peppin that supports a proposed merger between Port Stephens Council and Dungog Shire Council **(ATTACHMENT 1)**.
- 2) Authorises the General Manager to act to finalise Council's submission to the Boundaries Commission and the appointed Delegate, in consultation with the Mayor and Councillors.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Morello Councillor Ken Jordan That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

161	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Endorse the draft submission to the Delegate Peter Peppin that supports a proposed merger between Port Stephens Council and Dungog Shire Council (ATTACHMENT 1).2) Authorises the General Manager to act to finalise Council's submission to the Boundaries Commission and the appointed Delegate, in consultation with the Mayor and Councillors.
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BACKGROUND

The purpose of this report is to seek Council's endorsement of the public inquiry submission prepared on the proposed merger of Port Stephens Council with Dungog Shire Council, specifically:

- the proposed name of the new entity that would be formed by the proposed merger as 'Dungog-Port Stephens Regional Council';
- the analysis of the impact of the proposed merger and benefits for Port Stephens and Dungog ratepayers and residents;
- there are significant communities of interest, including environmental, social and cultural and lifestyle;
- the combined infrastructure backlog of \$41.7 million is more manageable than either a Dungog/Maitland or Port Stephens/Newcastle option;
- the cost of the merger would be \$2.4 million (modelled by Morrison Low over 9 years) which is realistically manageable over the life of the Long Term Financial Plan;
- the impacts on staff of both councils is seen as minimal as it would be necessary to keep staff and service levels under the rural communities provisions of the *Local Government Act 1993*;
- there are benefits that would accrue to both Councils from leveraging Port Stephens Council's scale and capacity.

Council's preferred position remains to stand alone as a 'fit for the future' council as determined by the Independent Pricing and Regulatory Tribunal. However as part of its response to the proposed merger put forward by the Minister for Local Government between this Council and Newcastle City Council, Council's submission identified an alternative merger partner should Port Stephens Council not remain a stand-alone entity (which is its preferred position). This alternative was a merger with Dungog Shire Council.

Subsequently Council wrote to the Minister for Local Government under Section 218 of the *Local Government Act 1993* on 9 March 2016 asking him to refer this alternative proposal to the Chief Executive of the Office of Local Government. The Minister made this referral and after an initial delay, the Chief Executive appointed as his delegate Mr Peter Peppin to conduct a Public Inquiry. The process for this Inquiry involves public meetings which are being held in Nelson Bay and Raymond Terrace on 8 June 2016 and Dungog on 9 June 2016.

Council resolved to undertake a public information campaign regarding the proposal for residents of both local government areas. Results of those communities' views will be included in Council's submission. The closing date for submissions is 5pm Sunday 26 June 2016. As the public information campaign will not conclude until after this Council meeting on 14 June 2016, it will be necessary for the General Manager to amend the submission by the inclusion of the outcomes of the public campaign prior to lodging Council's submission.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Port Stephens Council is recognised as a leading local government organisation across the State.	Strengthen Council's brand and reputation.

FINANCIAL/RESOURCE IMPLICATIONS

Morrison Low modelled the cost of the merger between Port Stephens Council and Dungog Shire at \$2.4 million NPV over 9 years (including \$5 million from the State government for transition costs) which could be funded from surplus over the ten year period of the Long Term Financial Plan.

Financially the cost to merge is less than a Dungog/Maitland merger of \$4.7 million or a Port Stephens/Newcastle merger of \$7.4 million; can be absorbed from the ongoing operating surplus projected for Port Stephens Council without affecting its 'Fit for the Future' financial criteria;

Additionally, merger funding of \$10 million would be available for infrastructure which could be used to reduce the combined asset backlog of \$41.7 million. The combined infrastructure backlog can also be funded without drawing on rates revenue, through a series of funding strategies well within the capacity of the proposed new council.

Both Dungog Shire and Port Stephens Council have allocations from the Roads to Recovery program that will also contribute to the backlog reduction.

The asset backlog of the new proposed council would not need to be funded by rates, nor by any special variation to rates in the foreseeable future.

This proposal acknowledges that services and infrastructure must continue to be provided at existing service levels (as a minimum) under the merged entity for the whole of the LGA. The proposal is that the primary administrative centre would be in Raymond Terrace and that for operational purposes the Dungog administration offices and depot would be retained: it envisages that the staff of Dungog Shire who service the existing LGA area would largely continue to do so. Efficiencies can be achieved by relocation of some plant and equipment.

Staff levels for this rural council cannot be diminished under legislation and it is acknowledged that Dungog Shire has 65 staff, one of the lowest per capita staff levels in the State.

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 submission is made under the provisions of Section 218 of the *Local Government Act 1993* and addresses the Boundaries Commission criteria contained in Section 263(3). There are no policy implications.

Risk implications were raised in the business case prepared by Morrison Low and are dealt with in section 12 of the submission.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that failure to identify all appropriate risks may undermine the merger proposal.	Moderate	Risks are identified in section 12 of the submission.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The submission addresses communities of interest, environmental, economic and social implications. It also addresses governance and representation issues with the likely best outcome for residents of Dungog through a three-ward system.

MERGER PROPOSAL IMPLICATIONS

This merger proposal is a strong alternative for the people of Port Stephens compared to a merger with Newcastle City Council. It is envisaged that the residents of Port Stephens will achieve better outcomes in terms of rates and retention of resources within the LGA. It is also envisaged that residents in Dungog Shire will also have better outcomes than those provided by a merger with Maitland City Council and will have a new council with the scale, capacity and a financially sustainable future.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Communications Section.

Internal

Discussions were held with Councillors prior to making the submission related to the Newcastle proposed merger and received positive feedback to propose an alternative involving merging with Dungog Shire Council.

Staff across Council assisted Morrison Low by providing information and data to inform the business case, prior to the development of this submission.

External

In February 2016 Council received copies of >1,000 petitions from residents of Clarence Town and Dungog seeking a merger with Port Stephens Council. The Mayor led a team that included a presentation by the General Manager at two community meetings in Dungog Shire in March 2016, where the overwhelming consensus was that a merger between Dungog and Port Stephens was the preferred option in lieu of a merger with either Gloucester (which was then still in prospect) or Maitland.

Subsequently a public information campaign has been initiated and on 10 May 2016 Council voted \$20,000 to fund costs associated with the merger proposal. The public information campaign involves:

- Advertising (print, radio, social media);
- Mail out letter from Council to 38,000 addresses in both LGAs;
- A petition campaign in both LGAs;
- A public survey in both LGAs;
- Editorial space in the *Port Stephens Examiner* and the *Dungog Chronicle*;
- Support for community groups as required;
- Council's web site has detailed information on the proposed merger.

On 17 May 2016 Councillor Jordan addressed the Dungog Council at public access and subsequently a meeting was held between the Executive Teams of the two Councils at Dungog.

Results of the public information campaign will be incorporated into the final version of the submission to be lodged before 26 June 2016. The submission will be available to the public at the time it is lodged via Council's web site.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Dungog Shire Council/Port Stephens Council Merger Proposal Submission.

ITEM NO. 10**FILE NO: 16/339366
RM8 REF NO: PSC2009-09420****POLICY REVIEW: ACCESS TO INFORMATION POLICY****REPORT OF: TONY WICKHAM - GOVERNANCE MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Access to Information policy shown at **(ATTACHMENT 1)**.
 - 2) Place the Access to Information policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
 - 3) Revoke the Access to Information policy dated 11 February 2014, Minute No. 016 **(ATTACHMENT 2)**, should no submissions be received.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Steve Tucker Councillor John Morello That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

162	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Endorse the revised Access to Information policy shown at (ATTACHMENT 1).2) Place the Access to Information policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.3) Revoke the Access to Information policy dated 11 February 2014, Minute No. 016 (ATTACHMENT 2), should no submissions be received.
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BACKGROUND

The purpose of this report is to provide Council with the reviewed Access to Information policy (policy). The policy has been reviewed as part of Council's ongoing policy review program.

The policy provides a supporting framework for the release of information under the *Government Information (Public Access) Act 2009* (Act). The policy and guidelines are designed to inform the community about the release and management of Council information. It also informs the community when certain restrictions of the release of information may occur.

It is the intention of the policy to release as much government information as possible to meet the objectives of the Act, however Council needs to balance this with its other legislative responsibilities such as, but not limited to, the *Copyright Act 1968* and the *Privacy and Personal Information Protection Act 1998*.

The policy is presented for Council's consideration.

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

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

As part of good governance this policy will assist Council in managing complaints with the view to improving service delivery.

MINUTES ORDINARY COUNCIL - 14 JUNE 2016

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without the appropriate complaints management framework in place, Council would not be compliant.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Through openness and transparency of Council records, within the legislative framework, the community will gain a greater understanding of the decision making process.

MERGER PROPOSAL IMPLICATIONS

There are no implications associated with the recommendation.

CONSULTATION

Consultation with key stakeholders has been undertaken by the General Manager's Office Section.

The *Local Government Act 1993* requires Council to conduct public consultation on policies prior to final adoption.

Internal

- The Executive Team has been consulted to seek management endorsement.
- The General Manager has been consulted to seek endorsement prior to Council consideration.

External

- Following Council endorsement, the policy will be place on public exhibition in the Port Stephens Examiner and on Council's website.

In accordance with local government legislation the draft Complaint Handling policy will go on public exhibition from 23 June 2016 to 21 June 2016 for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Access to Information policy and guidelines.
- 2) Current Access to Information policy and guidelines.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 10 - ATTACHMENT 1 REVISED ACCESS TO INFORMATION POLICY AND GUIDELINES.

Policy



FILE NO: PSC2009-09420
TITLE: ACCESS TO INFORMATION POLICY
POLICY OWNER: GOVERNANCE MANAGER
PURPOSE:

The Access to Information Policy ensures 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

CONTEXT/BACKGROUND:

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

Section 12 of the *Local Government Act 1993* (NSW) and the *Freedom of Information Act 1982* (Cth) ceased on 30 June 2010.

SCOPE:

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 the inspection documents listed under Schedule 5 of the GIPA 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' as shown at Appendix 1 of this policy identifies the documents and types of information that are available for public access and any restrictions that may apply.

Policy

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Some documents may require a formal access application in accordance with the GIPA 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.

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 request, in accordance with the GIPA Act.

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.

DEFINITIONS:

Application	A Formal Access Application made under the GIPA Act.
Disclosure log	A disclosure log published on Port Stephens Council's website, as required by the GIPA Act.
Formal access	An applicant is required to lodge a Formal Access Application under the GIPA Act if the requested information cannot be provided by way of mandatory release, proactive release or informal release.
GIPA Act	The <i>Government Information (Public Access) Act 2009</i> (NSW)
Informal release	Government agencies are encouraged to informally release information under the GIPA Act, by excusing the need for a formal application (and fee) to be lodged. Reasonable conditions may apply.
Mandatory release	The GIPA Act requires agencies to publish certain information, referred to as open access information, on their websites free of charge.

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Open access information	In accordance with section 18 of the GIPA Act, Council is required to make open access information publicly available. Schedule 1 of the GIPA Regulations requires additional open access information to be made publicly available. Open access information will only be made publicly available where there is no public interest against disclosure.
Proactive release	Beyond mandatory release, agencies are encouraged (and authorised) to release as much government information as possible under the GIPA Act.
Public interest	There is an overriding public interest against disclosure of government information for the purposes of the GIPA Act if there are public interest considerations against disclosure and, on balance, those considerations outweigh the public interest considerations in favour of disclosure. Please see section 14 of the GIPA Act.
Request	An informal request for information under section 8 of the GIPA Act.

POLICY STATEMENT:

The objective of this Policy is to describe Council's principles regarding public access to information and to facilitate the processing of requests and applications for such access.

The GIPA Act provides greater access to Council records through accessibility 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.

This Policy is to be read in conjunction with the Access to Information Guidelines for Local Government.

POLICY RESPONSIBILITIES:

- 1) The Governance Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on this policy.

RELATED DOCUMENTS:

- 1) *Government Information (Public Access) Act 2009 (NSW)*
- 2) *Privacy and Personal Information Protection Act 1998 (NSW)*
- 3) *Health Records and Information Privacy Act 2002 (NSW)*
- 4) *State Records Act 1998 (NSW)*
- 5) *Local Government Act 1993 (NSW)*

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- 6) *Environmental Planning and Assessment Act 1979 (NSW)*
- 7) *Companion Animals Act 1998 (NSW)*
- 8) Access to Information Guidelines for Local Government
- 9) Code of Conduct

CONTROLLED DOCUMENT INFORMATION:

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RM8 container No	PSC2009-09420	RM8 record No	*****
Audience	Port Stephens community and Council employees		
Process owner	Governance Manager		
Author	Governance Manager		
Review timeframe	Two years	Next review date	April 2018
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	16 September 1997	Governance Manager	Original policy adopted by Council.	1282
2	19 October 2004	Governance Manager	Adopted by Council.	375
3	28 March 2006	Governance Manager	Adopted by Council.	462
4	13 July 2010	Governance Manager	Adopted by Council.	208
5	11 February 2014	Governance Manager	Adopted by Council.	016

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6		Governance Manager	Policy formatted into new template. Changes made to legislation references and definitions added. Also included the guidelines.	
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**APPENDIX 1****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 2009* (NSW) ('GIPA Act') free of charge but a reasonable photocopying fee may be payable under the GIPA 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 – Council's Fees and Charges are available from the Council website or by contacting Council on 4980 0255.

There is a right of access under the GIPA Act to certain documents held by Council unless there is an overriding public interest not to do so. Any applications under the GIPA Act 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 GIPA Act 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 *Privacy and Personal Information Protection Act 1998* (NSW) ('PPIPA') and the *Health Records and Information Privacy Act 2002* (NSW) ('HRIPA'), 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 GIPA Act. 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* (NSW) Council is required to give an access direction (whether the records are open or closed) for all Council's records

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that are at least thirty (30) years old in what is described as the "open access period". Under the *Environmental Planning and Assessment Act 1979* (NSW) and *Environmental Planning and Assessment Regulations 2000* (NSW) there is a right to access Development Application registers and documents held by Council subject to restrictions set out in section 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 to 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 Building. 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 1993* (NSW) ('LGA')
- Council's adopted Code of Conduct
- Code of Meeting Practice
- Annual Report
- Annual Financial Reports

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- Auditor's Report
- Integrated Plans – comprises of the Community Strategic Plan, Delivery Program, Operational Plan, Workforce Strategy, Long Term Financial Plan and the Asset 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)
- Office 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, ie:

- Home Warranty Insurance documents
- Construction Certificates
- Occupation Certificates
- Structural Certification Documents
- Town Planner Reports
- Submissions received on Development Applications – subject to the provision of the *Privacy and Personal Information Protection Act 1998* (NSW)

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- 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* (NSW)
 - 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

It should be noted that there is other legislation that can apply to the release of Council records such as, but not limited to, the *Privacy and Personal Information Protection Act 1998* (NSW) and *Copyright Act 1968* (Cth). Council's Right to Know officers will consider all relevant legislation applicable to any request for information.

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 consent of copyright owners 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.

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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 request, 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:

Policy

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ITEM 10 - ATTACHMENT 1 REVISED ACCESS TO INFORMATION POLICY AND GUIDELINES.

Policy



- 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 the GIPA Act 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 the GIPA Act, 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 requests 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:
 - is *open access*, or *mandatory release* information that is readily available and where and how to get the information;
 - should be made available as part of a *proactive release* of information;
 - can be disclosed through an *informal release*, for example where no third party personal information is involved;

Policy

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- 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 the GIPA Act, Council may require the completion of an 'Informal Access Request Form'. No fee is required on application.

To make a formal application for access to information under the GIPA Act, the 'Formal Access Application 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.

6. Rights of Review and Appeal

Where a member of the public is refused access under a formal application under the 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 application 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.

Policy

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- 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 NSW Civil and Administrative Tribunal (NCAT)**. 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 have not 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 requests, but the applicant may make a formal application at any time.

Policy

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ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY
AND GUIDELINES.

Port Stephens
C·O·U·N·C·I·L

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
Amended: 11/02/2014
Minute No: 016

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.

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

ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY AND GUIDELINES.

- 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

**ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY
AND GUIDELINES.**

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

PROCESS OWNER

Executive Officer

REVIEW DATE

11/02/2016

ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY AND GUIDELINES.**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 GIPAA 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).

ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY AND GUIDELINES.**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)

ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY AND GUIDELINES.

- 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

ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY AND GUIDELINES.

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

ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY AND GUIDELINES.

- 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.

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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:
 - is *open access*, or *mandatory release* information that is readily available and where and how to get the information.

ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY AND GUIDELINES.

- should be made available as part of a *proactive release* of information.
- can be disclosed through an *informal release*, for example where no third party personal information is involved.
- 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.

**ITEM 10 - ATTACHMENT 2 CURRENT ACCESS TO INFORMATION POLICY
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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 NSW Civil and Administrative Tribunal (NCAT)**. 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. 11

**FILE NO: 16/340551
RM8 REF NO: PSC2007-3003**

POLICY REVIEW - REQUESTS FOR ASSISTANCE - LEGAL COSTS

REPORT OF: TONY WICKHAM - GOVERNANCE MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Requests for Assistance – Legal Costs policy shown at **(ATTACHMENT 1)**.
 - 2) Place the Requests for Assistance – Legal Costs policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
 - 3) Revoke the Requests for Assistance – Legal Costs policy dated 27 November 2001, Minute no. 492 **(ATTACHMENT 2)**, should no submissions be received.
-

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Steve Tucker Councillor Sally Dover That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

163	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved Council: <ol style="list-style-type: none">1) Endorse the revised Requests for Assistance – Legal Costs policy shown at (ATTACHMENT 1).2) Place the Requests for Assistance – Legal Costs policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.3) Revoke the Requests for Assistance – Legal Costs policy dated 27 November 2001, Minute no. 492 (ATTACHMENT 2), should no submissions be received.
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BACKGROUND

The purpose of this report is to provide Council with the revised Requests for Assistance – Legal Costs Policy ('Policy'). The Policy has been reviewed as part of Council's ongoing policy review program.

The Policy outlines the process for putting these requests to Council for consideration where staff recommend such requests be supported, and to provide Councillors with the opportunity to consider recommendations by staff not to support a request.

It has been amended primarily to fit with the current policy template and following adoption by LGNSW of minor revisions to its policy and guidelines on the same matter.

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

Any assistance provided in accordance with Council resolution is paid from the legal services budget.

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

As part of good governance, this Policy will enable Council to assist other Councils faced with substantial legal costs to defend their reasonable decisions, where the issues arising from and/or outcomes of such legal proceedings directly benefit the Port Stephens Local Government Area.

MINUTES ORDINARY COUNCIL - 14 JUNE 2016

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that lack of an appropriate framework for dealing with these requests will lead to inequitable decisions being made concerning requests from other Councils for assistance with legal costs.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Open and transparent consideration of requests for assistance helps to ensure Council financial resources are applied to such requests in an equitable and consistent manner.

MERGER PROPOSAL IMPLICATIONS

There are no implications associated with the recommendation.

CONSULTATION

Consultation with key stakeholders has been undertaken by the General Manager's Office Section.

The *Local Government Act 1993* requires Council to conduct public consultation on policies prior to adoption.

Internal

- The Executive Team has been consulted to seek management endorsement.
- The General Manager has been consulted to seek endorsement prior to Council consideration.

External

- Following Council resolution, the policy will be placed on public exhibition in the Port Stephens Examiner and on Council's website.

In accordance with local government legislation the draft Requests for Assistance – Legal Costs Policy will go on public exhibition from 23 June 2016 to 21 July 2016 for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Request for Assistance - Legal Costs.
- 2) Current Request for Assistance - Legal Costs.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 11 - ATTACHMENT 1 REVISED REQUEST FOR ASSISTANCE - LEGAL COSTS.**Policy****FILE NO:** PSC2007-3003**TITLE:** REQUESTS FOR ASSISTANCE – LEGAL COSTS**POLICY OWNER:** MANAGER LEGAL SERVICES**PURPOSE:**

To assist Councils faced with substantial legal costs to defend their reasonable decisions, where the issues arising from and/or outcomes of such legal proceedings directly benefit the Port Stephens Local Government Area.

CONTEXT/BACKGROUND:

From time to time, Local Government NSW (LGNSW) requests that Councils support other NSW Councils by providing financial assistance to help off-set costs incurred in relation to legal proceedings in which they have been involved. This policy outlines the process for putting these requests to Council for consideration where staff recommend such requests be supported, and to provide Councillors with the opportunity to consider recommendations by staff not to support a request.

SCOPE:

It is through the adoption and use of policies that Council can aim to deal with matters consistently, particularly where such matters involve the use of Council funds to assist another Council or organisation outside the Port Stephens Local Government Area.

Under s356 of the Local Government Act 1993 (financial assistance to others), Council must approve any financial contributions to assist other Councils with legal costs.

DEFINITIONS:

An outline of the key definitions of terms included in the policy.

Executive Team Port Stephens Council management team comprising General Manager and Group Managers

Financial Assistance Percentage contribution of costs incurred in legal proceedings as determined by LGNSW

LGNSW Local Government NSW

Policy

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ITEM 11 - ATTACHMENT 1 REVISED REQUEST FOR ASSISTANCE - LEGAL COSTS.**Policy****POLICY STATEMENT:**

1. Requests from LGNSW for financial assistance with legal costs incurred by other NSW Councils will only be granted by Council if the issues arising from and/or outcomes of legal proceedings involving those Councils directly benefit the Port Stephens Local Government Area.
2. Council officers will assess such requests to gauge their relevance to Council and provide recommendation as to whether or not each request should be met.
3. Where Council officers recommend financial assistance be provided, a report will be submitted to Council for its consideration.
4. Where Council officers recommend against providing financial assistance, a report will be submitted to the General Manager to be dealt with under delegated authority and in consultation with the Executive Team.
5. The General Manager will advise Councillors of his intention to refuse a request. At the request of any Councillor the General Manager will submit a report to Council for consideration and decision.

POLICY RESPONSIBILITIES:

Manager Legal Services, General Manager and Executive Team are responsible for the implementation of this policy in conjunction with other Council officers as appropriate.

RELATED DOCUMENTS:

"Policy and Guidelines – Requests for Assistance with Legal Costs" (LGNSW)

CONTROLLED DOCUMENT INFORMATION:

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RM8 container No	PSC2007-3003	RM8 record No	
Audience	Port Stephens Community		
Process owner	Manager Legal Services		



ITEM 11 - ATTACHMENT 1 REVISED REQUEST FOR ASSISTANCE - LEGAL COSTS.

