

DRAFT

MINUTES – 23 AUGUST 2016



PORT STEPHENS

C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 23 August 2016, commencing at 5.30pm.

PRESENT:

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

There were no apologies received.

236	Councillor Steve Tucker Councillor Ken Jordan It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 9 August 2016 be confirmed.
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MINUTES ORDINARY COUNCIL - 23 AUGUST 2016
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	There were no Declaration of Interest received.
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MOTIONS TO CLOSE

ITEM NO. 1

**FILE NO: 16/384312
RM8 REF NO: PSC2009-01623**

MOTION TO CLOSE

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (c) of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **ACQUISITION OF EASEMENT FOR CAMPVALE DRAIN - 77 ABUNDANCE ROAD, MEDOWIE.**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:
 - information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

**ORDINARY COUNCIL MEETING - 23 AUGUST 2016
MOTION**

237	<p>Councillor Paul Le Mottee Councillor John Morello</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) That pursuant to section 10A(2) (c) of the <i>Local Government Act 1993</i>, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely ACQUISITION OF EASEMENT FOR CAMPVALE DRAIN - 77 ABUNDANCE ROAD, MEDOWIE.2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:<ul style="list-style-type: none">• information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.3) That the report remain confidential and the minute be released in accordance with Council's resolution.
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COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 16/362904
RM8 REF NO: A2004-0709**

355(C) COMMITTEE TERMS OF REFERENCE APPENDIX REVIEW

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current 355(c) Committee Schedules for the following committees **(ATTACHMENT 1)**:
 - Corlette Parks Reserves and Landcare Group.
 - Shoal Bay Beach Preservation Committee.
 - Soldiers Point-Salamander Bay Tidy Towns and Landcare Committee.
 - Tanilba Bay Parks Reserves and Hall Committee.
 - West Tilligerry Tidy Towns and Landcare Committee.
- 2) Adopt the 355(c) Committee Terms of Reference Appendices **(ATTACHMENT 2)** that have been ratified by the following Committees:
 - Corlette Parks Reserves and Landcare Group.
 - Shoal Bay Beach Preservation Committee.
 - Soldiers Point Salamander Bay Landcare Group.
 - Tanilba Bay Parks Reserves and Hall Group.
 - Tilligerry Landcare Group.

**ORDINARY COUNCIL MEETING - 23 AUGUST 2016
MOTION**

	Council did not move into Committee of the Whole.
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**ORDINARY COUNCIL MEETING - 23 AUGUST 2016
MOTION**

238	<p>Councillor John Nell Councillor John Morello</p> <p>It was resolved that Council:</p> <p>1) Revoke the current 355(c) Committee Schedules for the following committees (ATTACHMENT 1):</p> <ul style="list-style-type: none">• Corlette Parks Reserves and Landcare Group.• Shoal Bay Beach Preservation Committee.• Soldiers Point-Salamander Bay Tidy Towns and Landcare Committee.• Tanilba Bay Parks Reserves and Hall Committee.• West Tilligerry Tidy Towns and Landcare Committee. <p>2) Adopt the 355(c) Committee Terms of Reference Appendices (ATTACHMENT 2) that have been ratified by the following Committees:</p> <ul style="list-style-type: none">• Corlette Parks Reserves and Landcare Group.• Shoal Bay Beach Preservation Committee.• Soldiers Point Salamander Bay Landcare Group.• Tanilba Bay Parks Reserves and Hall Group.• Tilligerry Landcare Group.
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BACKGROUND

The purpose of this report is to recommend to Council the adoption of the amended 355(c) Committee Terms of Reference Appendices.

At its meeting of 27 October 2015 Council resolved to receive further reports to endorse the adoption of individual 355(c) Committee Appendices following consultation with each Committee (Minute No 322).