Policy



Author	Manager Legal Services		
Review timeframe	Two years	Next review date	
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	9/7/1996	Assistant General Manager	Foundation of policy put in place when Council first requested by LGNSW to contribute to legal costs incurred by another Council	364
1.1	1/4/1997	Corporate Development Officer	Amended policy to screen all requests for assistance	945
2.0	27/11/2001	Legal Officer	Amended policy to streamline the process for consideration of requests for assistance	492
3.0		Manager Legal Services	Revision of Policy and incorporation into new styling format	



ITEM 11 - ATTACHMENT 2 CURRENT REQUEST FOR ASSISTANCE - LEGAL COSTS.

Port Stephens
C·O·U·N·C·I·L
POLICY

Adopted: 9 July 1996
Minute No: 364
Confirmed: 1 April 1997
Minute No: 945
Amended: 27 November 2001
Minute No: 492

FILE NO: 1406-001

TITLE: REQUESTS FOR ASSISTANCE – LEGAL COSTS

BACKGROUND

From time to time, the Local Government and Shires Associations of NSW (LGSA) requests that Councils assist other NSW Councils by providing financial assistance to help off-set costs incurred in relation to legal proceedings in which they have been involved. On 9 July 1996, Council adopted a policy containing a criterion to assist in determining whether or not Council should support such requests for assistance. Council confirmed this policy at its 1 April 1997 meeting. Under the policy, all such requests were submitted to Council for its consideration, whether or not the recommendation to Council was to meet the request.

The amended policy streamlines the process, by making it necessary for Council only to consider requests which staff recommend should be supported.

OBJECTIVE

To assist Councils faced with substantial legal costs to defend their reasonable decisions, where the issues arising from and/or outcomes of such legal proceedings directly benefit the Port Stephens Local Government Area.

PRINCIPLES

It is through the adoption and use of policies that Council can aim to deal with matters consistently, particularly where such matters involve the use of Council funds to assist another Council or organisation outside the Port Stephens Local Government Area.

Under s 356 of the Local Government Act 1993 (financial assistance to others), Council must approve any financial contributions to assist other Councils with legal costs.

POLICY STATEMENT

ITEM 11 - ATTACHMENT 2 CURRENT REQUEST FOR ASSISTANCE - LEGAL COSTS.

1. Requests from the LGSA for financial assistance with legal costs incurred by other NSW Councils will only be granted by Council if the issues arising from and/or outcomes of legal proceedings involving those Councils directly benefit the Port Stephens Local Government Area.
2. Council officers will assess such requests to gauge their relevance to Council and provide recommendation as to whether or not each request should be met.
3. Where Council officers recommend financial assistance be provided, a report will be submitted to Council for its consideration.
4. Where Council officers recommend against providing financial assistance, a report will be submitted to the General Manager to be dealt with under delegated authority and in consultation with the Executive Group.
5. The General Manager will advise Councillors of his intention to refuse a request. At the request of any Councillor the General Manager will submit a report to Council for consideration and decision.

RELATED POLICIES

Requests for Contribution of Monies or to Grant Financial Assistance

REVIEW DATE

The policy should be reviewed in November 2003.

RELEVANT LEGISLATIVE PROVISIONS

S356, *Local Government Act 1993*

IMPLEMENTATION RESPONSIBILITY

The Legal Officer, General Manager and Executive Group are responsible for the implementation of this policy in conjunction with other Council officers as appropriate.

MINUTES ORDINARY COUNCIL - 14 JUNE 2016

ITEM NO. 12

FILE NO: 16/343492
RM8 REF NO: PSC2015-00004

NATIONAL GENERAL ASSEMBLY - 19-22 JUNE 2016 - CANBERRA

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the attendance of Mayor Bruce MacKenzie at the National General Assembly of Local Government (NGA) Conference to be held from Sunday 19 June – Wednesday 22 June 2016 at the National Convention Centre, Canberra.
 - 2) Allow a 'one-off' increase of the conference allowance under the Policy for Mayor Bruce MacKenzie to attend the conference.
-

ORDINARY COUNCIL MEETING - 14 JUNE 2016 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Ken Jordan Councillor Steve Tucker That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 14 JUNE 2016 MOTION

164	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Endorse the attendance of Mayor Bruce MacKenzie at the National General Assembly of Local Government (NGA) Conference to be held from Sunday 19 June – Wednesday 22 June 2016 at the National Convention Centre, Canberra.2) Allow a 'one-off' increase of the conference allowance under the Policy for Mayor Bruce MacKenzie to attend the conference.
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BACKGROUND

The purpose of this report is to inform Council of the National General Assembly of Local Government (NGA) Conference to be held from Sunday 19 June – Wednesday 22 June 2016 at the National Convention Centre, Canberra.

At the Ordinary Council meeting of 12 April 2016 it was resolved that Council endorse the following proposed Notice of Motion to be put forward at the National Assembly of the Australian Local Government Association in June 2016 shown at **(ATTACHMENT 2)**.

The Conference Program is shown at **(ATTACHMENT 1)**.

The Conference is open to Mayors and General Managers.

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.

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	1,029	\$1,029 registration costs per person. Travel & accommodation will be additional to this cost.
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 per year under the Policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Port Stephens Council will not be represented on matters at the conference.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Ensuring the local government area is well represented in all matters at the conference will benefit the Port Stephens community. Information received will be disseminated to the appropriate members of the community and relevant Council staff.

MERGER PROPOSAL IMPLICATIONS

This will have no implications on the proposed merger.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

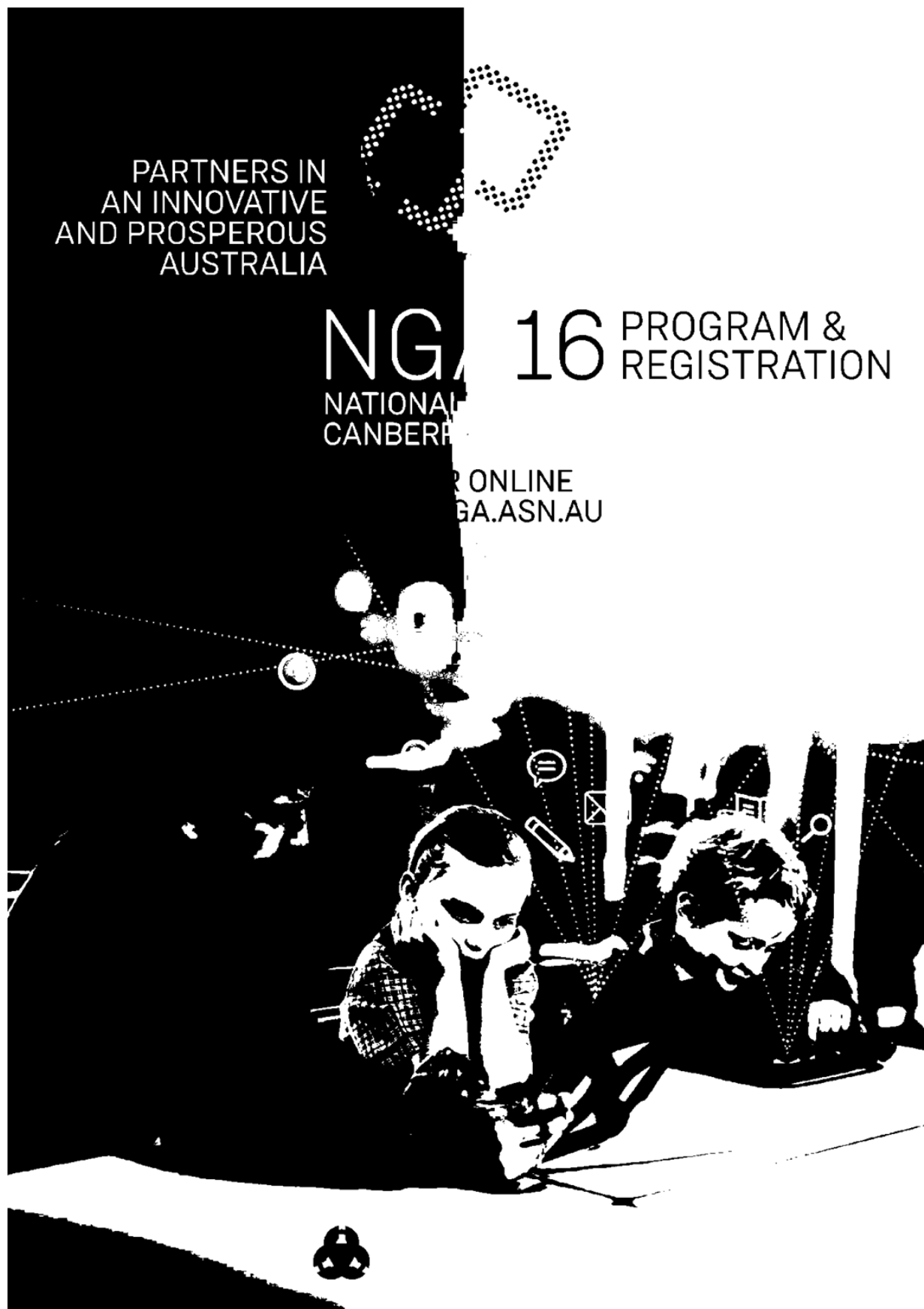
- 1) NGA Programme 2016
- 2) Ordinary Council Minutes from 12 April 2016 - Notice of Motion - National General Assembly of Local Government.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.





PRESIDENT'S WELCOME

Key drivers of success for the councils of the future will include the ability to innovate and adapt to change. Today's councillors must be open to new ideas, innovative ways of engaging citizens and making interactions with councils simpler, faster and easier.

Under the theme **Partners in an Innovative and Prosperous Australia**, delegates at this year's National General Assembly of Local Government (NGA) will look at the many ways local government is being innovative both here and overseas. As a responsive, pragmatic and dynamic level of government, councils innovate with technology, with their resources and in practical ways within their organisations and communities. Through the NGA, delegates will be able to learn from the ideas and experiences of other councils and gain valuable ideas for their own councils.

Our theme also underlines the contribution local government makes to national economic prosperity and productivity, a contribution which often goes unacknowledged. We have a significant role to play in fostering

and enhancing the prosperity of our communities. Nationally, local government:

- employs 189,000 Australians (around 10 per cent of the total public sector);
- owns and manages non-financial assets with a replacement value of \$437 million;
- raises around 3.4 per cent of Australia's total taxation revenue per annum; and
- has annual operational expenditure of around \$33 billion, or just under 6 per cent of total public sector spending.

Local government plays a significant role in the national economy and councils play critical roles in their local economies. I encourage you to attend the NGA, and to work with myself and the ALGA Board, as we explore opportunities to strengthen the contribution that local government makes.

With a Federal election due this year, the NGA offers an opportunity to elevate local government issues to the Federal level. In the lead up to this election, ALGA, in conjunction with State and Territory Associations, will undertake a significant

advocacy program to ensure that the promises made by the major political parties address the needs of our councils and our communities. The influence of local government is reflected in the ongoing high level political engagement the NGA receives, and this year will be no different. I have invited the Prime Minister, Leader of the Opposition, Leader of the Australian Greens, Minister for Local Government and Shadow Minister for Local Government to address the NGA and to give you the opportunity to hear directly from them in the lead up to the election.

The NGA program this year features a number of preeminent speakers who will share their views and encourage our thinking on the two key areas of our theme: innovation and prosperity. We have panel sessions that allow for interaction with these presenters and other thought leaders, as well as breakout sessions to give you the maximum opportunity to gain insights which you can take back to your council.

I invite you to join me and your colleagues at this year's NGA held from 19-22 June in Canberra.



Mayor Troy Pickard
PRESIDENT

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ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016



16

PROVISIONAL PROGRAM
PARTNERS IN AN INNOVATIVE
AND PROSPEROUS AUSTRALIA

SUNDAY 19 JUNE	TUESDAY 21 JUNE	WEDNESDAY 22 JUNE
5.00-7.00pm Welcome Reception	9.00 am Minister for Major Projects, Territories and Local Government, the Hon Paul Fletcher MP (invited)	9.00 am Shadow Minister for Regional Development and Local Government, the Hon Julie Collins MP (invited)
MONDAY 20 JUNE	9.30 am KEYNOTE SPEAKER Pip Marlow , Managing Director, Microsoft	9.30 am Debate on Motions
9.00 am Opening Ceremony	10.00 am Speaker Q&A	10.30 am MORNING TEA
9.20 am Prime Minister, the Hon Malcolm Turnbull MP (invited)	10.30 am MORNING TEA	11.00 am PANEL SESSION Local Government's role in facilitating prosperity
10.00 am KEYNOTE SPEAKER George Megalogenis	11.00 am PANEL SESSION Digital transformation at the Local Government level	12.30 pm KEYNOTE SPEAKER Robert de Castella AO MBE
10.30 am MORNING TEA	12.30 pm LUNCH	1.00 pm LUNCH/CLOSE
11.00 am PANEL SESSION The future of Local Government	1.30 pm CONCURRENT SESSIONS	
12.30 pm LUNCH	<ul style="list-style-type: none"> New approaches to improve your business The infrastructure challenge Innovative approaches to the environment Northern Australia 	
1.30 pm PANEL SESSION Surfing the wave of disruption	3.00 pm AFTERNOON TEA	
2.30 pm Leader of the Australian Greens, Senator Dr Richard Di Natale	3.30 pm Leader of the Opposition, the Hon Bill Shorten MP (invited)	
3.00 pm AFTERNOON TEA	4.00 pm Debate on Motions	
3.30 pm Debate on Motions	5.30 pm CLOSE	
5.00 pm CLOSE		

SPONSORS



Australian Government
Department of Infrastructure
and Regional Development

3



TUESDAY 1.30-3.00PM

PANEL SESSIONS

MONDAY 11.00-12.30PM

The future of Local Government

As the role of local government continues to change, anticipating the challenges of the next 20 years and determining how councils are best placed to respond is critical. As the level of government closest to Australians, local government must continue to provide high quality services and respond to the myriad of challenges faced by local communities. External factors such as rate capping, amalgamation processes, reductions in grant funding and changing expectations of local government's role are placing increasing pressure on councils' ability to perform. However, it is often under these conditions that innovation thrives as councils look to deliver more with less. How are councils responding to these challenges?

MONDAY 1.30-2.30PM

Surfing the wave of Disruption

Traditional service delivery and business models are changing - recently we've seen the rapid growth of Airbnb and Uber which are challenging how the hotel and the taxi industries operate. The capacity for organisations to accommodate change is increasingly becoming an important determinant of their success. As the pace of change increases and the length of time strategic planning activities can cover reduces, councils are being forced to re-examine their planning processes, regulatory frameworks and their basic assumptions as well as their ability to respond to changes within the community.

TUESDAY 11.00-12.30PM

Digital transformation at the Local Government level

Local government has a long history of being an early-adopter of new technologies and of using its own resources to drive innovation based on local knowledge and expertise. Technology can improve collaboration between the public, private and the not-for-profit sectors to drive innovation, solve complex problems, and enhance community engagement. How can technology be used to transform council businesses and enable innovation in your community?

WEDNESDAY 11.00-12.30PM

Local Government's role in facilitating prosperity

Strong leadership and the ability to access social and economic capital are crucial preconditions for prosperity. Local government strives, wherever possible, to assist communities to enhance their capacity to respond to challenges and identify opportunities to build resilience and increase overall prosperity. Being able to grow social capital, support entrepreneurs and attract investment are fundamental to the growth in local and regional productivity. What strategies can councils employ to foster prosperity in their community and region?

New approaches to improve your business

Smart councils are required to use information and communication technologies to enhance quality services and infrastructure. The application of new information, data and knowledge generated through the application of new technologies will improve performance, interactivity with community and reduce costs. As our cities become smarter, councils need more careful consideration of three main areas: technologies; infrastructure and planning; and regulation and markets. In this session delegates will have the opportunity to explore the content covered in the Digital Transformation at the Local Government Level panel session and interact further with our highly experienced international colleagues from Boston.

The infrastructure challenge

Local government community infrastructure underpins and binds many communities. For many Australians, council managed facilities are where their club meets, their kids play and their families learn to swim. In addition to this it is well recognised that every journey starts and ends on a local road. In February Infrastructure Australia published the Australian Infrastructure Plan which sets out a blueprint for infrastructure development and priorities for the next 15 years. This session will provide the opportunity for delegates to explore the role of community infrastructure in supporting productivity, community development and in enhancing social cohesion. It will also examine the challenge we face in maintaining infrastructure at the local and national level.

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016**ASSOCIATED
EVENTS****Innovative approaches to the
environment**

Managing climate change and the environment are some of the most significant issues many councils are facing. Developing appropriate strategies to reduce emissions at a local government level will be critical if Australia is to meet the global commitments reached in Paris in 2015. Reduction of emissions from council and community activities, improved design of cities and towns, buildings and facilities, transport systems, and the management of water resources and municipal waste are important considerations in reducing carbon emissions. In this session delegates will have access to key leaders in the field to explore innovative approaches to addressing climate change and improving environmental management.

Northern Australia

Advancing sustainable economic outcomes for communities in Northern Australia through existing programs and services, knowledge sharing and new business development opportunities is important not only for Northern Australia but for all of Australia. The session will address some of the many issues regarding economic development and opportunity in Northern Australia. It will also draw on the recent report of the Council of Australian Government's investigation into issues of importance to Indigenous communities, especially land administration. The report, among other things, addresses how the Indigenous land administration systems could effectively support Indigenous land owners and native title holders to leverage their land assets for economic development. This session will provide delegates with the opportunity to discuss and explore key issues facing Northern Australian and Indigenous communities.

**Australian Local Government
Women's Association Breakfast****MONDAY 20 JUNE 2016**

7:30am-8:30am

The ALGWA National President is pleased to invite members, friends and colleagues to the 5th Annual Networking Breakfast as part of the National General Assembly.

The breakfast will be held in the Murray Room on Monday 20 June from 7:30-8:30 am.

Seating is strictly limited, so book early. More details on www.algwa.net.au

**Regional Capitals Australia
Networking Breakfast****WEDNESDAY 22 JUNE 2016**

7:00 am-8:45 am

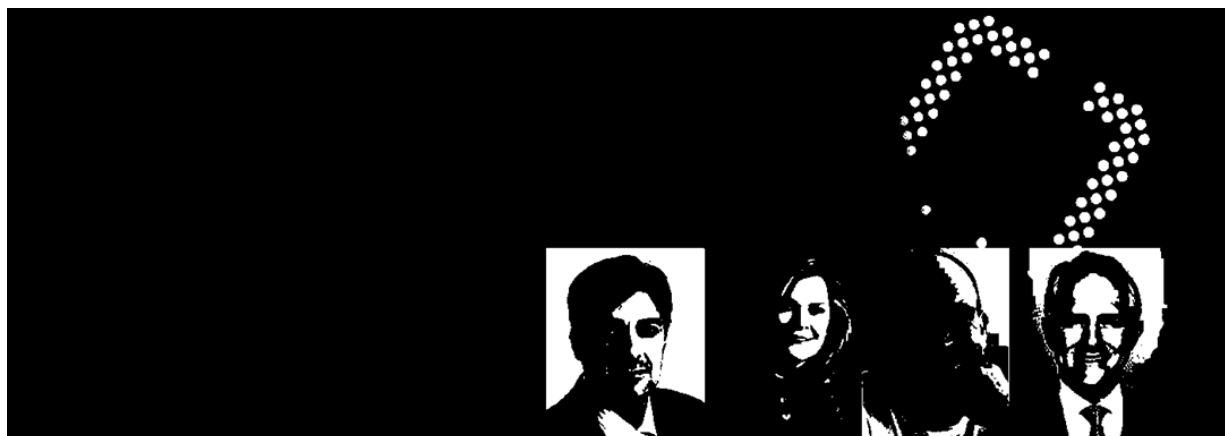
Regional Capitals Australia (RCA) is an alliance of local government associations and councils from around Australia. The alliance is working to create a strong network of regional capitals that are at the forefront of federal policy and the national identity.

RCA will be holding a networking breakfast on Wednesday 22 June at the National Convention Centre during the ALGA conference. RCA's annual networking breakfast is a chance for attendees to hear directly from government and engage with their regional capitals colleagues from across Australia.

To register for the event and for enquiries about RCA, please contact:
Email secretariat@regionalcapitalsaustralia.org
Phone (03) 9614 7307

Visit our website at www.regionalcapitalsaustralia.org

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016



George Megalogenis

George Megalogenis is an author and journalist with three decades' experience in the media. His books include *The Australian Moment*, which won the 2013 Prime Minister's Literary Award for Non-fiction and the 2012 Wakeley Award for Non-fiction, and formed the basis for the ABC documentary series *Making Australia Great*.

Annabel Crabb said "George Megalogenis is Australia's best explainer", David Marr posits "this man is perhaps the sanest journalist in Australia. He believes in facts and figures. He has a unique grasp of politics in all its messy detail. The result is this splendid account of the great reforms of the last 40 years that have made Australia".

George is also the author of *Fouillages*, *The Longest Decade* and *Quarterly Essay 40: Trivial Pursuit: Leadership and the End of the Reform Era*. His most recent book *Australia's Second Chance* was launched by Prime Minister Malcolm Turnbull.

This year George will publish *Quarterly Essay 61: Balancing Act: Australia Between Recession and Renewal*.

Pip Marlow

Managing Director, Microsoft Australia

As Managing Director, Pip Marlow is responsible for Microsoft's overall business in Australia. She ensures the company meets the needs of its customers and more than 11,000 partners and independent software vendors that sell or build on the Microsoft platform.

Pip began her 18-year career with Microsoft in 1995, working in the Australian Partner team on anti-piracy efforts, and the system builder channel and distribution strategy. She then moved

to Microsoft's head office in Seattle, US, where she held a succession of senior roles, including General Manager for US channel sales.

After eight years in the US, Pip returned to Microsoft Australia. She worked in various positions across the business, including as Director of Small and Medium Business Solutions, and Partners. Before being appointed Managing Director in January 2011, Pip held the joint role of Enterprise and Partner Group Director and Public Sector Director.

Robert de Castella AO MBE

Robert de Castella is recognised as one of Australia's greatest athletes after dominating the world in the gruelling event of the marathon. He was the first person to win the Commonwealth Games marathon twice and set the course record at the Boston Marathon.

Robert started running aged eleven at Xavier College in Melbourne, where one of his teachers was 1962 Commonwealth Games athlete Pat Clohessy. Pat continued as his coach throughout his career. Robert won the Canberra Pan Pacific Conference Games in 1977 over 10,000m and the 1978 Australian Cross-Country title. He finished 10th at the Moscow Olympics in 1980, then won Gold at the 1982 Commonwealth Games in a tight battle with Juma Ikangaa from Tanzania. He soon won the Rotterdam marathon and the IAAF World Championships in Holland but finished in fifth place in the 1984 Olympics. In the 1988 Olympics he finished fourth, then at the 1992 Olympics finished in 26th place.