As part of the review, the following Committees required new Terms of Reference Appendices as their current Constitution Schedules are out of date. The table below outlines when the current 355(c) Committee Constitution Schedules were adopted by Council. These are shown in full at **(ATTACHMENT 1)**. The names of some of the Committees have been changed, in consultation with the Committees, to better reflect their current work.

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

The amendments to the current Terms of Reference use an updated template, including policies and legislation associated with 355(c) Committees and the roles and functions of the Committees.

NAME OF COMMITTEE	DATE ADOPTED BY COUNCIL
Corlette Parks Reserves and Landcare Group	22 July 2014 Minute No 190
Shoal Bay Beach Preservation Committee	23 July 2002 Minute No 291
Soldiers Point-Salamander Bay Tidy Towns and Landcare Committee	26 June 2001 Minute No 235 Map amended 28 October 2003 Minute No 454
Tanilba Bay Parks Reserves and Hall Committee	26 June 2001 Minute No 237
West Tilligerry Tidy Towns and Landcare Committee	26 June 2001 Minute No 237

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Community Planning and Partnerships.	Council will engage its citizens in developing plans for the future of the Port Stephens local government area.

FINANCIAL/RESOURCE IMPLICATIONS

There are no foreseen financial or resource implications resulting from the recommendations in this report.

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

A 355(c) Committee Terms of Reference sets out mandatory provisions for the administration and management of the Committees and their requirements under the *Local Government Act 1993*. The Appendix is the supporting document to the Terms of Reference detailing the individual purpose and roles of each Committee and any clauses within the Terms of Reference that are not relevant to that Committee's functions.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that conflict between 355(c) Committee Members arises due to management and operational requirements not being clearly outlined in a detailed 355(c) Committee Terms of Reference Appendix.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications.

Council establishes 355(c) Committees to assist in Council operations under the *Local Government Act 1993*.

Council has thirty two 355(c) Committees that are made up of volunteers who assist in the maintenance and operation of Council parks and reserves and community halls. They offer a range of services that enhance the environment and the community, promoting positive partnerships and financially sustainable practices.

MERGER PROPOSAL IMPLICATIONS

Adopting the recommendations is not expected to impact on a merger with Newcastle City Council or any other Local Government body.

Should a merger occur the new entity will need to review 355(c) committees and their approach.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Community Services Section.

Internal

Thorough consultation was undertaken in 2015 in the development of the 355(c) Committee Terms of Reference. The template for individual Committees' Appendix was also a part of this process. This is outlined in the Council report of 27 October 2015 Item No 13.

External

Draft 355(c) Committee Terms of Reference Appendices for each Committee was tabled and reviewed at individual committee meetings for feedback and suggested amendments. Final drafts have been ratified by the Committees and these are the documents being recommended for Council endorsement.

OPTIONS

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

ATTACHMENTS

- 1) Current 355(c) Committee Schedules.
- 2) Draft 355(c) Committee Terms of Reference Appendices.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.
ATTACHMENT 1
1. SCHEDULE - CORLETTE PARKS RESERVES AND LANDCARE GROUP

Item 1	Name of Committee	Corlette Parks Reserves and Landcare Group (a 355c Committee of Port Stephens Council).
Item 2	Name of Council Group and Section	Facilities & Services Group/Community Services Section
Item 3	Functions delegated by Council to committee	<ol style="list-style-type: none"> 1) Co-ordinate working bees, liaise with Council staff re working bees in Corlette. Encourage and support the community and/or community groups, to participate in programs benefiting Corlette. 2) Co-ordinate and/or assist in the preparation of entries for Tidy Towns Programs for the Corlette area. 3) Co-ordinate and/or assist Council and the community in the participation in international and national environmental events. 4) Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, community service orders) for committee projects. 5) Provide a community link to assist Council staff in consulting with the community on management plans. 6) Promote and participate in environmental education programs with schools and the community.
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Volunteers Coordinator.
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: Local Government Act 1993 and it's Regulation as amended Crown Lands Act 1989 WorkPlace Health and Safety Act 2011 Privacy and Personal Information Protection Act 1988 State Records Act 1998 Port Stephens Council Code of Conduct Port Stephens Council Code of Meeting Practice Port Stephens Council Accessing Information Policy Port Stephens Council Volunteer Strategy
Item 6	Date on which constitution concludes	September Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	1) Up to twelve members of the Port Stephens community.
Item 8	Councillors	One (1) Councillor as resolved by Council.
Item 9	Council employees	Volunteer Coordinator
Item 10	Name of financial institution and type of account	Greater Building Society- Nelson Bay Cheque Account bearing interest
Item 11	Name of any account operated by the committee	Corlette Parks Reserves and Landcare Group a 355c Committee of Port Stephens Council

ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.

Item 12	Area assigned to committee and/or map	All Council owned and managed community land categorised as bushland, waterways, natural areas in the Corlette area.
Item 13	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full-body of constitution not to be altered.	Amendments 1) Clause 7.1.(a) is amended to read "The Committee, at a minimum, must appoint a Chair and Deputy Chair." 2) Clause 7.1.(b) is not applicable 3) Clause 7.1.(c) is not applicable 4) Clause 9.4.(a) is amended to read "The Committee shall hold ordinary meetings three times in a financial year and these shall be held in March, July and November." 5) Clause 10 is not applicable 6) Clause 12 is amended in its entirety to read "The Committee shall provide an annual report to Council that provides a summary of all activities undertaken by the Committee in the preceding year."
Item 14	Changes to constitution or Schedule- Adopted by Council: Meeting Date: Minute No: Resolution:	

ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.
2. SCHEDULE - SHOAL BAY BEACH PRESERVATION COMMITTEE

Item 1	Name of Committee	Shoal Bay Beach Preservation Committee
Item 2	Name of Council Team	Recreation Services
Item 3	Functions delegated by Council to committee (Objectives)	<ol style="list-style-type: none"> 1) Co-ordinate working bees, liaise with Council staff re working bees in Shoal Bay. 2) Encourage and support the community and/or community groups, to participate in programs benefiting Shoal Bay. 3) Co-ordinate and/or assist in the preparation of entries for Tidy Towns Programs for the Shoal Bay area. 4) Co-ordinate and/or assist Council and the community in the participation in international and national environmental events. 5) Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, community service orders) for committee projects. 6) Provide a community link to assist Council staff in consulting with the community on management plans. 7) To endeavour to co-operate with other agencies in order to keep the community fully informed of those facilities that exist within the district. 8) To co-operate with Council to ensure that facilities are provided and maintained at an acceptable standard.
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of Tomaree Parks Co-ordinator.
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: OH&S Act, 2000 OH&S Regulations, 2001 PPIPA 1988 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteers Policy
Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	Up to eight interested community members
Item 8	Councillors	As resolved by Council.

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016**ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.**

Item 9	Council employees	Tomaree Parks Co-ordinator
Item 10	Name of financial institution and type of account	Newcastle Permanent Building Society Savings Account
Item 11	Name of any account operated by the committee	Shoal Bay Beach Preservation Committee a S355(b) committee of Port Stephens Council
Item 12	Area assigned to committee and/or map	As per attached map
Item 13	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full - body of constitution not to be altered.	N/A
Item 14	Changes to constitution or Schedule Adopted by Council: Meeting Date: Minute No: Resolution:	Constitution adopted by Council 23 July 2002 Minute No 291

ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.**3. SCHEDULE – SOLDIERS POINT-SALAMANDER BAY TIDY TOWNS AND LANDCARE COMMITTEE**