Robert became Director of the Australian Institute of Sport from 1990 to 1995, and has since continued his advocacy and support for athletics and marathon running in particular. He was awarded the Australian Sports Medal in 2000.

The Hon Malcolm Turnbull MP Prime Minister

Malcolm Turnbull was sworn in as the 29th Prime Minister of Australia on 15 September 2015.

Malcolm was a Cabinet Minister in the Howard and Abbott Governments. He served as Minister for the Environment and Water Resources in the Howard Government and Minister for Communications in the Abbott Government.

Malcolm also served as Leader of the Opposition from 2008 to 2009.

Malcolm was educated at Vaucluse Public School and Sydney Grammar School. Malcolm's high school education at Sydney Grammar was assisted by a scholarship. In later life Malcolm arranged for an additional means-tested scholarship to be established at Sydney Grammar in memory of his late father. Malcolm graduated from Sydney University with a BA LLB. He won a Rhodes Scholarship and completed a further law degree at Oxford.

After a successful career in journalism Malcolm began practicing law in 1980. He quickly established a reputation as an effective advocate, most notably when he successfully defended former MI5 agent Peter Wright against the British Government in the "Spycatcher" trial.

Malcolm left law for business in 1987 where he has since been responsible for the establishment and success of many Australian businesses. In particular he has been a determined supporter of Australian technology. He co-founded OzEmail in 1994. His software companies have won many awards for exporting Australian technology.

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016



The Hon Bill Shorten MP

Leader of the Opposition

Bill Shorten is the Federal Member for Maribyrnong and was elected leader of the Australian Labor Party and Leader of the Opposition on 13 October 2013.

Mr Shorten completed a Bachelors degree in Arts and Law from Monash University, as well as an MBA from the Melbourne Business School.

Bill has since worked as a union organiser, union secretary, as a member of the ACTU executive, as a Member of Parliament and as a Minister in a Labor Government.

As a senior member of the Rudd/Gillard Labor Governments, Bill played a key role in securing a number of historic reforms including establishing the National Disability Insurance Scheme and increasing universal superannuation to 12 per cent.

As Minister for Workplace Relations, Bill continued the Labor Government's ongoing commitment to a fair and productive workplace relations system and during his time as Minister for Education helped secure the Better Schools reforms.

Prior to entering Parliament, Bill worked at the Australian Workers Union, holding key leadership positions including State Secretary of the AWU Victoria Branch from 1998 to 2006 and the National Secretary from 2001 to 2007.

Senator Dr Richard Di Natale

Leader of the Australian Greens

Dr Richard Di Natale is the leader of the Australian Greens. He was elected to the Federal Parliament in 2010 and is the Greens' first Victorian senator. His portfolios include health, multiculturalism, youth, gambling and sport.

Prior to entering parliament, Richard was a general practitioner and public health specialist. He worked in Aboriginal health in the Northern Territory, on HIV prevention in India and in the drug and alcohol sector. His key health priorities include preventative health, public dental care and responding to the health impacts of climate change.

Richard's achievements in parliament so far include securing almost \$5 billion towards Medicare-funded dentistry, winning a campaign to divest \$250 million worth of tobacco stocks from the Future Fund, and spearheading senate inquiries into many issues of public significance such as dying with dignity, superbugs, hospital funding, budget cuts, medicinal cannabis, air pollution, pharmaceutical transparency, sports science and gambling reform.

The Hon Paul Fletcher MP

Minister for Major Projects, Territories and Local Government

Paul Fletcher is the Minister for Territories, Local Government and Major Projects.

He entered parliament in December 2009 as the Member for Bradfield, was appointed Parliamentary Secretary to the Minister for Communications in September 2013, and was appointed to his present role in September 2015.

Before entering parliament, Paul was Director, Corporate and Regulatory Affairs at Optus for eight years; established a consulting firm serving the communications sector; and in 2009 his book about broadband, *Wired Brown Land* was published by UNSW Press.

Earlier in his career Paul was Chief of Staff to the Minister for Communications in the Howard Government, Senator Richard Alston.

He has dual first class honours degrees in law and economics from The University of Sydney and an MBA from Columbia University in New York where he was a Fulbright Scholar.

The Hon Julie Collins MP

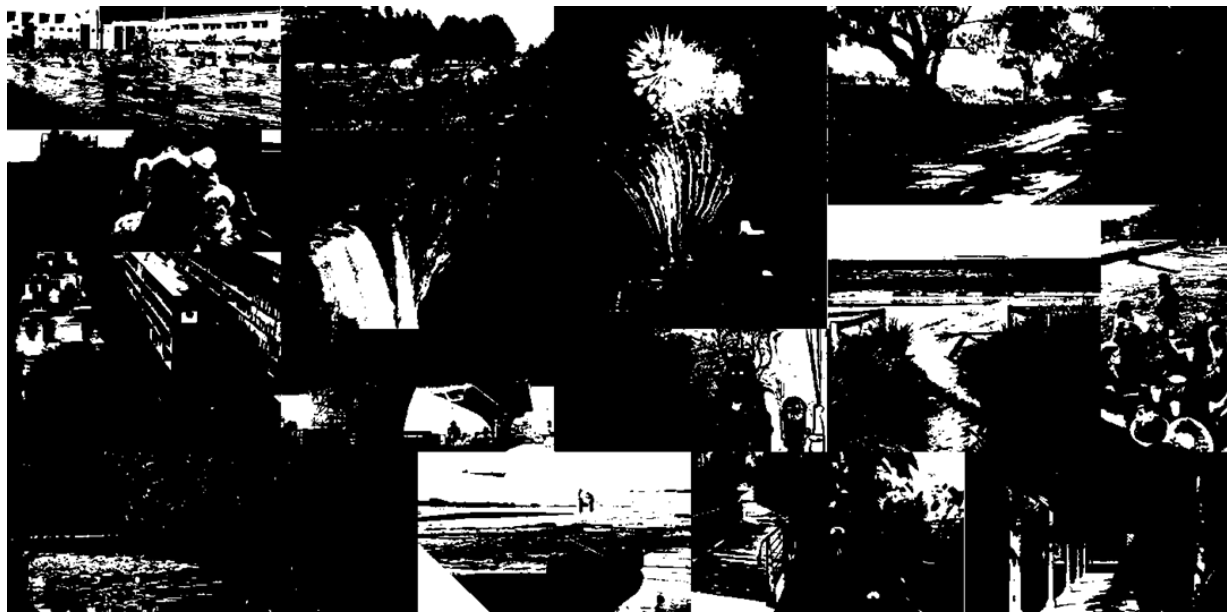
Shadow Minister for Regional Development and Local Government

Julie Collins was born in Hobart. She was State Secretary of the Tasmanian Labor Party between 2006 and 2007.

Ms Collins was first elected the Member for Franklin in 2007. She successfully held her seat in the 2010 federal election and was sworn in as Parliamentary Secretary for Community Services on 14 September 2010 in the first Gillard Ministry. In 2011, Ms Collins became Minister for Community Services, Minister for Indigenous Employment and Economic Development, and Minister for the Status of Women in the second Gillard Ministry. In 2013, she gained additional responsibilities as the Minister for Housing and Homelessness and promoted to the Cabinet in the second Rudd Ministry.

Ms Collins now serves as Shadow Minister for Regional Development and Local Government and Shadow Minister for Employment Services.

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016



Supporting a prosperous visitor economy

The 2016 Regional Forum is a vital opportunity for mayors, councillors and other decision-makers from regional councils to share their ideas, knowledge and experience and to work to further develop the capacity of regional Australia to adapt to the pressures of a rapidly changing global economy.

This year's State of the Regions Report investigates two critical yet interrelated issues relevant to all local governments around the country. One is the importance of ongoing financial commitment to local government through the Commonwealth Financial Assistance Grants and how the diverse investments by local government support the growing and increasingly important visitor economy.

The Forum will see the launch of the 2016-17 State of the Regions Report. The State of the Regions Report is commissioned by ALGA, prepared by National Economics and published with the support of Jardine Lloyd Thompson.

RCDF Program • SUNDAY 19 JUNE 2016

- 9:30 AM Welcome and Introduction: ALGA President, *Mayor Troy Pickard*
- 9:45 AM Keynote Address
- 10:15 AM Launch of the State of the Regions Report
- 10:45 AM **MORNING TEA**
- 11:15 AM Department of Infrastructure and Regional Australia - Policy and Programme Update
- 11:45 AM *The Hon Julie Collins MP* Shadow Minister for Regional Development and Local Government (invited)
- 12:15 PM Capacity Building Insights Project - Regional Australia Institute
- 12:45 PM **LUNCH**
- 1:30 PM Importance of Local Government - Australian Regional Tourism Network
- 2:00 PM Workshop Discussion: Leveraging the Visitor Economy - Challenges and Opportunities
- 2:45 PM **AFTERNOON TEA**
- 3:15 PM Panel Session: Tourism in my region
- 4:00 PM *The Hon Barnaby Joyce MP* Deputy Prime Minister and Minister for Agriculture and Water Resources (invited)
- 4:30 PM **CLOSE**

NGA 16

NATIONAL GENERAL ASSEMBLY
CANBERRA 19-22



MOTIONS FOR DEBATE

The NGA is your opportunity to contribute to the development of national local government policy.

The ALGA Board is calling for motions for the 2016 NGA under the theme Partners in an Innovative and Prosperous Australia. To assist Councils in preparing motions a Discussion Paper has been prepared and is available via www.alga.asn.au.

To be eligible for inclusion in the NGA Business Papers motions must follow the principles:

1. be relevant to the work of local government nationally;
2. be consistent with the themes of the Assembly;
3. complement or build on the policy objectives of your state and territory local government association;
4. propose a clear action and outcome; and
5. not be advanced on behalf of external third parties which may seek to use the NGA to apply pressure to Board members, to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.

Motions should be submitted electronically through the online form via www.alga.asn.au and should be received by ALGA no later than 11:59pm AEST, Friday 22 April 2016.

Motions submitted will be reviewed by a committee of the ALGA Board as well as by State and Territory Local Government Associations, to determine their eligibility for inclusion in the NGA Business Papers. When reviewing motions, the Committee considers the importance and relevance of the issue to local government.

Please note that motions should not be prescriptive in directing how the matter should be pursued. Any motion deemed to be primarily concerned with local or state issues will be referred to the relevant state/territory local government association, and will not be included in the Business Papers.

Motions that are agreed to at the National General Assembly become Resolutions. These Resolutions are then considered by the ALGA Board when setting national local government policy and when the Board is making representations to the Federal Government at Ministerial Councils, during meetings and in ALGA publications. The ALGA Board is not bound by any resolutions passed at the NGA.

VOTING PROCEDURES

Each council is entitled to one voting delegate in the debating session. Councils will need to determine who their voting delegate will be. Voting cards can be collected at the Assembly. Councils do not need to advise ALGA of the name of the voting delegate prior to collecting voting cards.



REGISTRATION DETAILS

General Assembly registration fees

EARLY BIRD REGISTRATION

🔗 **\$929**

Payment received by Friday 6 May 2016

STANDARD REGISTRATION

🔗 **\$1,029**

Payment received on or before Friday 3 June 2016

LATE REGISTRATION

🔗 **\$1,250**

Payment received on or after Friday 3 June 2016

General Assembly registration includes:

- Attendance at all General Assembly sessions
- Morning tea, lunch and afternoon tea as per the General Assembly program
- One ticket to the Welcome Drinks, Sunday
- General Assembly satchel and materials.

Day registration fees

MONDAY 20 JUNE 2016

🔗 **\$489**

TUESDAY 21 JUNE 2016

🔗 **\$489**

WEDNESDAY 22 JUNE 2016

🔗 **\$280**

Day registration includes:

- Attendance at all General Assembly sessions on the day of registration
- Morning tea, lunch and afternoon tea as per the General Assembly program on that day
- General Assembly satchel and materials.

Regional Development Forum

SUNDAY 19 JUNE 2016

FORUM ONLY

🔗 **\$425**

NGA DELEGATE

🔗 **\$225**

Accompanying partners registration fees

ACCOMPANYING PARTNERS
REGISTRATION FEE

🔗 **\$260**

Accompanying partners registration includes:

- 1 ticket to the Welcome Reception, Sunday 19 June
- Day tour Monday 20 June
- Day tour Tuesday 21 June
- Lunch with General Assembly delegates on Wednesday 22 June.

Payment procedures

Payment can be made by:

- Credit card – MasterCard, Visa
- Cheque made payable to ALGA
- Electronic funds transfer:
Bank: Commonwealth
Branch: Curtin BSB No: 062905
Account No: 10397760.

NOTE: If paying via EFT you must quote your transaction reference number on the registration form.

Cancellation policy

All alterations or cancellations to your registration must be made in writing and will be acknowledged by post, facsimile or email. Notification should be sent to:

Conference Co-ordinators
PO Box 4894, Chisholm ACT 2905
Fax (02) 3292 9002
Email conferences@confco.com.au

An administration charge of \$110 will be made to any participant cancelling before Friday 6 May 2016.

Cancellations received after Friday 6 May 2016 will be required to pay full registration fees. However, if you are unable to attend, substitutes are welcome at no additional cost.

By submitting your registration you agree to the terms of the cancellation policy.

Privacy disclosure

ALGA collects your personal contact information in its role as a peak body for local government. ALGA may disclose your personal contact information to the sponsors of the event for the purposes of commercial business opportunities. If you consent to ALGA using and disclosing your personal contact information in this way, please tick the appropriate box on the registration form. Importantly, your name may also be included in the General Assembly List of Participants. You must tick the appropriate box on the registration form if you wish your name to appear in this list.

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016



SOCIAL FUNCTIONS

Photographs

During the National General Assembly there will be a contracted photographer, the photographer will take images during the sessions and social functions. If you have your picture taken it is assumed that you are giving consent for ALGA to use the image.

Images may be used for print and electronic publications.

Welcome reception and exhibition opening

SUNDAY 19 JUNE 2016

National Convention Centre

5:00-7:00 pm

\$50 per person for day delegates and guests.

No charge for full registered delegates.

No charge for registered accompanying partners.

DRESS CODE Smart casual.

Buffet dinner

MONDAY 20 JUNE 2016

The Ballroom, National Convention Centre

7:00-11:00 pm

\$100 per person.

DRESS CODE Smart casual.

Coaches will depart Assembly hotels (except Crowne Plaza) at approximately 6:45 pm with return shuttles commencing from 10:15 pm.

General Assembly dinner

TUESDAY 21 JUNE 2016

The Great Hall, Parliament House

7:00-11:00 pm

\$130 per person.

DRESS CODE Lounge suit/collar and tie for men and cocktail style for women.

Tickets to the prestigious General Assembly Annual Dinner at Parliament House are always highly sought after. Due to the size of the Great Hall, places are limited and therefore booking early is highly recommended to ensure your place. Coaches will depart all Assembly hotels at approximately 6:45pm with return shuttles commencing from 10:15 pm.

Note: Bookings are accepted in order of receipt.

Canberra weather in June

Winter days in Canberra are characterised by clear sunny skies but the days are cool at around 12-15°C and temperatures do drop to 1°C on average in the evenings, so be sure to bring a warm jacket. Mornings can be foggy so keep this in mind when booking flights.

It is best to avoid early arrivals or departures in case of delays due to fog.

Venue and dress code

EXHIBITION OPENING AND WELCOME RECEPTION

VENUE National Convention Centre, Constitution Ave, Canberra City.

DRESS CODE Smart casual.

GENERAL ASSEMBLY BUSINESS SESSIONS

VENUE National Convention Centre, Constitution Ave, Canberra City.

All plenary sessions will be held in the Royal Theatre at the National Convention Centre.

DRESS CODE Smart casual.

EXHIBITION

VENUE National Convention Centre, Constitution Ave, Canberra City.

The exhibition is being held in the Exhibition Hall of the National Convention Centre.

DRESS CODE Smart casual.

BUFFET DINNER

VENUE The dinner is being held in the Ballroom at the National Convention Centre.

DRESS CODE Smart casual.

GENERAL ASSEMBLY DINNER

VENUE Parliament House.

The General Assembly Dinner is being held in the Great Hall.

DRESS CODE Lounge suit/collar and tie for men and cocktail style for women.



PARTNER TOURS

MONDAY 20 JUNE

Canberra Celebrates 2016

To commemorate the 50th anniversary of decimal currency in Australia we will visit the Royal Australian Mint. A guided tour will be offered and the opportunity to make your own \$1 coin.

A visit and lunch will be at Old Parliament House in anticipation of the upcoming Federal Election prior to visiting the National Portrait Gallery. At the Gallery guests will be able to see the 2016 National Photographic Portrait Prize Exhibit on which features a large range of talented Australian photography.

TUESDAY 21 JUNE

Canberra Truffle Farm

Canberra is celebrating its annual eight-week truffle festival. Today you will travel to The Canberra Truffle Farm and enjoy a truffle cleaning demonstration, a short walk through some of the farm areas (weather permitting) and a truffle tasting. Produce from the farm will be available for purchase prior to departing.

The group will then venture to Bungendore for lunch with time to visit the well known Bungendore Wood Works.

ACCOMMODATION

To book your accommodation at the rates listed below complete the appropriate section of the registration form. Bookings are subject to availability and should be made prior to Friday 6 May 2016. All cancellations or amendments must be made in writing to Conference Co-ordinators and will be acknowledged by email. Please note your credit card details are required to guarantee your room. Neither Conference Co-ordinators nor the hotel will make any charges against your credit card unless you fail to give 21 days notice in writing of your cancellation. Full payment of your account will be required at the time of your departure.

Note: All Canberra hotels have a complete non-smoking policy.

CROWNE PLAZA

1 Bincra Street, Canberra

The Crowne Plaza is adjacent to the Convention Centre and only a short walk from restaurants, bars and the main shopping district. Featuring a contemporary design, the Crowne Plaza provides guests with an outdoor pool, sauna, health/fitness centre, 24-hour reception, concierge, undercover parking and onsite dining at the Red Salt Restaurant. All rooms are non-smoking and include iron/ironing board, tea/coffee making facilities, hairdryer and room service is available.

Superior Room: **\$295** per night
single/twin/double

Deluxe Room: **\$345** per night
single/twin/double

AVENUE HOTEL

80 Northbourne Avenue, Canberra

A brand new property which recently opened in November 2014, the Avenue Hotel is Canberra's newest and only 5-star hotel in the CBD. The hotel has an onsite restaurant and bar, 24-hour reception and room service, gymnasium, undercover parking (charges apply per night) and guest lounge with free wifi. Offering hotel rooms, 1 and 2 bedroom apartments, all rooms have king size beds, rainfall showers, balconies and mini bar. The apartments also have full kitchen facilities, the Avenue is a 15-20 minute walk from the Convention Centre.

Hotel Room: **\$230** per night
single/twin/double

1 Bedroom Apartment: **\$280** per night
single/double

MANTRA

84 Northbourne Avenue, Canberra

Mantra on Northbourne is centrally located and approximately a 15-20 minute walk from the National Convention Centre. The hotel features a heated indoor pool, sauna, fully-equipped gymnasium and the Zipp restaurant bar onsite. All rooms offer voice mail, individually controlled air-conditioning, pay per view movies, mini bar, tea/coffee making facilities, hairdryer and complimentary toiletries. One and two bedroom apartments also offer a separate lounge and dining area, fully equipped kitchen and a laundry with washing machine, dryer, iron and ironing board.

Hotel Room: **\$219** per night
single/twin/double

1 Bedroom Apartment: **\$259** per night
single/twin/double

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016



**MEDINA APARTMENT HOTEL
JAMES COURT**

74 Northbourne Avenue, Canberra

The Medina Apartments Hotel James Court is approximately a 15-20 minute walk from the National Convention Centre and is close to cafes, restaurants, gyms and shopping. The hotel offers reception, undercover parking, outdoor heated swimming pool, sauna, gymnasium and a restaurant delivery service. All rooms feature private balconies, climate controlled air conditioning, separate lounge/dining areas, broadband access (for a fee), spa bath, mini bar, fully equipped kitchen facilities and an in-room safe.

Note: Reception operates between the hours of 6.30am and 11.30pm.

1 Bedroom Apartment: **\$210** per night
single/twin/double

2 Bedroom Apartment: **\$260** per night
single/twin/double

NOVOTEL

65 Northbourne Avenue, Canberra

Located on Northbourne Avenue, one of Canberra's main thoroughfares, the Novotel is a 15 minute walk from the National Convention Centre. The hotel offers 24-hour reception and room service, an onsite restaurant and bar, gymnasium and undercover parking (charges apply per night). In-room facilities include mini bar, tea/coffee making facilities, broadband (for a fee), Fox Sports and News, pay per view movies, climate control air conditioning, hairdryer, iron and ironing board. Executive rooms have a king size bed.

Standard Room: **\$265** per night
single/twin/double

Executive Room: **\$295** per night
single/twin/double

PEPPERS GALLERY HOTEL

15 Edinburgh Place, Canberra

Peppers Gallery Hotel (formally D'Amant Hotel, re-branded in 2014) is a boutique 80 room hotel located at the intersection of Marcus Clarke St and Edinburgh Ave, 15 minutes walk from the Convention Centre. Peppers Gallery Hotel features 24-hour reception, a restaurant and a bar. The rooms have a mini-bar, tea/coffee making facilities, plasma TVs, CD and DVD players, broadband (for a fee), and in-room safe.

Standard Room: **\$264** per night
single/twin/double

QT HOTEL

1 London Circuit, Canberra

Qt Hotel Canberra (formally Rydges Lakeside) has recently been renovated throughout the foyer and restaurants. The rooms have been updated and offer balconies and high speed internet (for a fee), pay per view movies, mini bar, hairdryer, iron and ironing board. The hotel is a 15 minute walk to the National Convention Centre and has 24-hour reception, room service, onsite restaurant and bar.

Standard Room: **\$249** per night
single/twin/double

WALDORF

2 Akuna Street, Canberra

Located in the heart of Canberra's CBD, the Waldorf is only a couple minutes walk from the National Convention Centre. This hotel has 24-hour reception and provides guests with a gymnasium, indoor heated lap pool and onsite dining at the Waldorf London Restaurant.

All rooms have kitchen and laundry facilities, in room safe, dining table and chairs, complimentary cable TV, pay per view movies, high speed internet service (for a fee) and room service is available. One bedroom apartments also offer a separate lounge/dining area.

Studio Room: **\$200** per night
single/twin/double

1 Bedroom Apartment: **\$220** per night
single twin/double

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016



**COACH
TRANSFERS**

**Welcome Reception and
Exhibition Opening**

SUNDAY 19 JUNE 2016

Coaches will collect delegates from all General Assembly hotels (except Crowne Plaza Canberra) at approximately 4.45 pm. The return coaches will depart at 7.00 am.

**Daily Shuttles to and from the
National Convention Centre**

A shuttle service between all General Assembly hotels (except Crowne Plaza Canberra) and the National Convention Centre will operate between 8.00 am and 8.30 am. Return shuttles will depart the National Convention Centre at 5.00 pm.

**Buffet Dinner National
Convention Centre**

MONDAY 20 JUNE 2016

Coaches will collect delegates from all General Assembly hotels (except Crowne Plaza Canberra) at approximately 6.45 pm. A return shuttle service will commence at 10.15 pm.

**General Assembly Annual
Dinner Parliament House**

TUESDAY 21 JUNE 2016

Coaches will collect delegates from all General Assembly hotels (including Crowne Plaza Canberra) at approximately 6.45 pm. A return shuttle service will operate between 10.15 pm and 11.15 pm.

**CAR
PARKING**

Parking for delegates is available underneath the National Convention Centre for a cost of approximately \$18.00 per day. Alternative parking is available to the rear of Civic Pool at a cost of approximately \$14.90 per day. It is a seven minute walk from this location.

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016

REGISTRATION FORM

REGISTER ONLINE
WWW.ALGA.ASN.AU

Multiple delegates > photocopy form
Register online, download PDF or return
this form to:

Conference Co-ordinators
PO Box 4994 Chisholm ACT 2905
Phone (02) 6292 9000 Fax (02) 6292 9002
Email nga@alga.com.au

By submitting your registration you agree to the
terms and conditions of the cancellation policy

NGA16 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT 19-22 JUNE 2016
Australian Local Government Association AEN 31 008 613 876

PERSONAL DETAILS

TITLE <small>(Mr/Ms/Mr/Ms/Mr/Ms)</small>	NAME	SURNAME
POSITION		
COUNCIL/ORGANISATION		
ADDRESS		
SUBURB	STATE	POSTCODE
PHONE	MOBILE	FAX
EMAIL		
NAME FOR BADGE		

How did you find out about the General Assembly? ☐ ALGA ☐ State/Territory Association ☐ Council Other: _____

PRIVACY ☐ I do consent to my name appearing in the 2016 General Assembly List of Participants booklet (name, organisation and state only disclosed), as outlined in the privacy disclosure on page 10.
DISCLOSURE ☐ I do consent to ALGA disclosing my personal contact information as outlined in the privacy disclosure on page 10.

REGISTRATION FEES

GENERAL ASSEMBLY REGISTRATION FEES

Please note registration does NOT include attendance at the Regional Co-operation and Development Forum.

EARLY BIRD REGISTRATION FEES (payment received on or before 6 May 2016) ☐ \$929.00
STANDARD REGISTRATION FEES (payment received on or before 3 June 2016) ☐ \$1,029.00
LATE REGISTRATION FEES (payment received after 3 June 2016) ☐ \$1,250.00
DAY REGISTRATION FEES ☐ Monday 20 June \$489.00 ☐ Tuesday 21 June \$489.00 ☐ Wednesday 22 June \$280.00

REGIONAL CO-OPERATION AND DEVELOPMENT FORUM REGISTRATION FEES

REGIONAL DEVELOPMENT FORUM ONLY Registration fee ☐ \$425.00
GENERAL ASSEMBLY DELEGATE Registration fee ☐ \$225.00
STATE OF THE REGIONS REPORT 2016-17 (Single licence) ☐ \$240.00
STATE OF THE REGIONS REPORT 2016-17 (Organisational licence) ☐ \$700.00

ACCOMPANYING PARTNERS REGISTRATION FEES

REGISTERED ACCOMPANYING PARTNER Name for label badge: _____ ☐ \$260.00

SOCIAL FUNCTIONS INCLUDED IN FEES

One ticket to each of the following functions is included in the full General Assembly registration and/or accompanying partners registration fee. Please confirm if you will be attending by placing a tick in the appropriate boxes. To purchase additional tickets to any of the following functions please indicate the number required and complete the total amount payable.

REGISTERED DELEGATES AND PARTNERS

WELCOME RECEPTION AND EXHIBITION OPENING (SUNDAY 19 JUNE 2016)

I/we will attend: ☐ Delegate ☐ Partner Number of additional tickets _____ @ \$50.00 each Total \$ _____

REGISTERED PARTNERS

Day 1 - Canberra Celebrates 2016 (Monday 20 June 2016)

☐ I will attend: ☐ Partner Number of additional tickets _____ @ \$110.00 each Total \$ _____

Day 2 - Canberra Truffle Farm (Tuesday 21 June 2016)

☐ I will attend: ☐ Partner Number of additional tickets _____ @ \$110.00 each Total \$ _____

Registration form continues over the page 15

MINUTES ORDINARY COUNCIL - 14 JUNE 2016

ITEM 12 - ATTACHMENT 1 NGA PROGRAMME 2016

NGA16 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT 19-22 JUNE 2016
Australian Local Government Association AEN 31 005 615 876

OPTIONAL SOCIAL FUNCTIONS

Tickets to these functions are not included in the General Assembly registration fee or accompanying partners registration fee. To purchase tickets to any of the following functions please indicate the number required and the total amount payable

BUFFET DINNER (Monday 20 June 2016) Number of tickets @ \$100.00 each. Total \$

GENERAL ASSEMBLY DINNER, Great Hall, Parliament House (Tuesday 21 June 2016) ****NUMBERS STRICTLY LIMITED****
Number of tickets @ \$130.00 each Total \$

SPECIAL REQUIREMENTS

(F & B DIETARY)

REGISTRATION AND SOCIAL FUNCTION PAYMENT DETAILS

☐ Enclosed is my cheque made payable to ALGA Conference Account

☐ I'm faxing my requirements, payment follows by mail

☐ I have paid via an Electronic Funds Transfer to the 'ALGA Conference Account'. Transaction reference number _____

ALGA ACCOUNT: Bank: Commonwealth BRANCH: Curtin BSB NO: 062905 ACCOUNT NO: 10397760

☐ Please charge my credit card: ☐ MasterCard ☐ Visa

CREDIT CARD NUMBER Grand total \$

CARD HOLDER'S NAME _____

SIGNATURE _____

EXPIRY DATE /

IS THIS A CORPORATE CARD? ☐ YES ☐ NO

ACCOMMODATION DETAILS

PLEASE indicate your preference from 1 to 5

CROWNE PLAZA

SUPERIOR ROOM \$295 ☐ SINGLE ☐ TWIN ☐ DOUBLE
DELUXE ROOM \$345 ☐ SINGLE ☐ TWIN ☐ DOUBLE

AVENUE HOTEL

HOTEL ROOM \$290 ☐ SINGLE ☐ TWIN ☐ DOUBLE
1 BEDROOM APARTMENT \$450 ☐ SINGLE ☐ TWIN ☐ DOUBLE

MANTRA

HOTEL ROOM \$219 ☐ SINGLE ☐ TWIN ☐ DOUBLE
1 BEDROOM APARTMENT \$259 ☐ SINGLE ☐ TWIN ☐ DOUBLE

MEDINA APARTMENT HOTEL CANBERRA JAMES COURT

1 BEDROOM APARTMENT \$215 ☐ SINGLE ☐ TWIN ☐ DOUBLE
2 BEDROOM APARTMENT \$260 ☐ SINGLE ☐ TWIN ☐ DOUBLE

NOVOTEL

STANDARD ROOM \$265 ☐ SINGLE ☐ TWIN ☐ DOUBLE
EXECUTIVE ROOM \$295 ☐ SINGLE ☐ TWIN ☐ DOUBLE

PEPPERS GALLERY HOTEL

STANDARD ROOM \$264 ☐ SINGLE ☐ DOUBLE

QT HOTEL

STANDARD ROOM \$249 ☐ SINGLE ☐ TWIN ☐ DOUBLE

WALDORF

STUDIO ROOM \$200 ☐ SINGLE ☐ TWIN ☐ DOUBLE
1 BEDROOM APARTMENT \$220 ☐ SINGLE ☐ TWIN ☐ DOUBLE

ACCOMMODATION GUARANTEE

Please note your credit card details are required to guarantee your room. Neither Conference Co-ordinators nor the hotel will make any charges against your credit card unless you fail to give a minimum of twenty one (21) days notice in writing of your cancellation. All cancellations will be acknowledged in writing by Conference Co-ordinators. Full payment of your account will be required at the time of your departure. The rates quoted are per room per night.

DATE OF ARRIVAL _____

DATE OF DEPARTURE _____

SHARING WITH _____

ESTIMATED TIME OF ARRIVAL _____

☐ I understand my credit card details are given as a guarantee of my arrival and to ensure my room will be held until my nominated arrival time. No charge for accommodation will be made against this card unless I fail to give a minimum of twenty one (21) days notice of cancellation in writing to Conference Co-ordinators.

☐ Please use the credit card details provided below to guarantee my accommodation booking

☐ Mastercard ☐ Visa ☐ Amex

CREDIT CARD NUMBER

CARD HOLDER'S NAME _____

SIGNATURE _____

EXPIRY DATE / IS THIS A CORPORATE CARD? ☐ YES ☐ NO

● RETURN FORM TO Conference Co-ordinators, PO Box 4994 Chisholm ACT 2905 Fax (02) 6292 9002 Email nga@confco.com.au

ITEM 12 - ATTACHMENT 2 ORDINARY COUNCIL MINUTES FROM 12 APRIL 2016 - NOTICE OF MOTION - NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT.

MINUTES ORDINARY COUNCIL - 12 APRIL 2016

ITEM NO. 8

**FILE NO: 16/296204
RM8 REF NO: PSC2015-01247**

NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT - NOTICE OF MOTION

**REPORT OF: GREGORY KABLE - CAPITAL WORKS SECTION MANAGER
GROUP: FACILITIES & SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- Endorse the following proposed Notice of Motion to be put forward at the National Assembly of the Australian Local Government Association in June 2016.

"NOTICE OF MOTION:

That the Commonwealth Government make the following changes to the Natural Disaster Relief and Recovery Arrangements:

- Review and revision of the limitation on cost recovery for restoration works, under which 'only additional council resources such as overtime and extra shifts and additional contracted services are eligible for reimbursement'.
This request is based on the additional and unnecessary cost to councils and the wider community brought about by the inability of councils to recover the cost of restoration works undertaken by councils using their day labour resources during ordinary hours of work. This approach does nothing but add cost to the recovery phase.
- The current closing date for the submission of claims for the recovery of costs of 'Emergency Works' needs to be more flexible. The current three week (21 day) limitation in most cases will not be appropriate and requires extension.
- Increased support and flexibility in respect to cooperation and assistance from the NSW Environment Protection Authority (EPA) in relation to the collection, storage, processing, re-use and disposal (as necessary) of waste from events.
While Council generally supports the approach that the EPA has in respect to management of waste in NSW, in times of major disasters, flexibility and support is needed to assist local communities in dealing with this major impost.
- Exemption from the NSW Waste Levy for the disposal of all material as a result of a natural disaster.
This cost has a considerable impact on local communities and requires review. Further, when there is a decision to exempt the levy there should also be more flexibility in the time period that this applies subsequent to an event.
- Increased funding for works in the planning and preparation phases of emergency management, so that required mitigation works can be planned and implemented.
It is shown through research and review undertaken by experts in the field of emergency management that this will provide substantial long term financial,

ITEM 12 - ATTACHMENT 2 ORDINARY COUNCIL MINUTES FROM 12 APRIL 2016 - NOTICE OF MOTION - NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT.**MINUTES ORDINARY COUNCIL - 12 APRIL 2016**

social and environmental benefits. The recently released Productivity Commission findings support a re-think by Governments on this issue.

**ORDINARY COUNCIL MEETING - 12 APRIL 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor Chris Doohan That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 12 APRIL 2016
MOTION**

086	Councillor Ken Jordan Councillor Chris Doohan It was resolved that Council endorse the following proposed Notice of Motion to be put forward at the National Assembly of the Australian Local Government Association in June 2016. "NOTICE OF MOTION: That the Commonwealth Government make the following changes to the Natural Disaster Relief and Recovery Arrangements: <ul style="list-style-type: none">• Review and revision of the limitation on cost recovery for restoration works, under which 'only additional council resources such as overtime and extra shifts and additional contracted services are eligible for reimbursement'. This request is based on the additional and unnecessary cost to councils and the wider community brought about by the inability of councils to recover the cost of restoration works undertaken by councils using their day labour resources during ordinary hours of work. This approach does nothing but add cost to the recovery phase.• The current closing date for the submission of claims for the recovery of costs of 'Emergency Works' needs to be more flexible. The current three week (21 day) limitation in most cases will not be appropriate and requires extension.• Increased support and flexibility in respect to cooperation and assistance from the NSW Environment Protection Authority (EPA) in relation to the collection, storage, processing, re-use and disposal (as necessary) of waste from events. While Council generally supports the approach that the EPA has in respect to management of waste in NSW, in times of major
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ITEM 12 - ATTACHMENT 2 ORDINARY COUNCIL MINUTES FROM 12 APRIL 2016 - NOTICE OF MOTION - NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT.**MINUTES ORDINARY COUNCIL - 12 APRIL 2016**

	<p>disasters, flexibility and support is needed to assist local communities in dealing with this major impost.</p> <ul style="list-style-type: none">• Exemption from the NSW Waste Levy for the disposal of all material as a result of a natural disaster. <p>This cost has a considerable impact on local communities and requires review. Further, when there is a decision to exempt the levy there should also be more flexibility in the time period that this applies subsequent to an event.</p> <ul style="list-style-type: none">• Increased funding for works in the planning and preparation phases of emergency management, so that required mitigation works can be planned and implemented. <p>It is shown through research and review undertaken by experts in the field of emergency management that this will provide substantial long term financial, social and environmental benefits. The recently released Productivity Commission findings support a re-think by Governments on this issue.</p>
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BACKGROUND

The purpose of this report is to recommend a Notice of Motion to be put on behalf of Council to the National General Assembly of Local Government in June 2016 and to enable Councillors to put forward and consider any additional Notices of Motion to be submitted to the Assembly.

The National General Assembly of Local Government is taking place in Canberra between 19-22 June 2016. This is a major event which typically attracts more than 700 Mayors, Councillors and Senior Officers from Councils across Australia. The Australian Local Government Association (ALGA) Board is calling for Motions for the Congress under this year's theme 'Partners in an Innovative and Prosperous Australia'.

To be eligible for inclusion in the Assembly business papers, motions must follow the principles set out by the ALGA Board namely:

- Be relevant to the work of local government nationally.
- Be consistent with the themes of the Assembly.
- Complement or build on the policy objectives of your state and territory local government association.
- Propose a clear action and outcome.
- Not be advanced on behalf of external third parties that may seek to use the National General Assembly to apply pressure to Board members or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of local government.

ITEM 12 - ATTACHMENT 2 ORDINARY COUNCIL MINUTES FROM 12 APRIL 2016 - NOTICE OF MOTION - NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT.**MINUTES ORDINARY COUNCIL - 12 APRIL 2016****COMMUNITY STRATEGIC PLAN**

Strategic Direction	Delivery Program 2013-2017
Port Stephens Council is recognised as a leading local government organisation across the State.	Strengthen Council's brand and reputation.

FINANCIAL/RESOURCE IMPLICATIONS

Nil.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications, risk implications are addressed in the table below.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the continuation of the current funding arrangement exposes Council to significant financial loss.	High	Council approve the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A continuation of the current natural disaster relief and recovery arrangements exposes Council to significant financial risk that could threaten its ongoing financial sustainability. Events such as the April 2015 storm have the capacity to alter Council's bottom line by more than 10% of budget which is well above estimated surplus projections in Council's long term financial plan.

ITEM 12 - ATTACHMENT 2 ORDINARY COUNCIL MINUTES FROM 12 APRIL 2016 - NOTICE OF MOTION - NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT.

MINUTES ORDINARY COUNCIL - 12 APRIL 2016

MERGER PROPOSAL IMPLICATIONS

The current natural disaster relief and recovery arrangements apply to all NSW Councils. The impact of changes to these arrangements would be beneficial to both Councils.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 13**FILE NO: 16/332006
RM8 REF NO: PSC2016-00178****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the *Local Government Act 1993* from the respective Mayor and Ward Funds to the following:-
 - a. Mayoral Funds - Karuah River Men's Shed – Donation towards maintenance including over water decking, insulation, security system and general repairs - \$8,000.
 - b. Mayoral Funds – PCYC – Donation towards new café for Nelson Bay - \$500.
 - c. East Ward Funds – St Philips Christian College – Donation towards costs associated with a workshop for Suicide Prevention for teachers - \$1,000.
 - d. East Ward Funds – Beachside Christian Fellowship – Donation towards costs associated with the community carol event 2016 - \$3,000.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor Sally Dover That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

165	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Approves provision of financial assistance under Section 356 of the <i>Local Government Act 1993</i> from the respective Mayor and Ward Funds to the following:-<ol style="list-style-type: none">a. Mayoral Funds - Karuah River Men's Shed – Donation towards maintenance including over water decking, insulation, security system and general repairs - \$8,000.
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MINUTES ORDINARY COUNCIL - 14 JUNE 2016

	b. Mayoral Funds – PCYC – Donation towards new café for Nelson Bay - \$500.
	c. East Ward Funds – St Philips Christian College – Donation towards costs associated with a workshop for Suicide Prevention for teachers - \$1,000.
	d. East Ward Funds – Beachside Christian Fellowship – Donation towards costs associated with the community carol event 2016 - \$3,000.

BACKGROUND

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 either to grant or to refuse any requests.

Council's 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 1993*. This would mean that the financial assistance would need to be included in the Operational 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:-

EAST WARD FUNDS – Cr Dover, Cr Morello, Cr Nell

St Philips Christian College	Donation towards costs associated with a workshop for Suicide Prevention for teachers.	\$1,000
Beachside Christian Fellowship	Donation towards costs associated with the community carol event 2016.	\$3,000

MINUTES ORDINARY COUNCIL - 14 JUNE 2016**MAYORAL FUNDS – Mayor MacKenzie**

Karuah River Men's Shed	Donation towards maintenance including over water decking, insulation, security system and general repairs.	\$8,000
PCYC	Donation towards new café for Nelson Bay	\$500

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	12,500	Within existing budget.
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	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

MERGER PROPOSAL IMPLICATIONS

There are no merger implications.

CONSULTATION

Consultation with key stakeholders has been undertaken by the General Managers Unit.

Consultation has been taken with the key stakeholders to ensure budget requirements are met and approval.

Internal

- 1) Mayor
- 2) Councillors

External

- 1) Port Stephens Community

OPTIONS

- 1) Accept 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.

MINUTES ORDINARY COUNCIL - 14 JUNE 2016**ITEM NO. 14****FILE NO: 16/342535
RM8 REF NO: PSC2015-00381****INFORMATION PAPERS****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 14 June 2016.

No:	Report Title	Page:
1	Port Stephens Council submission to Independent Pricing and Regulatory Tribunal Inquiry into Local Government Rating Systems	255
2	Suspension of Two Adopted Road Closure Recommendations	236
3	IPWEA (NSW) Roads And Transport Congress - June 2016 - Approval For Cr Le Mottee	271
4	LG Professionals Australia National Congress & Business Expo 2016 - Gold Coast	251

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Ken Jordan Councillor Chris Doohan That the recommendation be adopted.
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166	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council move out of Committee of the Whole.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

167	Mayor Bruce MacKenzie Councillor Chris Doohan It was resolved that Council receives and notes the Information Papers
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MINUTES ORDINARY COUNCIL - 14 JUNE 2016

listed below being presented to Council on 14 June 2016.

No: Report Title

- | | |
|---|--|
| 1 | Port Stephens Council submission to Independent Pricing and Regulatory Tribunal Inquiry into Local Government Rating Systems |
| 2 | Suspension of Two Adopted Road Closure Recommendations |
| 3 | IPWEA (NSW) Roads And Transport Congress - June 2016 - Approval For Cr Le Mottee |
| 4 | LG Professionals Australia National Congress & Business Expo 2016 - Gold Coast |

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 16/334812
RM8 REF NO: PSC2009-03166 &
PSC2010-03304**

SUSPENSION OF TWO ADOPTED ROAD CLOSURE RECOMMENDATIONS

REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

BACKGROUND

The purpose of this report is to advise Council that two (2) adopted recommendations for proposed Road Closures have been suspended until further notice. These recommendations are:

- 1) Proposed Road Closure - Peter Dron Street, Raymond Terrace dated 18 April 2006 (**ATTACHMENT 1**).
- 2) Road Closures - Part former Newline Road and unused part Kangaroo Street, Raymond Terrace dated 27 July 2010 (**ATTACHMENT 2**).

Recommendation 1) was for the part of Peter Dron Street between Kangaroo Street and Seaham Road. Following the closure, consolidation of all Council owned lands between Kangaroo Street, Seaham Road, Port Stephens Street and the Hunter River into one lot, to remain in use as the "Vi Barnett Fields".

Recommendation 2) was for the part of Kangaroo Street currently unconstructed adjacent the Hunter River in use as river foreshore and, that part of the former Newline Road currently in use as the "Jack Johnson Trotting Track". Following closure the current uses were to continue.

At present there are other community projects that require greater Council attention and funding. Resources are being directed to priority work namely, the extensive Capital Works projects and resolving flooding and drainage issues highlighted by the most recent storm events.

To leave the existing parcel boundaries unchanged will not impede the current uses or Council's function to carry out maintenance and management of the grounds and roads. Suspending these road closures and the consequent boundary amendments will enable these recommendations to be reactivated in the future as required. Any consolidation actions would result in the loss of multiple sewer and water connections and this may impact on future uses should community facility needs change.

The Asset Section Manager and the Senior Survey & Land Information Manager have requested that Property Services present this paper on their behalf.

MERGER PROPOSAL IMPLICATIONS

There are no implications to the merger proposals if these reports are suspended.

ATTACHMENTS

- 1) Minute dated 18 April 2006 (485) - Proposed Road Closure, Raymond Terrace.
- 2) Minute dated 27 July 2010 (223) - Road Closures Raymond Terrace.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 MINUTE DATED 18 APRIL 2006 (485) - PROPOSED ROAD CLOSURE, RAYMOND TERRACE.**MINUTES FOR ORDINARY MEETING – 18 APRIL 2006****ITEM NO. 3****FILE NO: PSC2006-0617****PROPOSED ROAD CLOSURE – PETER DRON STREET, RAYMOND TERRACE****AUTHOR: PRINCIPAL PROPERTY ADVISOR****RECOMMENDATION IS THAT COUNCIL:**

- 1) Consents to the road closure of the part of Peter Dron Street currently occupied by the Vi Barnett Sporting Fields between Kangaroo Street and Seaham Road at Raymond Terrace.
- 2) Make application to the Department of Lands for the closure to proceed under Section 34 Road Act 1993.
- 3) Lodges subdivision application with Council to separate the area from the remaining road as required by the Land and Property Information Office.
- 4) Upon closure reclassifies the area as Community Land to continue its current use as sports fields.
- 5) Following reclassification consolidates all of the land parcels owned by it between Kangaroo Street, Seaham Road, Port Stephens Street and the Hunter River which form the Vi Barnett Fields into one lot.
- 6) Grants authority to affix Council's Seal to the plan of consolidation for registration.

OPERATIONS COMMITTEE MEETING – 4 APRIL 2006**RECOMMENDATION:****That the recommendation be adopted.****ORDINARY MEETING – 18 APRIL 2006****RECOMMENDATION:**

485	Councillor Jordan Councillor Brown	It was resolved that the recommendation be adopted.
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ITEM 1 - ATTACHMENT 1 MINUTE DATED 18 APRIL 2006 (485) - PROPOSED ROAD CLOSURE, RAYMOND TERRACE.**COMBINED STRATEGIC/OPERATIONS COMMITTEES – 4 APRIL 2006****ITEM NO. 3****FILE NO: PSC2006-0617****PROPOSED ROAD CLOSURE – PETER DRON STREET, RAYMOND TERRACE****AUTHOR: PRINCIPAL PROPERTY ADVISOR****RECOMMENDATION IS THAT COUNCIL:**

- 1) Consents to the road closure of the part of Peter Dron Street currently occupied by the Vi Barnett Sporting Fields between Kangaroo Street and Seaham Road at Raymond Terrace.
- 2) Make application to the Department of Lands for the closure to proceed under Section 34 Road Act 1993.
- 3) Lodges subdivision application with Council to separate the area from the remaining road as required by the Land and Property Information Office.
- 4) Upon closure reclassifies the area as Community Land to continue its current use as sports fields.
- 5) Following reclassification consolidates all of the land parcels owned by it between Kangaroo Street, Seaham Road, Port Stephens Street and the Hunter River which form the Vi Barnett Fields into one lot.
- 6) Grants authority to affix Council's Seal to the plan of consolidation for registration.

BACKGROUND

The purpose of this report is to recommend the permanent closure of the Section of Peter Dron Street currently covered by the Vi Barnett Sporting Fields.

During Council's investigation into title deeds it became evident that part of the Vi Barnett Sporting Fields and part of the amenities block are constructed on a former road, which has not been closed. Therefore, Council has no title to this piece of land, even though its road status makes Council the authority for it under the Roads Act 1993. It is desirable for the road to be closed and a title issue in Council's name. **ATTACHMENT 1** shows the location of the road and **ATTACHMENT 2** indicates the boundaries of the road proposed to be closed.

The Department of Lands administers the process under the Roads Act and determines the final outcome of the application. That Department has indicated its support for the proposal. Once closed the new parcel automatically is classified as Operational under the Act, so it has to be reclassified as Community to protect its use for sporting purposes.

Once the title issues the Vi Barnett Fields will be comprised of some 28 separate parcels of both Old System and Torrens Title systems. To clarify any doubts over titles and to define the perimeter boundary of the fields it is recommended all the parcels be consolidated into one. **ATTACHMENT 3** indicates the proposed consolidated parcel.

LINKS TO CORPORATE PLANS

Linked to Council's Infrastructure and Asset Management Goal to ensure the sustainable management of assets which meet community needs.

ITEM 1 - ATTACHMENT 1 MINUTE DATED 18 APRIL 2006 (485) - PROPOSED ROAD CLOSURE, RAYMOND TERRACE.**COMBINED STRATEGIC/OPERATIONS COMMITTEES – 4 APRIL 2006****FINANCIAL/RESOURCE IMPLICATIONS**

Funds are available within the Road Acquisition and Closure budget to cover costs. There will be no fee payable for the land.

LEGAL AND POLICY IMPLICATIONS

The Roads Act 1993 controls all actions regarding the road closure, which need to be complied with. The Department of Lands is the final determining authority after all required advertising and notifications have taken place. The Local Government Act controls the reclassification process and the conveyancing and Real Property Acts administer the title and consolidation proposals.

Australian Business Excellence Framework

This aligns with the following Principles of the ABEF Framework.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 5) The potential of an organisation is realised through its people's enthusiasm, resourcefulness and participation
- 8) Effective use of facts, data and knowledge leads to improved decisions

SUSTAINABILITY IMPLICATIONS**SOCIAL IMPLICATIONS**

Nil, other than legally permitting the continued use of the land as sporting fields.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil.

CULTURAL IMPLICATIONS

Nil

CONSULTATION

Between Department of Lands, Councils Acting Sport and Recreation Manager, Principal Property Advisor and the RTA.

OPTIONS

- 1) Accept recommendations

**ITEM 1 - ATTACHMENT 1 MINUTE DATED 18 APRIL 2006 (485) - PROPOSED
ROAD CLOSURE, RAYMOND TERRACE.**

COMBINED STRATEGIC/OPERATIONS COMMITTEES – 4 APRIL 2006

- 2) Not close the section of road
- 3) Hold land as operational

ATTACHMENTS

- 1) Location Map
- 2) Area proposed to be closed
- 3) Consolidated parcel of Vi Barnett Fields

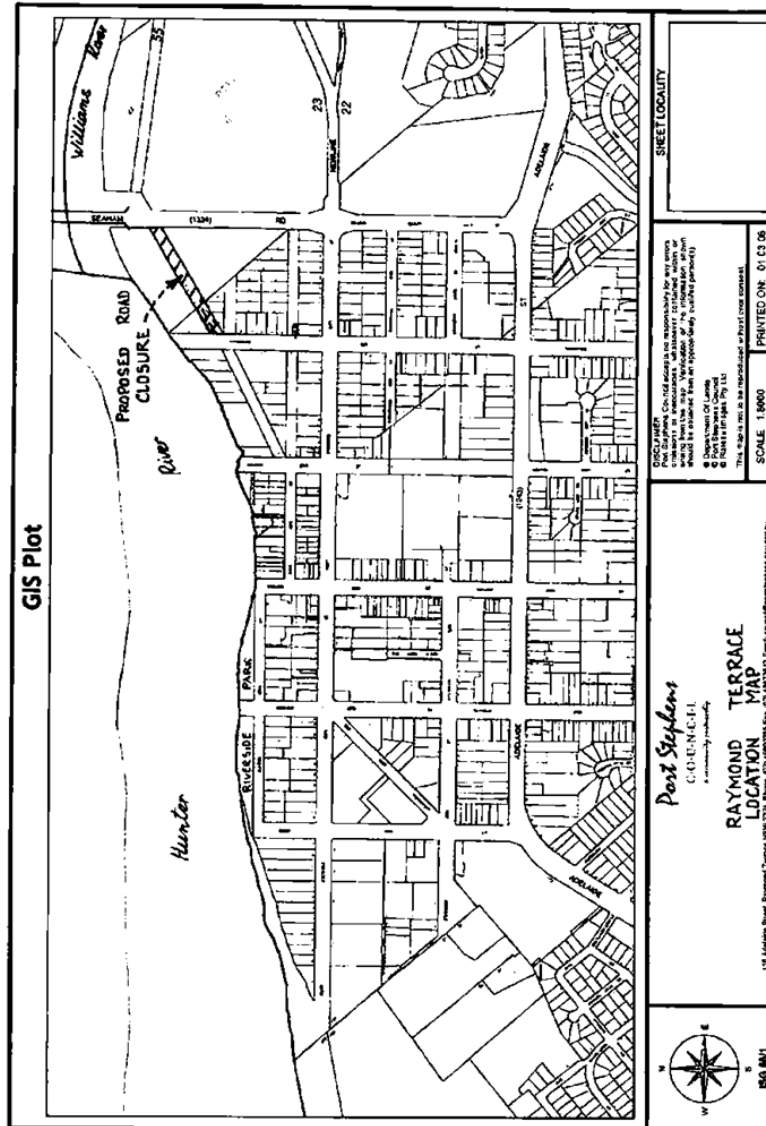
TABLED DOCUMENTS

- 1) Nil

ITEM 1 - ATTACHMENT 1 MINUTE DATED 18 APRIL 2006 (485) - PROPOSED ROAD CLOSURE, RAYMOND TERRACE.

COMBINED STRATEGIC/OPERATIONS COMMITTEES – 4 APRIL 2006

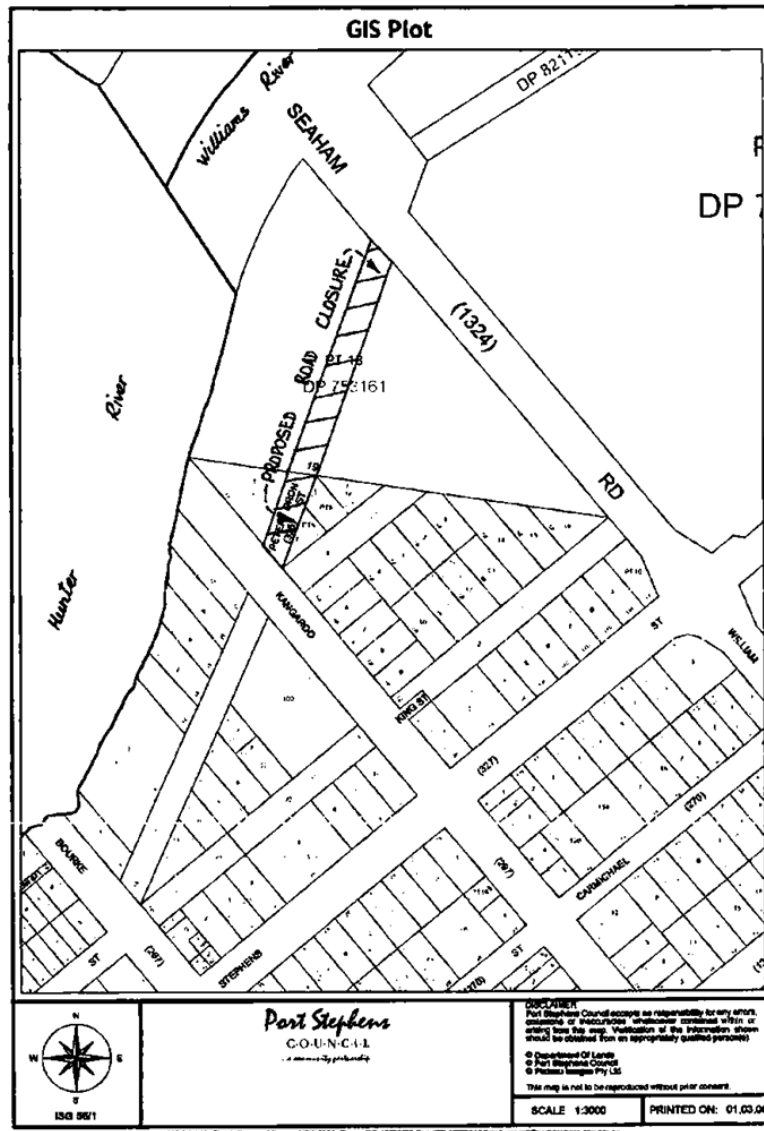
ATTACHMENT 1



ITEM 1 - ATTACHMENT 1 MINUTE DATED 18 APRIL 2006 (485) - PROPOSED ROAD CLOSURE, RAYMOND TERRACE.

COMBINED STRATEGIC/OPERATIONS COMMITTEES – 4 APRIL 2006

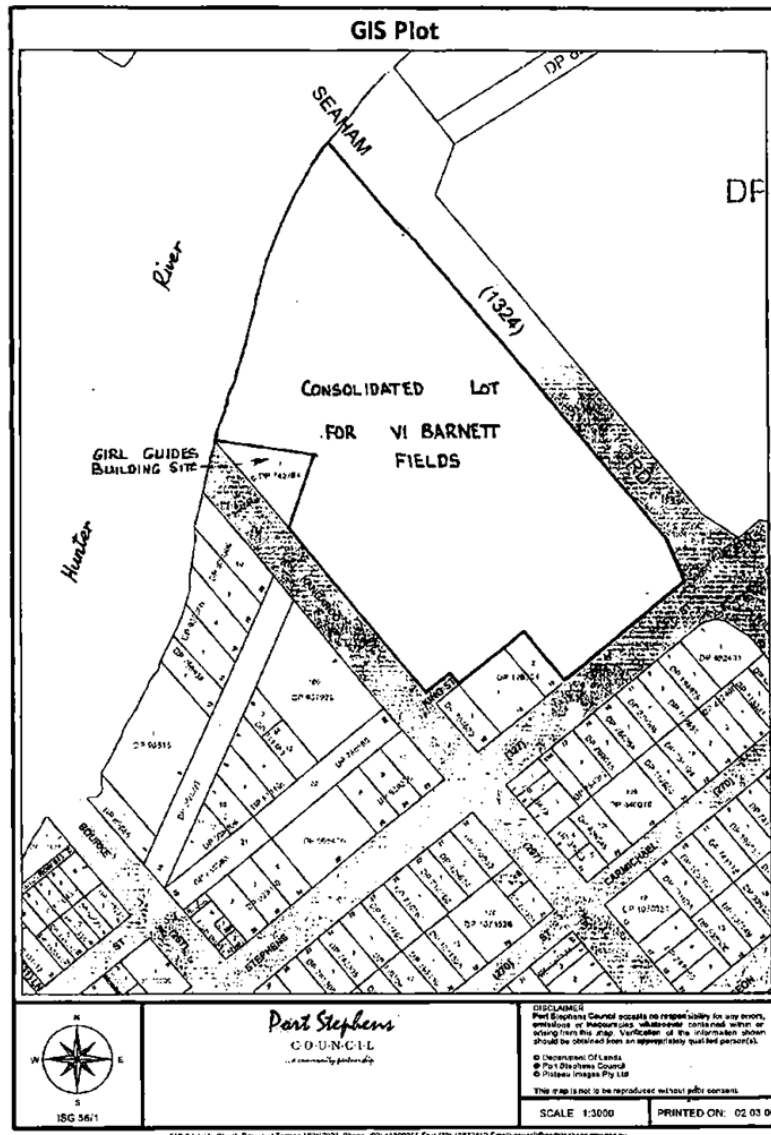
ATTACHMENT 2



ITEM 1 - ATTACHMENT 1 MINUTE DATED 18 APRIL 2006 (485) - PROPOSED
ROAD CLOSURE, RAYMOND TERRACE.

COMBINED STRATEGIC/OPERATIONS COMMITTEES – 4 APRIL 2006

ATTACHMENT 3



ITEM 1 - ATTACHMENT 2 MINUTE DATED 27 JULY 2010 (223) - ROAD CLOSURES RAYMOND TERRACE.**MINUTES ORDINARY COUNCIL – 27 JULY 2010****ITEM NO. 4****FILE NO: PSC2010-03304****ROAD CLOSURES – PART FORMER NEWLINE ROAD AND UNUSED PART KANGAROO STREET, RAYMOND TERRACE****REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY
GROUP: COMMERCIAL PROPERTY****RECOMMENDATION IS THAT COUNCIL:**

- 1) Consents to the road closure of the part of Kangaroo Street currently unconstructed adjacent to the Hunter River.
- 2) Consents to the road closure of part of former Newline Road over which the trotting track is constructed.
- 3) Make application to the Land & Property Management Authority for the closures to proceed under Section 34 Roads Act 1993.
- 4) Authorises the creation of an easement in favour of Hunter Water Corporation over the existing water main in the former Newline Road area.
- 5) Lodges subdivision application with Council to identify the separate sections proposed to be closed as required by Land & Property Information office.
- 6) Upon closure reclassifies the parcels as Community Land to allow their current uses to continue.
- 7) Following receipt of the new title deed consolidates the former Newline Road with Lots 1 DP629570 & Pt 13 DP753161 to create the area known as Jack Johnson Trotting Park.
- 8) Officially names the consolidated area in 6 above as Jack Johnson Trotting Park, through the Geographical Names Board.
- 9) Grants authority to affix Council Seal to the plan of consolidation of the Jack Johnson Trotting Park.

**COUNCIL COMMITTEE MEETING – 27 JULY 2010
RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 27 JULY 2010

223	Councillor Bob Westbury Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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ITEM 1 - ATTACHMENT 2 MINUTE DATED 27 JULY 2010 (223) - ROAD CLOSURES RAYMOND TERRACE.**COUNCIL COMMITTEE – 27 JULY 2010****ITEM NO. 4****FILE NO: PSC2010-03304****ROAD CLOSURES – PART FORMER NEWLINE ROAD AND UNUSED PART KANGAROO STREET, RAYMOND TERRACE****REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY
GROUP: COMMERCIAL PROPERTY****RECOMMENDATION IS THAT COUNCIL:**

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- 7) Following receipt of the new title deed consolidates the former Newline Road with Lots 1 DP629570 & Pt 13 DP753161 to create the area known as Jack Johnson Trotting Park.
- 8) Officially names the consolidated area in 6 above as Jack Johnson Trotting Park, through the Geographical Names Board.
- 9) Grants authority to affix Council Seal to the plan of consolidation of the Jack Johnson Trotting Park.

BACKGROUND

The purpose of this report is to recommend the permanent closure of the section of Kangaroo Street & former Newline Road to maintain its existing use as Community land (ATTACHMENT 1).

These sections of roads are no longer constructed or maintained as roads. In effect both parcels proposed to be closed are used in association with the adjoining Community land (ATTACHMENT 2). The proposed action will officially bring the land under Council's ownership for the benefit of the community.

The section of Kangaroo Street is physically included in the grassed foreshore area adjacent to the river bank. This foreshore goes from Fitzgerald Bridge to Bourke Street and is utilized by the public for access to the river.

ITEM 1 - ATTACHMENT 2 MINUTE DATED 27 JULY 2010 (223) - ROAD CLOSURES RAYMOND TERRACE.**COUNCIL COMMITTEE – 27 JULY 2010**

The section of former Newline Road forms part of the Trotting Track and surrounding grassed area there is no evidence of a road previously being over the area. However it was part of the original road from Raymond Terrace to Seaham. Its current use is entirely related to the trotting facility.

FINANCIAL/RESOURCE IMPLICATIONS

Funds are available within the Road Acquisition and Closure budget to cover costs. As Council owns the land there will be no purchase costs. The processes will fall within Property Section's normal activities.

LEGAL, POLICY AND RISK IMPLICATIONS

The Roads Act 1993 controls all actions regarding the road closure, which need to be complied with. The Land & Property Management Authority is the final determining authority after all required advertising and notification have taken place. The Local Government Act controls the reclassification process and the Conveyancing and Real Property Acts administer the title and consolidation proposals. Closure will remove Council's responsibilities as the Roads Authority over the closed areas.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The current use of the closure areas will remain as existing, with Council's maintenance responsibilities continuing. There will be no real sustainability implications and the general public will not notice any visible change or uses of the areas.

CONSULTATION

- Land & Property Management Authority
- Council's Registered Surveyor
- Parks Facilities Coordinator
- Principal Officer
- Principal Property Advisor.

OPTIONS

Accept the recommendation.
Not close the sections of roads.
Not consolidate the parcels.

ATTACHMENTS

- 1) Location Map.
- 2) Road closure areas.

**ITEM 1 - ATTACHMENT 2 MINUTE DATED 27 JULY 2010 (223) - ROAD
CLOSURES RAYMOND TERRACE.**

COUNCIL COMMITTEE – 27 JULY 2010

COUNCILLORS ROOM

Nil.

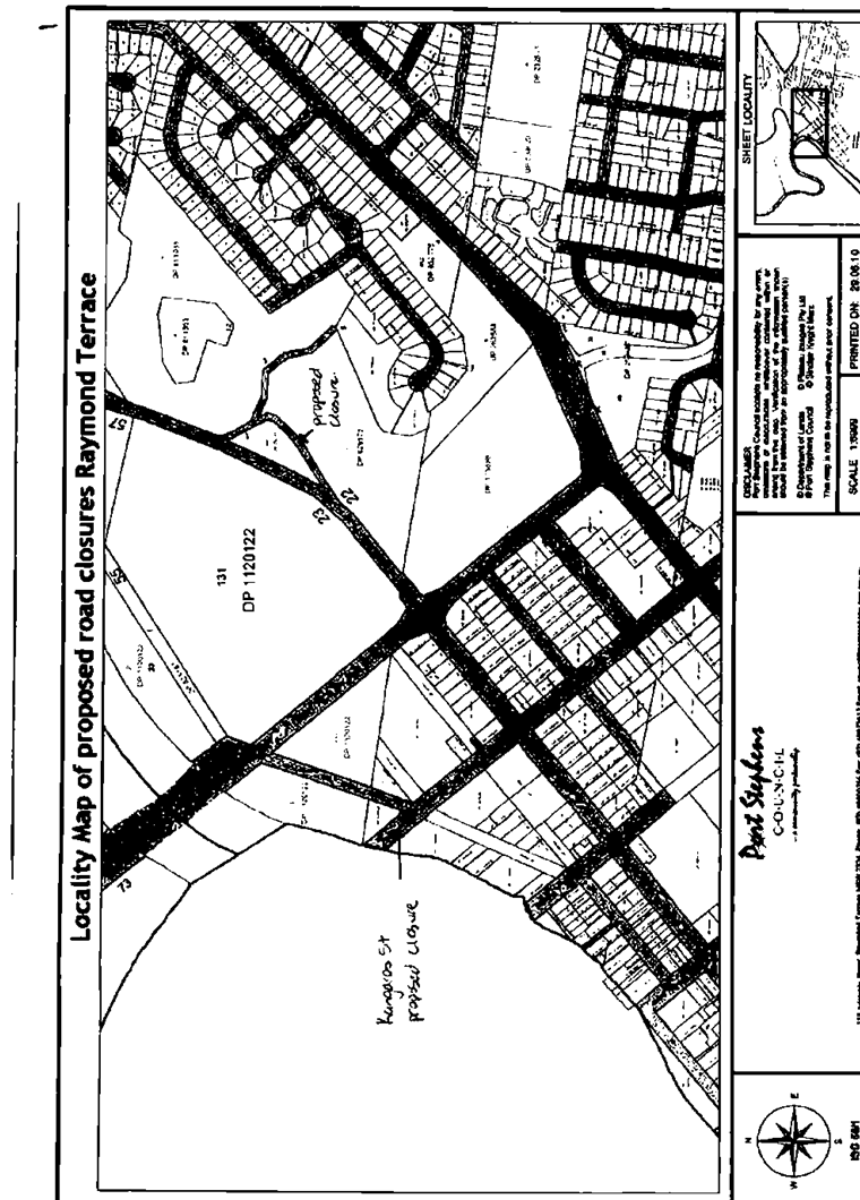
TABLED DOCUMENTS

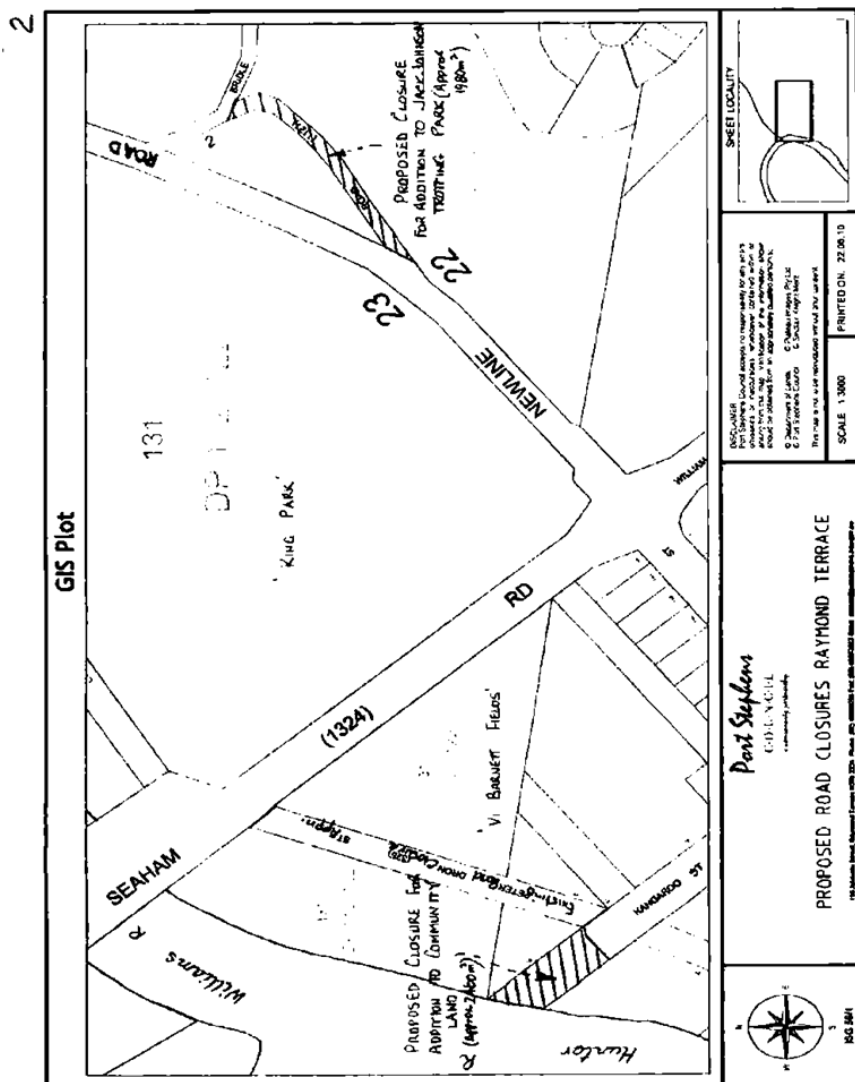
Nil.

ITEM 1 - ATTACHMENT 2 MINUTE DATED 27 JULY 2010 (223) - ROAD CLOSURES RAYMOND TERRACE.

COUNCIL COMMITTEE – 27 JULY 2010

ATTACHMENT 1





ITEM NO. 2

**FILE NO: 16/341424
RM8 REF NO: PSC2016-01328**

**LG PROFESSIONALS AUSTRALIA NATIONAL CONGRESS & BUSINESS EXPO
2016 - GOLD COAST**

REPORT OF: CARMEL FOSTER - GROUP MANAGER CORPORATE SERVICES
GROUP: CORPORATE SERVICES

BACKGROUND

The purpose of this report is to provide an overview of the LG Professionals Australia National Congress and Business Expo Conference held on the Gold Coast on 4-6 May 2016.

The conference was attended by Cr John Morello, Cr Ken Jordan and Group Manager of Corporate Services, Carmel Foster.

The main themes of the LG Professionals Australia National Congress were "Change and Technology". The representation of NSW delegates was very low this year and might indicate the current attitude of the Councillors and Senior Staff in NSW given the uncertainty in the industry. However, the selection of presenters this year was of a very high quality and extremely knowledgeable in their fields.

Rabia Siddique is an inspirational speaker who grew up as a Muslim in the monocultural landscape of 1970s suburban Perth and knew what it was like to be different. She spoke about how her early childhood memories shaped her and, in particular, gave her a strong sense of social justice. She became a lawyer, moved to the UK and joined the British army as a military lawyer. She served in Iraq and was taken as a hostage by Islamic insurgents as she tried to negotiate the release of two kidnapped British soldiers. She battled for hours to save their lives, negotiating with their captors. After their release, her colleague received a Military Cross and Rabia received nothing and was told not to mention her part in the operation. At that time a lawyer friend that she had convinced to join the army was murdered in Iraq. She remembers this as being the lowest point in her life. With the support of her husband she made a decision to stand up and be heard. Her subsequent successful sex and race discrimination case against the British Army made headlines around the world. Rabia suggested that there were four actions you require to be an agent for change:

- Choose to confront our reality.
- Change our narrative – don't be the victim of our circumstances, learn from the good and the bad.
- Protect and promote optimism.
- When it counts be prepared to do something uncomfortable.

A panel of five Local Government experts comprising Dr Shane Silcox – National President, LG Professionals Australia; Mayor Troy Pickard – President, Australian Local Government Association; Professor Mark Evans - University of Canberra; Ho. Alannah McTiernan (ALP) and Dr Kathy Alexander, Former CEO, City of Melbourne, debated the main challenges for Local Government. The focus was on community engagement and the value of involving the community in decision making. Dialogue with the community forms an important framework for engagement and the benefits of diversity in the community and Local Government management teams were also highlighted. I found interesting the discussion around informing the community on societal risks given the current Williamstown contamination issue and how our community was informed and the continuing dialogue and communication framework comprising many different agencies that is required to manage societal risks. A discussion about data highlighted the considerable amount of data that is being collected, however, the effectiveness of it was debated. It is more important to collect data that is useful. The challenge is knowing what to collect and how to analyse/use it. There is a massive amount of data being generated every minute (further information on this is discussed later in this paper) but understanding your operations and what data is going to be useful can be more difficult given the varied and complex operations of Local Government. Having the correct data, however, can assist in determining patterns, trends and contributes to sound decision making.

The International Q&A Panel comprised CAMA President, Don McLellan (Canada); SOLGM President, Barbara McKerro (NZ); LG Professionals Australia President, Shane Silcox (Australia), chaired by Dennis Hovenden, discussed global trends and change. Similar patterns and trends flowed through the conversation with three main themes:

Austerity - Doing more with less is a global issue. Rate capping, levels of service, customer expectations and being financially sustainable.

Community Engagement - How to engage better with the community and empower the community to have more control in the decisions made by governments. Being flexible and responsive to the community.

Strategic Planning - the importance of strategic thinking and planning, building partnerships with other levels of government and organisations to provide better outcomes.

Dan Gregory is the founder and CEO of the Impossible Institute, a research and training organisation that advises management on what drives their customers and employees. He also is a regular on the ABC's Gruen Transfer and has worked on the UK and US comedy circuits. Dan was a very engaging speaker and used comedy to get his ideas and opinion across to the audience. His focus was on how to manage the unprecedented change that we are subjected to every day. We produced 1.9 zettabytes of data in 2007. I had not heard of a zettabyte before therefore I have provided some context around it. A zettabyte is 1,000 exabytes. An exabyte is 1,000 petabytes. A petabyte is 1,000 terabytes. A terabyte is 1,000 gigabytes. I am hoping

everyone knows what a gigabyte is? It is, to use a common term, information overload. He discussed how to invent the change and not to fight against human nature, rather use human nature to develop a culture of the willing. His five step action plan is:

- Demonstrate who you help us to be through change;
- Show how change aligns with our values;
- Support the change through social networks - collaboration and diversity;
- Use design, not just discipline and motivation - create systems and processes to help deliver businesses and design success into the system;
- Focus on solutions, not the process.

Keith Suter, Mark Evans, Graham Samson and Dr Peter Ellyard all had similar subjects (change, technology and community engagement) with slightly different focuses. Again there was a strong emphasis on community engagement and the benefit it brings to the Local Government sphere. Building the community's trust through engagement and transparency and involving them in the strategic direction of the Council was considered important in these times of unprecedented change.

Epistemic communities was another topic discussed which outlines how decision makers define State interests and formulate policies to deal with complex and technical issues. The contributors to this issue examine the role that networks of knowledge-based experts, known as "epistemic communities", play in articulating the cause-and-effect relationships of complex problems, helping States identify their interests, framing the issues for collective debate, proposing specific policies, and identifying salient points for negotiation. Their analyses demonstrate that control over knowledge and information is an important dimension of power and that the diffusion of new ideas and data can lead to new patterns of behaviour and prove to be an important determinant of international policy coordination. Whilst this topic was based at a State level, the same thinking could be applied to Local Government.

Another interesting topic discussed was around three tools of strategic thinking:

- 1) Prediction
- 2) Preferred and
- 3) Future

Prediction over the years has not been very accurate. However, the Moore's Law prediction has been fairly accurate to date. Moore's Law was first proposed in a magazine article by Intel co-founder Gordon E. Moore. What it says is that the number of transistors that can be packed into a given unit of space will roughly double every two years. However, as an atom is the smallest particle, there will come a time when the transistor is the size of an atom and there will be physical limitation to increasing the power of computers.

The preferred model of "Blue Ocean Thinking", which looks at creating new market space rather than competing in existing markets which are becoming overcrowded with shrinking profits, is a new strategy that is being embraced by innovative

companies. One popular example of blue ocean strategy is Cirque du Soleil. By completely reinventing the circus, Cirque du Soleil achieved revenues that it took Ringling Bros. and Barnum & Bailey more than a century to attain.

Future studies are described as a collection of methods, theories and findings" that helps people to 'think constructively about the future'. It is not just merely looking at past and present trends to consider a probable future, it is thinking about what could be a "possible" future. This type of thinking is aligned to complex "systems thinking" (Business Excellence).

Discussion around the single vision for an organisation and utilising that to drive change and shape the future was proposed by Dr Peter Ellyard. Inspirational ideas and working with others harmoniously would, in his opinion, achieve an enlightened self-interest. He mused that a perfectionist is a "Future Taker", that perfection does not allow mistakes to be made and lessons learnt from them. He mentioned some interesting particulars around, Modernism, Post Modernism and now Globalisation in that in the next 25 years we will be affected by people outside Australia as much as we are affected by people inside Australia.

Overall, the conference provided some thought provoking ideas that will be valuable in this time of Local Government Reform and change.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

**FILE NO: 16/331930
RM8 REF NO: PSC2012-03930**

**PORT STEPHENS COUNCIL SUBMISSION TO INDEPENDENT PRICING AND
REGULATORY TRIBUNAL INQUIRY INTO LOCAL GOVERNMENT RATING
SYSTEMS**

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to advise Council of the lodgement of its submission to the Independent Pricing and Regulatory Tribunal (IPART) Inquiry into Local Government Rating Systems.

The submission was required to be lodged on or before 13 May 2016 and the issues paper and basis for submissions were not available until late April 2016. Due to time constraints the draft submission was circulated to Councillors together with the IPART documentation on 3 May 2016. A two-way conversation with Councillors was held on 10 May 2016.

A copy of Council's submission lodged on 11 May 2016 is attached (**ATTACHMENT 1**).

MERGER PROPOSAL IMPLICATIONS

There are no implications for merger proposals.

ATTACHMENTS

- 1) Port Stephens Council submission to IPART Inquiry into Local Government Rating Systems.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 PORT STEPHENS COUNCIL SUBMISSION TO
IPART INQUIRY INTO LOCAL GOVERNMENT RATING SYSTEMS.



**ITEM 3 - ATTACHMENT 1 PORT STEPHENS COUNCIL SUBMISSION TO
IPART INQUIRY INTO LOCAL GOVERNMENT RATING SYSTEMS.**

**Independent Pricing and Regulatory Tribunal Review of Local
Government Rating System
Port Stephens Council Submission**

Summary

Port Stephens Council (PSC) would like to thank the Independent Pricing and Regulatory Tribunal (IPART) for the invitation to provide input to the review of the rating system through commentary on the April 2016 IPART Issues Paper. Council views this rates review as a 'once in a generation' opportunity for a new rating system that will work for councils and their communities.

Although Port Stephens Council is a regional council, we have taken the positions outlined below based on what Council believes is a 'whole of State' perspective, rather than a more regional or Sydney-centric view.

In addressing the topics related to the proposed four-year rates freeze in amalgamating councils, Port Stephens Council understands that the Premier has referred this matter to IPART and we have endeavoured to add value to the deliberations. However it remains Council's position that this is a poor piece of public policy; and that a new entity should not be hamstrung in its work to deliver improved performance, which is the aim of any merger.

Issues and examples are set out below in the order of the IPART Issues Paper, with the IPART questions in blue and the PSC response following.

Port Stephens Council Submission

Taxation principles

1. Do you agree with our proposed tax principles? If not, why?

Overall Council agrees with the tax principles stated; however we would add the principles of enforceability and flexibility. Enforceability seeks to ensure taxes are collectible and cannot be evaded, which is consistent with the intent of property rates. Flexibility seeks to ensure that the tax system can respond to changes in future revenue needs, changes in technology or other factors that might be hard to predict.¹

For example, s.710 of the Local Government Act 1993 does not cater well for service of rate notices to Australia Post customers who use the MyPost Digital Mailbox to receive their notices as the notice is uploaded to a location and the customer is alerted to its arrival rather than sent as an email attachment directly. A more flexible approach would serve the interests of the rate payer and the council: people should be able to have choices that make it easier to do business with councils; and councils should be able to offer those choices as and when technology makes it viable to do so.

¹ OECD (2014), "Fundamental principles of taxation" in *Addressing the Tax Challenges of the Digital Economy*, OECD Publishing, Paris p31

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Assessing the current method for setting rates

2. What valuation method should be used as the basis for determining the ad valorem amounts in council rates? Should councils be given more choice in selecting a valuation method, as occurs in other states, or should a valuation method continue to be mandated?

Council supports the introduction of Capital Improved Value (CIV) valuation method for **residential properties**. The reasoning is that this methodology is beneficial in achieving equity in rating between strata title (multi-unit) properties and non-strata title (detached dwelling) properties and overcoming rate income growth constraints caused by the apportioning of land value according to strata unit entitlement.

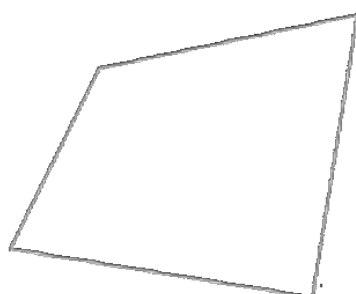
This issue potentially affects every council in the State and is not restricted to large metropolitan councils. Any additional rate income growth opportunity afforded to councils with large numbers of strata title properties through the use of CIV should also be given to all councils including those with smaller numbers of strata subdivisions, not just selected LGAs.

The consequential financial effect of CIV on both costs to implement and impact on rate income growth is relative to the size and budget of the council. What is considered a minor or modest financial benefit to a larger council may be significant to a smaller council, and council size should not be a determinant of whether the financial advantages of CIV are excluded from an LGA.

Below we have provided examples of the effect of land value and CIV on various subdivisions.

(a) An actual Deposited Plan subdivision in Port Stephens Council:

Parcel of land prior to subdivision



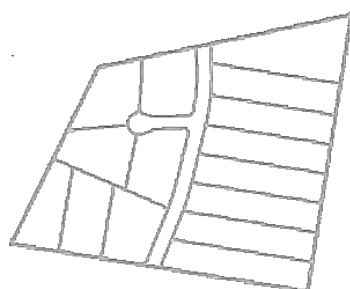
Land value prior to subdivision \$1,050,000

Rates levied prior to subdivision \$3,901.15

Calculation:
(Lot 1 rates \$1,050,000 x 0.003383 + \$349 base amount)

Parcel of land after 15 lot subdivision

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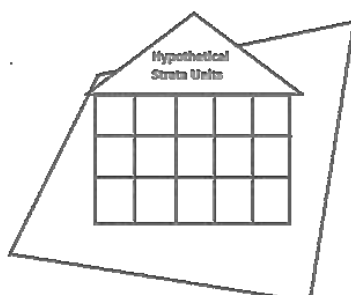
Land value after subdivision into 15 lots \$5,867,000

Rates levied after subdivision \$25,083.07

Calculations:

Lot 1 rates \$1,678.52 (\$393,000 x 0.003383 + \$349 base amount)
 Lot 2 rates \$1,678.52 (\$393,000 x 0.003383 + \$349 base amount)
 Lot 3 rates \$1,678.52 (\$393,000 x 0.003383 + \$349 base amount)
 Lot 4 rates \$1,793.54 (\$427,000 x 0.003383 + \$349 base amount)
 Lot 5 rates \$1,644.69 (\$383,000 x 0.003383 + \$349 base amount)
 Lot 6 rates \$1,621.01 (\$376,000 x 0.003383 + \$349 base amount)
 Lot 7 rates \$1,621.01 (\$376,000 x 0.003383 + \$349 base amount)
 Lot 8 rates \$1,621.01 (\$376,000 x 0.003383 + \$349 base amount)
 Lot 9 rates \$1,658.22 (\$387,000 x 0.003383 + \$349 base amount)
 Lot 10 rates \$1,621.01 (\$376,000 x 0.003383 + \$349 base amount)
 Lot 11 rates \$1,969.46 (\$479,000 x 0.003383 + \$349 base amount)
 Lot 12 rates \$1,678.52 (\$393,000 x 0.003383 + \$349 base amount)
 Lot 13 rates \$1,678.52 (\$393,000 x 0.003383 + \$349 base amount)
 Lot 14 rates \$1,570.26 (\$361,000 x 0.003383 + \$349 base amount)
 Lot 15 rates \$1,570.26 (\$361,000 x 0.003383 + \$349 base amount)

Parcel of land after 15 lot strata subdivision



Land value after strata subdivision into 15 units
\$1,050,000

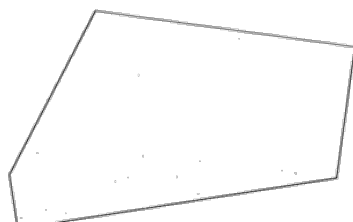
Rates levied after subdivision \$8,787.15

Calculation:
 (Rates \$1,050,000 x 0.003383 + 15 x \$349 base amounts)

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(b) An actual strata subdivision in Port Stephens Council:

Parcel of land prior to strata subdivision



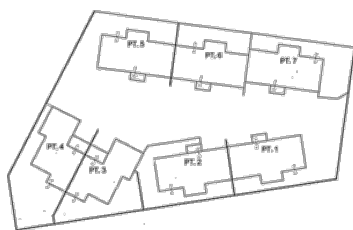
Land value prior to subdivision \$415,000

Rates levied prior to subdivision \$1,752.95

Calculation:

(Lot 1 rates \$415,000 x 0.003383 + \$349 base amount)

Parcel of land after 7 lot strata subdivision (using land value)



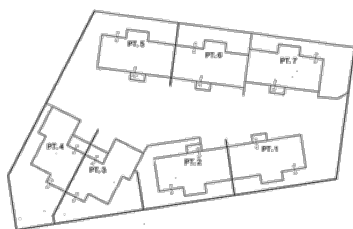
Land value after strata subdivision into 7 units
\$415,000

Rates levied after subdivision \$3,846.95

Calculation:

(Rates \$415,000 x 0.003383 + 7 x \$349 base amounts)

Parcel of land after 7 lot strata subdivision (using CIV based on actual sales)



CIV after strata subdivision into 7 units \$3,980,000

Rates levied after subdivision \$15,907.36

Calculations:

Lot 1 rates \$2,344.97 (\$590,000 x 0.003383 + \$349 base amount)

Lot 2 rates \$2,226.57 (\$555,000 x 0.003383 + \$349 base amount)

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Lot 3 rates \$2,226.57 ($\$555,000 \times 0.003383 + \349 base amount)
Lot 4 rates \$2,294.23 ($\$575,000 \times 0.003383 + \349 base amount)
Lot 5 rates \$2,311.14 ($\$580,000 \times 0.003383 + \349 base amount)
Lot 6 rates \$2,209.65 ($\$550,000 \times 0.003383 + \349 base amount)
Lot 7 rates \$2,294.23 ($\$575,000 \times 0.003383 + \349 base amount)

CIV would assist in providing councils with a sustainable revenue stream. If CIV was used, then the total rateable value would increase following a strata subdivision in the same way total rateable value increases following a Deposited Plan subdivision. However the rate in the dollar would be lower, following introduction of CIV due to the higher value base of CIV over land value, thus reducing to some extent income growth associated with the use of CIV. Land value unfairly constrains all councils' rate income growth from strata subdivisions.

The suggested disincentive for ratepayers to make capital improvements under a CIV rating system is more relevant to commercial, industrial and farm land. For residential properties, there is less discretionary capital expenditure that potentially might be affected by the council rating valuation methodology. The use of CIV instead of land value is likely to see a reduction in the ad valorem rate for residential properties, lowering the impact of capital improvements on residential rates. Council could provide information to ratepayers about the estimated impact of capital expenditure decisions on their rate bill via the Council website using a simple rate calculator or table, so they could see the impact on their rates.

If CIV increases related to capital improvement works on properties are recognised in supplementary lists between general revaluations in a rate pegging environment, a council's notional general income will increase more than under existing land value methodology as construction expenditure will grow notional general income in addition to subdivision activity. The definition of notional general income may need to address whether any capital expenditure contributing to growth in total CIV is backed out of notional general income in some calculated way.

In other states where CIV is used there is currently no rate pegging so the rates are calculated annually by dividing total required rate income by total CIV. In NSW with rate pegging in place, capital expenditure would grow notional general income. This would be essential to gain additional notional general income in a residential strata land category, however in another residential category consisting of non-strata properties, the construction of a house, or other additions would increase notional general income in addition to subdivision activity. A solution could be that increases in CIV relating to dwelling construction and property improvements, as opposed to subdivision activity, could be excluded from schedule 1 of the permissible income work papers. Alternatively, for simplicity continue to use land value for the residential (non-strata) category; however this would have the undesirable effect of having two different rate bills for a detached dwelling and a strata unit that have the same market value.

PSC supports the continued use of land value **for commercial, industrial and farming properties**. The effect of using land value for these property types is that the ad valorem rate will remain higher than if CIV was used, causing rates on vacant land to be higher. This would continue to provide an incentive to develop commercial, industrial and farm land due to elevated holding costs for undeveloped land.

Conversely, using CIV for residential property reduces the rate in the dollar that is currently applied to land value and potentially enhances housing affordability as it reduces residential developers' holding costs for vacant land; and strata units are not separately rated until after registration of the Strata Plan.

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Council supports continuing to mandate the valuation methodology to be used by councils for particular categories of land. This will ensure a consistent State-wide approach, reduce potential ratepayer confusion and prevent unproductive merit arguments with ratepayers.

Although CIV would be more costly to administer than land value, the additional rate income growth available to councils would provide the means to pay for the more costly valuations.

3. Should councils be required to use the Valuer General's property valuation services, or should they also be able to use a private valuation firm (as occurs in Victoria and Tasmania)?

Council believes it is desirable that the valuations used for rating be perceived by ratepayers as being arrived at independently of the council. The current system, with the NSW Valuer General providing valuations, supplementary lists, engaging contract valuers, resolving valuation objections and managing valuation processes achieves this perception of independence. Council does not want to own the valuation objection process.

4. What changes (if any) should be made to the Local Government Act to improve the use of base and minimum amounts as part of the overall rating structure?

Port Stephens Council believes there is merit in simplifying the area of base amounts and minimums. Base amounts used in conjunction with CIV would enable minimums to be discontinued for strata units.

Council does not support the concept of counting bedrooms or occupants as this would introduce an inefficient administration element. Calculating base amounts for seniors living in multi-bedroom dwellings, or calculations based on residential occupancy numbers would be unpopular and invite merit arguments with ratepayers and might result in ratepayers manipulating the rating system.

The present 50% maximum applying to base amount yields remains relevant and should continue to ensure capacity to pay is approximated in some way.

5. What changes could be made to rating categories? Should further rating categories or subcategories be introduced? What benefits would this provide?

Council supports the replacement of the residential category with two categories being residential strata title and residential. The categories need to be well defined. The current Act does not define *residential accommodation* or *centre of population*, leaving terminology open to interpretation and challenge. It would be preferable to have less ambiguous definitions. For example, *centre of population* should be replaced with *locality* as defined by the *Geographical Names Act 1966* so that boundaries are certain. Perhaps *residential accommodation* could be aligned with the Standard Instrument LEP definition of *residential accommodation*.

Under the strata title and residential categories Council would like to raise the possibility of a *short-term accommodation* sub-category. Properties that are rented for short-term accommodation may sometimes be used for purposes inconsistent with residential zones in terms of amenity in the local neighbourhood, creating impacts on neighbours and higher demand for council services. At the same time short-term accommodation premises in holiday areas often derive benefits of local economic development and tourism initiatives, but do not make the same contribution that other business rate assessments make.

A possible solution might be to require registration with the council under the Local Government Act. Following registration the Act could require a registration reference to be

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displayed at the premises and included in any advertisements, including on-line advertisements, offering the premises for rent. Letting agents could be required to obtain a registration reference prior to offering the premises for rent and to make such information available to council. When registered, the rate assessment would be rated under the *short-term accommodation* sub-category of the strata title or residential category, as appropriate. When a ratepayer cancels a property's registration it is returned to its former rate category. Self-registration could mirror the State land tax registration obligations on certain property owners. To enable enforcement, empower councils to issue infringements to property owners, letting agents, and advertisers who fail to comply with their responsibilities.

Under the business category, *centre of activity* is not defined, leaving open the possibility of making a rate for a single rate assessment and a council being challenged as to whether certain lands should be included or excluded from the sub-category. To ensure consistency and transparency Council suggests that the business category have optional sub-categories according to *locality* as defined by the *Geographical Names Act 1966*. Property value whether it is land value or CIV approximates capacity to pay. Making a different rate for individual commercial complexes or shopping centres negates property value as the driver of rate relativities. Councils might be challenged for determining rating structures based on assumptions about a site's capacity to pay; or unclear or undisclosed methodology.

6. Does the current rating system cause any equity and efficiency issues associated with the rating burden across communities?

None that Council is aware of.

7. What changes could be made to current rate pegging arrangements to improve the rating system, and, in particular, to better streamline the special variation process?

Council's preference would be for rate pegging to be discontinued now that the Integrated Planning and Reporting Framework (IPR) has matured. Council has made a suggestion in question 8 below about modifying the definition of notional general income in order to encourage urban renewal.

In general the concept is accepted that in assessing special variation (SV) submissions, IPART should be satisfied that there is a genuine need that cannot be achieved by other means. Council also strongly advocates that the community must have inputs to decisions that affect them. However the capacity of councils to ensure that community members understand the impacts on them of an SV if approved varies across the State. Effective communication and gathering of feedback can be very expensive, especially where there is limited internal capacity in councils and thus consultants are required. Some ways the current situation can be improved are:

- a) Amend the Local Government Act to remove the different SV categories 508 and 508A. All should be the same with timeframe explicated in the application. The present differentiation is artificial and confusing, for community and councils.
- b) Clearer guidelines from IPART on what are its expectations in terms of community engagement. The detail on IPART's website is not really helpful. It states *the consultation the council has undertaken to obtain the community's views on the proposal.*
It is the council's responsibility to provide enough evidence in its application to justify the minimum rates increase. Where applicable, councils should make reference to the relevant parts of their Integrated Planning and Reporting documentation to demonstrate how the criteria have been met.

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In the past IPART set a benchmark percentage community approval of any proposed SV, which although somewhat unrealistic, did provide councils with some idea of what IPART was going to use for assessment. In this context, what does IPART see as 'enough evidence'?

- c) Develop a suite of templates for use by councils that provides a minimum level of activity for SV applications. These would include but not be limited to such things as what constitutes demonstrated need; impact; engagement. These would also elicit the principles of taxation e.g. if the proposed SV is equitable, enforceable etc. Some uniformity across the State would be desirable as it would smooth the effects of variable engagement costs especially.
- d) Council has made a suggestion in question 8 below about modifying the definition of notional general income in order to encourage urban renewal.

8. What changes could be made to the rating system to better encourage urban renewal?

From a rating perspective (as opposed to a social or political perspective) there may be a financial disincentive for councils to embrace urban renewal of old industrial or commercial sites. The former industrial or commercial site is rated under the business category while the renewed site may be rated residential or a mix of business and residential. Business rate structures are usually significantly higher than residential rate structures within an LGA. The renewed site may raise less rate income than the former industrial or commercial site even though infrastructure and service demands may increase in association with the renewal.

A way this might be overcome is by amending the definition of notional general income, as necessary, to allow councils to optionally retain the notional income of the former site as an assessment under the business category in schedule 1 of the permissible income work papers; and then record the renewed site as an assessment under the residential category in schedule 2 of the permissible income work papers, after land use has triggered a change in land category.

At present the land category as at the end of the financial year is placed in both schedule 1 and schedule 2, meaning that the notional general income in schedule 1 records the renewed site under its new categorisation which may be a lower residential rate. The former business rate income from the former industrial or commercial site is lost forever.

Amending the definition of notional general income would allow that notional income for the former business rate assessment to be spread across all ratepayers in the LGA making the urban renewal revenue neutral rather than a loss proposition.

Alternatively, income lost due to urban renewal could be treated in the same way as the current Crown Land adjustment for sales of non-rateable land becoming permanently rateable such as Landcom land sales in years subsequent to subdivision, with affected councils lodging an annual application for consideration and approval by IPART and the Office of Local Government.

Section 94 contributions may be preferable to implementing a special rate in an urban renewal area.

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9. What changes could be made to the rating system to improve councils' management of overdue rates?

Many councils offer regular repayment plans for ratepayers in arrears via direct debit or BPay or other payment streams. The best way to keep rate debts out of the court system is to provide easier payment options. While there are provisions in the current Act for quarterly instalments and for interest to be reduced or waived, there are also provisions that impose daily interest charges on late payments as the default.

One solution may be to change the Local Government Act to include a pay by the month option with 12 equal monthly instalments from 31 August through to 31 July the following year, with no interest charges applying on those instalments paid by the due date each month. This would mirror the payment options provided by insurance companies and telecommunication providers.

Should a ratepayer find it easier to pay rates weekly or fortnightly then they could simply pay weekly or fortnightly ahead of the due date. Council direct debit arrangements could be adapted to manage these payments. It is further proposed that the annual rate notice gives advice that a monthly payment option is available and that making the first payment is the only indication needed to take up the monthly payment option.

The Act could also provide that no further notice is required to be issued for rate assessments paying by the month, reducing unnecessary billing notices. Remaining rate assessments, not electing to pay by the month, could continue to receive and pay quarterly notices, along with properties that are sold during the year that were previously making monthly payments. Any councils unable to code rate assessments as paying monthly, could simply continue to issue quarterly instalment notices and pursue assessments where there has been neither a monthly payment, nor a quarterly payment by the instalment due date.

An example of a rate assessment for \$1,200 with quarterly and monthly payment options:

<i>Due date: 31 August</i>	<i>30 September</i>	<i>31 October</i>
\$100 or \$300	\$100 or nil	\$100 or nil
<i>Due Date: 30 November</i>	<i>31 December</i>	<i>31 January</i>
\$100 or \$300	\$100 or nil	\$100 or nil
<i>Due Date: 28 February</i>	<i>31 March</i>	<i>30 April</i>
\$100 or \$300	\$100 or nil	\$100 or nil
<i>Due Date: 31 May</i>	<i>30 June</i>	<i>31 July</i>
\$100 or \$300	\$100 or nil	\$100 or nil

Without some thought about easier payment options and migration to more rigorous customer payment negotiation and monitoring effort, the status quo of reliance on expensive civil claims processes will continue. In Port Stephens Council we attempt to telephone all customers to negotiate repayment arrangements before considering referral to an external debt collection agency which may eventually lead to court processes. Those negotiations with ratepayers usually result in a payment plan involving regular fortnightly or monthly payments; ratepayers tell us this is easier. It would be timelier if that option was offered up front with the rate notice and interest automatically withheld for payments made monthly. At present any equal monthly arrangement effectively needs to commence before the rate notice has been issued as rate notices are not issued until July, putting ratepayers under financial stress to make a large initial payment by 31 August to avoid interest charges.

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Equal monthly payments would have no adverse impact on a council's cash flow after the initial introduction, and council investments could be timed appropriately to accommodate the transition. The social benefit in providing easier payment options and potential avoidance of legal action outweighs the reduction in council investment interest achieved via current quarterly payment timing as opposed to a deferred monthly payment option (which if fully taken up would be equivalent to one year's interest on one third of a rate instalment). Similar considerations of equity, lost interest and investment income would have been made when migrating from the Local Government Act 1919 provisions to the current Act, with the former Act providing an additional three months interest free period for ratepayers beyond the due date.

Port Stephens Council offers aged pensioners the option to defer their rates against their estate, (subject to income and asset criteria) through a formal agreement. Very few ratepayers have taken up the option citing reluctance to burden beneficiaries with debt; however the agreements have worked well for more than a decade with a number of assessments paid out of a deceased ratepayer's estate.

Council suggests the limitation contained in s.712 (1) "Proceedings for the recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable." be increased to recognise deferral options provided to pensioners. Otherwise, a specific statement about the availability of deferrals might be appropriate.

Assessing exemptions, concessions and rebates

10. Are the land uses currently exempt from paying council rates appropriate? If a current exemption should be changed, how should it be changed? For example, should it be removed or more narrowly defined, should the level of government responsible for providing the exemption be changed, or should councils be given discretion over the level of exemption?

Council proposes that exemptions be removed for particular land use types even if they are owned and operated or used by public charities, public benevolent institutions or are run in conjunction with a place of worship:

- Child care centres and pre-schools
- Food premises
- Plant nurseries
- Residential accommodation
- Retail and commercial premises selling primarily new products
- Seniors housing including aged care facilities, retirement villages and nursing homes
- Vacant land owned by charities and public benevolent institutions that remains vacant after a period of time (eg 10 years) of continuous ownership by the charity or public benevolent institution

The rationale for the removal of these exemptions is that these land uses operate in a competitive market and so should not enjoy a competitive advantage over private operators via rate exemption.

The justification for the removal of exemption from residential accommodation is that all residential accommodation contributes to the need for council services. NSW Land and Housing Corporation pays rates on its housing whereas community housing providers generally do not, if they are a public charity or public benevolent institution. There has been and continues to be a shift in social housing away from the NSW Land and Housing Corporation to community housing providers and an unintended consequence of this is a

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reduction in council revenue raising through rate exemptions. Given that it is a government priority to increase involvement of the non-government sector in social housing councils may be further deprived of rate income as this shift in provider becomes more prevalent.

The justification for the removal of exemption from vacant land owned by charities and public benevolent institutions that remains vacant after a period of time (eg 10 years) of continuous ownership by the charity or public benevolent institution, is that if the land is not being put to any use apart from being set aside for future use, then it is effectively a land bank property investment with reduced or nil holding costs. This is in contrast to other owners of land bank property where holding costs apply. Unused vacant residential, commercial, or industrial land that is owned by charities or public benevolent institutions should receive a price signal via rates so that the land is put to a higher use providing residential accommodation or employment generating industry.

Charities and public benevolent institutions currently receive rate exemptions for holiday homes that are deemed to be used for the purposes of the charity. Since these are residential properties that generate demand for council services they should be rated in the same way as other residential properties.

11. To what extent should the exemptions from certain State taxes (such as payroll tax) that councils receive be considered in a review of the exemptions for certain categories of ratepayers?

Councils receive funding from State and Commonwealth governments. If councils were to commence paying State and Commonwealth taxes that they are currently exempt from, this would erode the net government transfers to local councils. This is different to the rate exemption currently granted to specified ratepayers as councils do not generally provide financial assistance to the recipients of rate exemptions. The process would reduce efficiency of the funding framework and lead to unintended reductions in revenue for councils.

12. What should the objectives of the pensioner concession scheme be? How could the current pensioner concession scheme be improved?

Currently councils meet up to 45% of pensioner rebates, meaning that non-pensioner rate payers are effectively subsidising pensioners. Provision of social welfare benefits is not in the charter of councils.² Council would like to see pensioner rate concessions indexed to increase annually, with the total cost of concessions met by State and Commonwealth governments.

Freezing existing rate paths for newly merged councils

13. We have interpreted the rate path freeze policy to mean that in the four years after a merger, the rating path in each pre-merger council's area will follow the same trajectory as if the merger had not occurred. Do you agree with this interpretation?

Yes

² Section 8, *Local Government Act 1993*

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14. Within the rate path freeze period, should merged councils be permitted to apply for new special variations:

- **For Crown Land added to the rating base?**
- **To recover amounts that are 'above the cap' on development contributions set under the Environmental Planning and Assessment Act 1979?**
- **To fund new infrastructure projects by levying a special rate?**

Council supports allowing Crown Land adjustment variations, which are a normal administrative process in Port Stephens Council to avoid losing income from Defence Housing Authority property sales, as the Commonwealth has always made an ex-gratia payment to Council equivalent to rates for those properties. Port Stephens LGA also has Landcom subdivisions and to be deprived of rate income growth for those property sales, subsequent to the year in which they were valued, during the rate freeze period, would be outside the intended scope of the rate freeze.

If a community wants new infrastructure and is prepared to pay for it via a special rate following an appropriate community engagement process, then it is implied that they do not seek to be protected from the increase under the rate freeze provisions.

15. Are there any other situations where merged councils should be able to apply for new special variations within the rate path freeze period?

PSC has no contribution to this question.

16. During the rate path freeze period, should merged councils only be able to increase base amounts and minimum amounts each year by the rate peg (adjusted for any permitted special variations)?

Port Stephens Council agrees with this.

17. During the rate path freeze period, should merged councils be able to allocate changes to the rating burden across rating categories by either:

- **relative changes in the total land value of a rating category against other categories within the pre-merger council area, or**
- **the rate peg (adjusted for any permitted special variations)?**

As general revaluations will occur during the rate freeze it may be appropriate to change rating burdens between land (rating) categories by the relative change in value of the land (rating) categories.

18. Do you agree that the rate path freeze policy should act as a 'ceiling', so councils have the discretion to set their rates below this ceiling for any rating category?

We agree that this should be the case.

19. What other discretions should merged councils be given in setting rates during the rate freeze period?

PSC has no contribution to this question.

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20. We considered several options for implementing the rate path freeze policy. Our preferred option is providing the Minister for Local Government with a new instrument-making power. What are your views on this option and any other options to implement the rate path freeze policy?

The objective of merging councils is (allegedly) to make them more financially sustainable. Port Stephens Council is not in agreement with the rate freeze as it is deemed poor public policy. Whether giving a new instrument-making power to the Minister for Local Government or some other option for the four year period is effectively depriving a new entity of the means to reach for financial sustainability. In fact the delay has the effect of more than four years because of the compounding effect of missed revenue opportunities. Council believes that a new entity should be trusted to make a rationale rating strategy that provides the best benefit and protection to its community. After all it will have to do so in year five.

Establishing new, equitable rates after the 4-year freeze

21. Should changes be made to the LG Act to better enable a merged council to establish a new equitable system of rating and transition to it in a fair and timely manner? If so, should the requirement to set the same residential rate within a centre of population be changed or removed?

Please note our reference to the use of the 'centre of population' above and preference for using 'locality'.

Council is unsure that a merged council in Sydney would necessarily comprise one centre of population as there is case law that appears to support the option of creating sub-categories for different suburbs.

In *The Council of the City of Sydney v South Sydney City Council* [2002] NSWLEC 129 Pearlman J found that the creation of sub-categories of the residential category in South Sydney City Council by "centre of population" for Residential Population Centre A – comprising the suburbs of Alexandria, Beaconsfield, Centennial Park, Darlington, Erskineville, Eveleigh, Moore Park, Newtown, Paddington, Redfern, Rosebery, St Peters, Surry Hills, Waterloo and Zetland; and Residential Population Centre B – comprising the suburbs of Camperdown, Chippendale and Ultimo; and Residential Population Centre C – comprising the suburbs of Darlinghurst, Elizabeth Bay, Potts Point, Rushcutters Bay and Woolloomooloo, were valid. At 49:

"Having regard to the charter by which South Sydney is bound under s 8 of the LG Act (in common with all councils), fairness and equity are legitimate considerations in the exercise of its powers, including its power to determine sub-categories. Similarly, matters of the community of interest, geographical cohesion etc in relation to the proposed categories were also legitimate considerations in the exercise of its powers."

22. Should approved special variations for pre-merger councils be included in the revenue base of the merged council following the 4-year rate path freeze?

Yes. The outcomes sought and approved in the special variation would continue following merger, so it is logical the approval to continue to fund those outcomes should follow.

**ITEM 3 - ATTACHMENT 1 PORT STEPHENS COUNCIL SUBMISSION TO
IPART INQUIRY INTO LOCAL GOVERNMENT RATING SYSTEMS.**

23. What other rating issues might arise for merged councils after the 4-year rate path freeze period expires?

Merged councils will need to be brought to a common valuation base date. As this generally occurs on a three year cycle, it will occur during the rate freeze period; perhaps the merging councils could be revalued as at the date of the council next due for revaluation, effectively bringing forward a revaluation for the remaining merging council/s.

Summary

Port Stephens Council has been an active participant in the entire process from Destination 2036 in 2011 to Fit for the Future processes and Inquiries by IPART. In that context the importance of this Review cannot be overstated. Council believes that this review of the rating system in New South Wales is a 'once in a generation' opportunity to remove anomalies, streamline processes and provide revenue generation that is sustainable and equitably applied across all categories.

I am pleased to offer this submission on behalf of Port Stephens Council.

Wayne Wallis
General Manager

May 2016

ITEM NO. 4

**FILE NO: 16/341396
RM8 REF NO: A2004-0204**

**IPWEA (NSW) ROADS AND TRANSPORT CONGRESS - JUNE 2016 -
APPROVAL FOR CR LE MOTTEE**

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to advise Council of Cr Paul Le Mottee's request to attend the IPWEA (NSW) Roads and Transport Congress to be held on 6 June 2016 in Sydney.

In accordance with the clause 1.7 of the Payment of Expenses and Provision of Facilities to Mayor and Councillors policy, the Mayor and General Manager can approve attendance for training/conference if there is not sufficient time to seek Council endorsement. Approval for attendance was granted by the General Manager and the Mayor on 26 May 2016.

Due to the timing of the conference there was no opportunity to provide a report to Council prior to the conference taking place.

MERGER PROPOSAL IMPLICATIONS

There are no implications in attendance at the conference which relate to the proposed merger.

ATTACHMENTS

- 1) IPWEA (NSW) Roads and Transport Congress - June 2016 - Program.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 IPWEA (NSW) ROADS AND TRANSPORT
CONGRESS - JUNE 2016 - PROGRAM.



MONDAY 6 JUNE 2016 – PROGRAM for the NSW LOCAL ROADS CONGRESS – *DRIVING A NEW DIRECTION*

- 8.00am – 9.00am Registration**
9.00am Welcome Address from **Garry Hemsworth**, Roads & Transport Portfolio Director, IPWEA (NSW)
9.10am Opening Address from **Cr Keith Rhoades**, President, Local Government NSW
9.35am Keynote Address from **Peter Duncan**, CEO, RMS on behalf of **The Hon. Duncan Gay, MLC**, Minister for Roads, Maritime and Freight
10.15am Morning Tea
10.30am **PLENARY SESSION 1 | LOCAL GOVERNMENT REFORM | Chair: Ken Halstead**
Mark Hely, Acting Director Investigations and Performance, NSW Office of Local Government
Local Government Reform Driving a New Direction
Warren Sharpe OAM, President, IPWEA NSW
IPWEA (NSW) Driving a New Direction
John Dinan, General Manager Regional Maintenance Delivery, NSW Roads and Maritime Services **(Invited)**
Road Authority Co-operation in NSW – Working with Local Government
The Hon. Gladys Berejiklian, MP, NSW Treasurer
12.30pm Lunch
1.30pm **PLENARY SESSION 2 | TRANSPORT AND INFRASTRUCTURE | Chair: Cllr Lindsay Brown**
John Sidoti, MP, Parliamentary Secretary for Transport
State Government Regional Freight Initiatives
Jim Betts, CEO, Infrastructure NSW **(Invited)**
Planning for the Renewal of Regional and Local Infrastructure – a State Perspective
Tim Reardon, Secretary, Transport for NSW
Engaging with Local Government in Regional Transport Planning
Panel Discussion *Discussion of Congress Communiqué*
3.15pm Afternoon Tea
3.30pm **PLENARY SESSION 3 | ROADS & TRANSPORT | Chair: Warren Sharpe OAM**
Jodi McKay, MP, Shadow Minister for Justice and Police, and Shadow Minister for Roads, Maritime & Freight
John Coulton, Chairperson, Australian Rural Roads Group
A Regional Productivity Perspective
Mick Savage, Manager, Roads & Transport Directorate
Adoption of Congress Communiqué
5.00pm Congress Close
5.00pm **Pre-Dinner Drinks** served in the Foyer of the Strangers Dining Room
6.00pm **Congress Dinner** commences in the Strangers Dining Room, Parliament House
Guest Speaker: Paul Fletcher, MP, Minister for Major Projects, Territories and Local Government **(Invited)**
9.30pm Dinner Close

Draft Program as at 25 May 2016

IPWEA (NSW) ROADS & TRANSPORT DIRECTORATE

ACN: 093 562 602

ABN: 35 093 562 602

www.roadsdirectorate.org.au

Level 12, 447 Kent Street

SYDNEY NSW 2000

Ph: (02) 8267 3000

Fax: (02) 8267 3070

RESCISSION MOTIONS

NOTICE OF RESCISSION**ITEM NO. 1****FILE NO: 16/340262
RM8 REF NO: 16-2014-654-5**

SECTION 96(1A) MODIFICATION APPLICATION NO.16-2014-654-5 TO REDUCE THE S.94 CONTRIBUTIONS APPLICABLE TO AN APPROVED MULTI DWELLING HOUSING (15 UNITS) AND 15 LOT SUBDIVISION AT 27 DOWLING STREET, NELSON BAY (LOT 1 DP 235550).

COUNCILLOR: MAYOR BRUCE MACKENZIE
KEN JORDAN
STEVE TUCKER

THAT COUNCIL:

That Council rescind its decision of 24 May 2016 on Item No. 2 of the Ordinary Council Minutes namely SECTION 96(1A) MODIFICATION APPLICATION NO.16-2014-654-5 TO REDUCE THE S.94 CONTRIBUTIONS APPLICABLE TO AN APPROVED MULTI DWELLING HOUSING (15 UNITS) AND 15 LOT SUBDIVISION AT 27 DOWLING STREET, NELSON BAY (LOT 1 DP 235550).

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

168	Councillor Ken Jordan Councillor Steve Tucker It was resolved that Council rescind its decision of 24 May 2016 on Item No. 2 of the Ordinary Council Minutes namely SECTION 96(1A) MODIFICATION APPLICATION NO.16-2014-654-5 TO REDUCE THE S.94 CONTRIBUTIONS APPLICABLE TO AN APPROVED MULTI DWELLING HOUSING (15 UNITS) AND 15 LOT SUBDIVISION AT 27 DOWLING STREET, NELSON BAY (LOT 1 DP 235550).
	SUPPLEMENTARY RECOMMENDATION IS THAT COUNCIL: 1) Notes the additional information provided by the Applicant.

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 Chris Doohan, Ken Jordan, John Morello and Steve Tucker.

Those against the Motion: Crs Geoff Dingle and Sally Dover.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

169	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1. Section 96 application 16-2014-654-5 be approved to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at 27 Dowling Street, Nelson Bay (Lot 1 DP235550) for the following reasons:<ul style="list-style-type: none">• There were previously 22 dwellings on the site. Although the dwellings have been demolished, their replacement with 15 new homes under the subject application does not increase the demand for public amenities and services beyond the previous development on the site; and• The proponent will construct the full length of Trafalgar Lane at a cost of approximately \$260,000. These works have a public benefit given other properties within the lane will benefit from its construction.2. Condition number 3 be modified to reduce the Section 94 contributions to a total of <u>\$93,667</u> (from the original amount of \$190,260, therefore resulting in a total reduction of \$96,593).
------------	--

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 Chris Doohan, Ken Jordan, John Morello and Steve Tucker.

Those against the Motion: Crs Geoff Dingle and Sally Dover.

ATTACHMENTS

- 1) Ordinary Council Minutes- 24 May 2016 - Item 2 - 27 Dowling Street, Nelson Bay - Section 96 Modification

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -**ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION****MINUTES ORDINARY COUNCIL - 24 MAY 2016**

Councillor Paul Le Mottee left the meeting at 06:31pm, prior Item 2 in Committee of the Whole.

ITEM NO. 2

FILE NO: 16/328112
RM8 REF NO: 16-2014-654-5

SECTION 96(1A) MODIFICATION APPLICATION NO.16-2014-654-5 TO REDUCE THE S.94 CONTRIBUTIONS APPLICABLE TO AN APPROVED MULTI DWELLING HOUSING (15 UNITS) AND 15 LOT SUBDIVISION AT 27 DOWLING STREET, NELSON BAY (LOT 1 DP 235550)

REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Section 96(1A) modification application No.16-2014-654-5 which seeks to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at No.27 Dowling Street, Nelson Bay (Lot 1 DP 235550) for the reasons contained in **(ATTACHMENT 3)** of this report.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>That Council:</p> <ol style="list-style-type: none">1. Section 96 application 16-2014-654-5 be approved to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at 27 Dowling Street, Nelson Bay (Lot 1 DP235550) for the following reasons:<ul style="list-style-type: none">• There were previously 22 dwellings on the site. Although the dwellings have been demolished, their replacement with 15 new homes under the subject application does not increase the demand for public amenities and services beyond the previous development on the site; and• The proponent will construct the full length of Trafalgar Lane at a cost of approximately \$260,000. These works have a public benefit given other properties within the lane will benefit from its construction.2. Condition number 3 be modified to reduce the Section 94
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MINUTES ORDINARY COUNCIL - 14 JUNE 2016

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 - ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION

MINUTES ORDINARY COUNCIL - 24 MAY 2016

	contributions to a total of <u>\$93,667</u> (from the original amount of \$190,260, therefore resulting in a total reduction of \$96,593).
--	--

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 Ken Jordan and Steve Tucker.

Those against the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer and John Nell.

The motion was lost.

ORDINARY COUNCIL MEETING - 24 MAY 2016 MOTION

	Councillor John Nell Councillor Sally Dover
--	--

	That Council refuse Section 96(1A) modification application No.16-2014-654-5 which seeks to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at No.27 Dowling Street, Nelson Bay (Lot 1 DP 235550) for the reasons contained in (ATTACHMENT 3) of this report.
--	---

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

Those for the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer, Paul Le Mottee and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan and Steve Tucker.

Following the block vote on all items except Items 2 and 6, Councillor Paul Le Mottee left the meeting at 06.54pm, in Open Council.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -**ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION****MINUTES ORDINARY COUNCIL - 24 MAY 2016****ORDINARY COUNCIL MEETING - 24 MAY 2016****MOTION**

001	Councillor John Nell Councillor Ken Jordan It was resolved that Council refuse Section 96(1A) modification application No.16-2014-654-5 which seeks to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at No.27 Dowling Street, Nelson Bay (Lot 1 DP 235550) for the reasons contained in (ATTACHMENT 3) of this report.
------------	--

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

Those for the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer, Paul Le Mottee and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan and Steve Tucker.

BACKGROUND

The purpose of this report is to present to Council for determination a s.96(1A) modification application (No.16-2014-654-5) which seeks to amend condition No.3 in order to reduce the s.94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 subdivision at No. 27 Dowling Street, Nelson Bay. The application has been called to Council by Mayor McKenzie. Furthermore, the proposal involves the reduction of s.94 contributions which is outside the delegation of Council staff. The call to Council form is held at **(ATTACHMENT 1)** of this report.

Site

The site is located at No.27 Dowling Street, Nelson Bay and is legally known as (Lot 1 DP 235550) **(ATTACHMENT 2)**. The site is relatively flat and has primary access from Dowling Street, Nelson Bay. At the present time seven of the approved dwellings under the original consent (DA No. 16-2014-654-1) have commenced construction on site. Associated footpaths and landscaping construction has also commenced. The approved laneway (Trafalgar Lane) is currently under construction and once complete shall provide primary access to the remaining eight dwellings approved on site. The site is surrounded by existing residential development, including similar scale multi dwelling housing.

**ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION****MINUTES ORDINARY COUNCIL - 24 MAY 2016**Approval history

DA 16-2014-654-1 granted approval for 15 dwellings and a 15 lot subdivision. A number of amendments have been made to the original approval inclusive of:

- 16-2014-654-2: Approved amendments to s.94 contributions to reflect staged construction of development;
- 16-2014-654-3: Approved amended conditions of consent to reflect staged construction of development; and
- 16-2014-654-4: Approval to amend conditions of consent to remove the footpath construction requirement. The application also sought the waiver s.94 contributions relating to 'road works'. The request to waive s.94 contributions was later removed from this application.

Proposed Development

The application proposes to modify condition No. 3 of development consent 16-2014-654-1. Condition No. 3 relates to the payment of s.94 contributions. Currently the consent calls for a total payment of \$190,260 for all 3 stages. The current s.96 modification application seeks the reduced of this amount to a total of \$93, 667 - a reduction of 51%.

Key Issues

The key issue arising out of the assessment of the s.96 modification is the non-compliance with Council's Section 94 Contributions Plan.

The application was referred to Council's Section 94 Analysis Team for consideration and it was determined that the applicants request for a 51% reduction in fees should not be supported. Legal advice was sought by Council officers to inform their decision.

The application has provided the following reasons to support the variation in s.94 contributions:

- 1) Applicant's argument: The developer will be constructing the full length of Trafalgar Lane at their own cost of approximately \$260,000. It is argued that these works are of public benefit and the development was not entirely dependent on the full length construction of the lane. The applicant suggests that due to the developer constructing the lane at their own cost, it is unreasonable to charge the 'road works' component of the s.94 contribution.

Council officer response: Council is not required to provide a credit as the requirement for the construction of Trafalgar Lane has been imposed under s80A(1) of the EP&A Act 1979 and not as a s.94 condition. As any material public benefit arising from the construction of Trafalgar Lane arises from a condition of consent, Council is legally not required to take it into account and provide credits against these contributions. The proponent was not able to gain

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION

MINUTES ORDINARY COUNCIL - 24 MAY 2016

access to lots within their development along Trafalgar Lane without construction of the road.

- 2) Applicant's argument: In accordance with subsection 1 of Council's Section 94 Contribution Plan, for a s.94 contribution to be payable, an increase in demand for services is required to be demonstrated. The applicant notes that there were previously 22 dwellings on this site, with the developer replacing those 22 dwellings with 15 dwellings, subsequently demonstrating that there is no increased demand for services. Accordingly, the applicant considers that no s.94 fees are payable.

Council officer response: It is noted that historical development (22 dwellings) had occurred on site many years ago. The dwellings were demolished some time ago and Council holds no approval records of these buildings. The site was vacant when the original DA (16-2014-645-1) for the current development was lodged and approved. Accordingly, it was assessed that the approved development generated an increased demand for public amenities and services when assessed against its status as vacant land. The historical development of the site, which no longer existed at the time of the current assessment and approval, did not negate the requirement for the application and payment of s.94 levies. Essentially, a vacant site was being developed which generated an increase in demand for public amenities and services "within the area".

On this basis the proposed modification has been recommended for refusal.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications that result from the recommendation of this report.

Approval of the application would result in a reduction of s.94 levies payable to Council.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	Yes		The approval of the application would

**ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION**

MINUTES ORDINARY COUNCIL - 24 MAY 2016

		result in a reduction in the s.94 contributions payable to Council. Council will be financially liable for the provision of infrastructure and facilities required to service the development. It is recommended that Council adopt the recommendation and refuse the modification.
External Grants	No	
Other	No	

LEGAL, POLICY AND RISK IMPLICATIONS

The proposed development is inconsistent with Councils Section 94 Contribution Plan 2007. A detailed assessment of the application in accordance with s.79C of the *Environmental Planning and Assessment Act 1979* is included as **(ATTACHMENT 4)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the approval of the application will undermine the provisions of Councils Section 94 Contribution Plan. Further, Council will be financially liable for the provision of infrastructure and facilities required to service the development.	High	Refuse the application as recommended.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The original approved 15 unit multi dwelling housing development provides for affordable and varied housing choices in the Nelson Bay locality. The construction of the development will also provide for local employment opportunities in the area. The development however results in an intensification of the site. Accordingly, Council shall need to deliver additional facilities and services in order to provide for the future residents of the site. Council's Section 94 Contribution Plan ensures that development contributions are received from approved developments in order to help fund the provision of these required services and facilities. The proposed modification seeks a 51% (\$93, 667) reduction in these contributions.

**ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION**

MINUTES ORDINARY COUNCIL - 24 MAY 2016

The reasons provided by the applicant to support this reduction does not sufficiently justify the modification sought. Council will be liable to fund the balance of facility and service provision resulting for the reduction of the s.94 levies.

MERGER PROPOSAL IMPLICATIONS

The proposed merger is not anticipated to have any implications on the development application.

CONSULTATION

The application was not required to be exhibited in accordance with Council Policy.

OPTIONS

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

ATTACHMENTS

- 1) Call to Council form.
- 2) Locality Plan.
- 3) Reasons for Refusal.
- 4) Assessment Report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 14 JUNE 2016

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION

MINUTES ORDINARY COUNCIL - 24 MAY 2016

ITEM 2 - ATTACHMENT 1 CALL TO COUNCIL FORM.



CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION

I, Councillor Bruce Mackenzie
require Development Application Number 16 - 2014 - 654 - 5
for at: 27 Dowling Street Nelson Bay
for: Section 96 Contributions.
at

to be subject of a report to Council for determination by Council.

Reason:

The reason for this call-up to Council is that I believe there is
merit to be request for reduction in contributions
.....
.....

Declaration of Interest:

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person.

I have a conflict of interest? Yes/No (delete the response not applicable).

If yes, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:
.....
.....
.....

Signed: [Redacted Signature] Date: 10.5.2016

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION

MINUTES ORDINARY COUNCIL - 24 MAY 2016

ITEM 2 - ATTACHMENT 2

LOCALITY PLAN.



LOCALITY: NELSON BAY



SUBJECT AREA

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 by the relevant officers at council.

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**ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION**

MINUTES ORDINARY COUNCIL - 24 MAY 2016

ITEM 2 - ATTACHMENT 3 REASONS FOR REFUSAL.



REASONS FOR REFUSAL

1. The proposed modification is inconsistent with Port Stephens Section 94 Development Contributions Plan 2007 (s.79C(1)(a)(ii) *EP&A Act 1979*).

16-20' 4-654-5

**ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION****MINUTES ORDINARY COUNCIL - 24 MAY 2016****ITEM 2 - ATTACHMENT 4 ASSESSMENT REPORT.****APPLICATION DETAILS**

Modification Application Number	16-2014-654-5
Development Description	Multi Dwelling Housing (15 units) and 15 Lot Torrens Title Subdivision
Modification Description	Section 96(1A) Amendment to Approved 15 Dwellings and 15 Lot Subdivision – Reduce Section 94 Contributions
Applicant	LE MOTTEE GROUP PTY LTD
Date of Lodgement	16/02/2016

Site History

The subject site has approval for fifteen dwellings and a fifteen lot subdivision under DA 16-2014-654-1. Amendments have been made to the original approval inclusive of:

- DA 16-2014-654-2 - amendments to Section 94 contributions to reflect staged construction of development;
- DA 16-2014-654-3 - amend conditions of consent to reflect staged construction of development;
- DA 16-2014-654-4 – amend conditions of consent to remove the footpath construction requirement and waiver Section 94 contributions relating to 'road works'. The proposed modification to the Section 94 contributions was removed from this application as a result of discussions between the assessing officer and applicant.

Modification Proposal

The application proposes to modify Condition No. 3 of development consent 16-2014-654-1.

Condition No. 3 relates to the payment of Section 94 contributions. Currently the consent calls for a total payment of \$190,260 for all 3 stages. The s.96 modification application seeks that this amount be reduced to \$93, 667 for the reasons provided by the Applicant as set out below:

1. The developer will be constructing the full length of Trafalgar Lane at their own cost of approximately \$260, 000. These works are of public benefit and the development was not entirely dependent on the full length construction of the lane. The applicant states that the decision to build the entirety of the lane was made under duress. Reason being due to the application being before Council for an extended period of time, causing the developer to complete a redesign where required or construct the entirety of the lane. The applicant therefore notes that due to the developer constructing the lane at their own cost, it is unreasonable to charge the 'road works' part of the Section 94 contribution.

Page 1 of 4

**ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION****MINUTES ORDINARY COUNCIL - 24 MAY 2016****ITEM 2 - ATTACHMENT 4 ASSESSMENT REPORT.**

16-2014-654-5

2. For a Section 94 contribution to be payable, an increase in demand for services is required to be demonstrated. The applicants states that the wording of Subsection 1 of the Section 94 Plan states:

"If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring the dedication of land free of cost or the payment of a monetary contribution or both".

3. The applicant notes that there were previously 22 dwellings on this site, with the developer replacing those 22 dwellings with 15 dwellings, subsequently demonstrating that there is no increased demand for services. Accordingly, it is considered that no Section 94 fees are payable.

PROPERTY DETAILS

Property Address	27 Dowling Street NELSON BAY
Lot and DP	LOT: 1 DP: 235550
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints That Affect The Modification	Bushfire Prone Land Category 3, Acid Sulphate Soils Class 5, Koala Habitat – Supplementary, SEPP 71 Coastal Protection, D7 – Nelson Bay, Sea breeze Estate.

ASSESSMENT SUMMARY

Designated Development	The application is not designated development.
Integrated Development	The application does not require additional approvals listed under s.91 of the EP&A Act.
Concurrence	The application does not require the concurrence of another body.

Internal Referrals

The proposed modification was referred to the following internal specialist staff. The comments of the listed staff listed have been used to carry out the assessment against the s79C Matters for Consideration below.

Section 94 Analysis Team (SAT)

The s.94 modification application was referred to the Section 94 Analysis Team (SAT) for review. The SAT did not support the proposed reduction in s.94 contributions for the following reasons:

1. As the site was vacant when the development application was lodged the mere fact that the historical developments had occurred onsite, does not mean that the approved development (16-2014-645-1) would not generate an increase in demand for public amenities and services.

**ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION**

MINUTES ORDINARY COUNCIL - 24 MAY 2016

ITEM 2 - ATTACHMENT 4 ASSESSMENT REPORT.

16-2014-654-5

2. At the time of the development application and consequent approval, the previous dwellings did not exist and therefore no demand for public services and amenities could be generated by development on the Site.
3. Council believes they have correctly calculated the amount of the s94 contributions set out in Condition 3 as the site was vacant at the time of the development application. Further, the levying of the contributions is not considered unreasonable as the development will generate an increase in demand for public amenities and services "within the area".
4. In relation to Trafalgar Lane, Council is not required to provide a credit as the requirement for the construction of Trafalgar Lane has been imposed under s80A(1) and not a S94 condition.
5. As any material public benefit arising from the construction of Trafalgar Lane arises from a condition of consent, Council is not required to take it into account and provide credits against the contributions.

External Referrals

No external referrals were required for the proposed modification.

**ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES- 24 MAY 2016 -
ITEM 2 - 27 DOWLING STREET, NELSON BAY - SECTION 96 MODIFICATION**

MINUTES ORDINARY COUNCIL - 24 MAY 2016

ITEM 2 - ATTACHMENT 4 ASSESSMENT REPORT.

16-2014-654-5

MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT – S96(1A)

S96(1A)(a) – Minimal Environmental Impact

The proposed modification has a minimal environmental impact. There are no structural or built changes to the approved development under DA 16-2014-654-1. For this reason, the modification does not require any further assessment under local or state planning policies.

S96(1A)(b) – Substantially The Same Development

The development as modified is substantially the same as the approved development as no modification is occurring to the approved dwellings, lot layouts or ancillary infrastructure (Trafalgar Lane).

However, the proposed modification for the reduction in s94 fees is not support on its merits when considered in accordance with s.79C matters for consideration as:

- a) A reduction in the s94 levies cannot be justified under Section 94 of the *Environmental Planning and Assessment Act 1979* as the site was vacant at the time of the development application and therefore was subject to applicable fees being imposed at the time under Section 94. A reduction in the levies is therefore not supported in this instance;
- b) An increase of demand for services will occur as a result of the approved development onsite as the site was vacant at the time of the proposal and now results in the construction of 15 dwellings. Subsequently, the s94 levies imposed under DA 16-2014-654-1 are considered to be reasonable, and;
- c) Council is not required to provide a credit as the requirement for the construction of Trafalgar Lane has been imposed under s80A(1) and not a S94 condition.

S96(1A)(c) – Notification

The application was not required to be notified in accordance with Councils Development Control Plan.

S96(1A)(d) – Submissions

There were no submissions received relating to the proposed modification.

MODIFIED CONDITIONS

Nil. The proposed modification to condition No.3 is not supported.

CONFIDENTIAL ITEMS

In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL MEETING – 14 JUNE 2016 MOTION

170	Councillor Ken Jordan Councillor Chris Doohan It was resolved that Council move into confidential session.
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The following Council officers were present for the Confidential Session:

Communications Section Manager
Investment and Asset Manager
Planning and Developer Relations Coordinator

CONFIDENTIAL**ITEM NO. 1****FILE NO: 16/314938
RM8 REF NO: PSC2016-01077****PROPOSED SALE OF 18-20 KING STREET, RAYMOND TERRACE****REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES****ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

171	Councillor Ken Jordan Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Resolves to sell 18-20 King Street, Raymond Terrace by way of Private Treaty to Wayne Lawrence & Fiona Lawrence or Nominee for the proposed sum detailed in the report.2) Registers an easement on the Title for the purpose of public access along the river frontage of the property.3) Authorises the Mayor and General Manager to sign and affix the Seal of Council to all relevant documents relating to the Contract of Sale and the required easement.
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**ORDINARY COUNCIL MEETING – 14 JUNE 2016
MOTION**

172	Councillor Chris Doohan Councillor Ken Jordan It was resolved that Council move out of confidential session.
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There being no further business the meeting closed at 7.14pm.