Item 1	Name of Committee	Soldiers Point -Salamander Bay Tidy Towns & Landcare Committee
Item 2	Name of Council Team	Recreation Services
Item 3	Functions delegated by Council to committee	<ol style="list-style-type: none"> 1) Co-ordinate working bees, liaise with Council staff re working bees in Salamander Bay and areas where joint ventures have been negotiated with other committees. 2) Encourage and support the community and/or community groups, to participate in working bees/programs benefiting Salamander Bay and areas where joint ventures have been negotiated with other committees 3) Participate in environmental programs such as: <ul style="list-style-type: none"> • Erosion control • Water Quality Monitoring • Bush Regeneration • Bush Revegetation • Litter Control • Weed Eradication • Amenity Improvement 4) Co-ordinate and/or assist in the preparation of entries & attendance at judging for Tidy Towns Programs for the Salamander Bay area 5) Co-ordinate and/or assist Council and the community in the participation in international and national environmental and educational events. 6) Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, community service orders) for committee projects. 7) Provide a community link to assist Council staff in consulting with the community on management plans.
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Tomaree Parks Co-ordinator
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to : OH&S 2000 OH&S Regulation 2001 LGA & Regulations 1993 PPIPA 1988 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteers Policy

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016**ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.**

Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	Up to twenty interested community members
Item 8	Councillors	As resolved by Council.
Item 9	Council employees	Tomaree Parks Co-ordinator and Environmental & Health Development Officer
Item 10	Name of financial institution and type of account	Colonial State Bank NSW – Salamander Bay
Item 11	Name of any account operated by the committee	Soldiers Point Salamander Bay Tidy Towns & Landcare Committee a S355(b) committee of Port Stephens Council
Item 12	Area assigned to committee and/or map	As per attached map Areas where there is agreement to undertake projects or joint projects within the boundaries of other Tomaree committees.
Item 13	Additional clauses or amendments to Standard Constitution or Schedule To be listed in full – body of constitution not to be altered	
Item 14	Changes to constitution or Schedule – Adopted by Council Meeting Date Minute No Resolution	Constitution adopted 26 June 2001 Minute No. 235 Constitution Map Amended Council Meeting 28 th October 2003 Minute No 454

ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.**4. SCHEDULE – TANILBA BAY PARKS RESERVES AND HALL COMMITTEE**

Item 1	Name of Committee	Tanilba Bay Parks, Reserves and Hall Committee
Item 2	Name of Council Section	Recreation Services Contracts & Halls Coordinator
Item 3	Functions delegated by Council to committee	<ol style="list-style-type: none"> 1) To co-operate with Council to ensure that the facility of the hall is provided and maintained at an acceptable standard. 2) Undertake the functions of: <ul style="list-style-type: none"> • arranging bookings for hire of the hall • receiving and banking fees & charges • arranging cleaning • providing reports to Council on maintenance requirements 3) To make recommendation to Council as to the development, planning and management of Tanilba Bay Hall 4) To make recommendations to Council on appropriate charges for the use of community hall. 5) To refer requests for additional work to Council for consideration and setting of priorities. 6) Co-ordinate working bees, liaise with Council staff re working bees in Tanilba Bay area. 7) Co-ordinate and/or assist in the preparation of entries for Tidy Towns Programs for the Tanilba Bay area. 8) In co-operation with Council, Government Departments and other bodies/organisations ensure that wherever possible optimum use is made of existing facilities. 9) To endeavour to co-operate with other agencies in order to keep the community fully informed of those facilities that exist within the district. 10) To assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, community service orders). 11) Provide a community link to assist Council staff in consulting with the community on management plans
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Raymond Terrace Parks Co-ordinator Contracts & Halls Coordinator
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: OH&S 2000 OH&S Regulation 2001 LGA & Regulations 1993 PPIPA 1988 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteers Policy

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016**ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.**

Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	Up to twelve interested community persons.
Item 8	Councillors	As resolved by Council.
Item 9	Council employees	Raymond Terrace Parks Co-ordinator Environmental & Health Development Officer Contracts & Halls Coordinator
Item 10	Name of financial institution and type of account	Greater Building Society – Tanilba Bay
Item 11	Name of any account operated by the committee	Tanilba Bay Parks, Reserves & Hall Committee a S355(b) committee of Port Stephens Council
Item 12	Area assigned to committee and/or map	As per attached map
Item 13	Additional clauses or amendments to Standard Constitution or Schedule To be listed in full – body of constitution not to be altered	<p>Clause 16 – Halls</p> <p>The committee will be required to meet the following expenses from income received from the hire of the hall:</p> <ul style="list-style-type: none"> • Water Usage Charges • Electricity charges • Cleaning Costs • Agreed contribution to repairs & maintenance <p>Council will meet the following expenses</p> <ul style="list-style-type: none"> • Council Rates • Standing Charges for Water • Sewerage Charges • Structural Maintenance & Repairs
Item 14	Changes to constitution or Schedule – Adopted by Council Meeting Date Minute No Resolution	Constitution adopted 26 June 2001 Minute No. 237

ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.**5. SCHEDULE – WEST TILGERRY TIDY TOWNS AND LANDCARE COMMITTEE**

Item 1	Name of Committee	West Tilligerry Tidy Towns and Landcare Committee
Item 2	Name of Council Section	Recreation Services
Item 3	Functions delegated by Council to committee	<ol style="list-style-type: none"> 1) Where joint ventures have been negotiated with other Tilligerry Committee - co-ordinate working bees, liaise with Council staff in organising working bees for nominated or agreed projects. 2) Encourage and support the community and/or community groups, to participate in programs benefiting Tilligerry Peninsula 3) Co-ordinate and/or assist in the preparation of entries for Tidy Towns Programs for nominated or agreed projects. 4) Co-ordinate and/or assist Council and the community in the participation in international and national environmental events. 5) Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, community service orders) for committee projects. 6) Provide a community link to assist Council staff in consulting with the community on management plans.
Item 4	Restrictions on functions delegated	Any works undertaken will be with the knowledge and approval of the Raymond Terrace Parks Co-ordinator and/or Environmental & Health Development Officer
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: OH&S 2000 OH&S Regulation 2001 LGA & Regulations 1993 PPIPA 1988 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteers Policy
Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	Up to twelve community persons
Item 8	Councillors	As resolved by Council.
Item 9	Council employees	Raymond Terrace Parks Co-ordinator Environmental & Health Development Officer
Item 10	Name of financial institution and type of account	Greater Building Society – Tanilba Bay Savings Account
Item 11	Name of any account operated by the committee	West Tilligerry Tidy Towns and Landcare Committee a S355(b) committee of Port Stephens Council
Item 12	Area assigned to committee and/or map	Areas where there is agreement to undertake projects or joint projects within the boundaries of other Tilligerry committees.
Item 13	Additional clauses or amendments to Standard Constitution or Schedule	N/A

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016**ITEM 1 - ATTACHMENT 1 CURRENT 355(C) COMMITTEE SCHEDULES.**

Item 14	To be listed in full – body of constitution not to be altered Changes to constitution or Schedule Adopted by Council Meeting Date Minute No Resolution	Constitution adopted 26 June 2001 Minute No. 237
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ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.
APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE

Item 1	Name of Committee	Corlette Parks Reserves and Landcare Group
Item 2	Purpose of Committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area.
Item 3	Functions delegated by Council to committee (Objectives)	<ol style="list-style-type: none"> 1. Encourage, support and coordinate working bees and liaise with Council staff re working bees in Corlette. 2. Encourage and support the community and/or community groups, to participate in programs benefiting the environment in Corlette. 3. Coordinate and/or assist in the preparation of entries for environmental award programs for agreed projects. 4. Coordinate and/or assist Council and the community in the participation in international and national environmental events. 5. Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, Green Army) for committee projects. 6. Provide a community link to assist Council staff in consulting with the community on management plans and raise community issues. 7. Promote and participate in environmental education programs with schools and the community. <p>See attached map of areas where Corlette Parks Reserves and Landcare Group activities are undertaken.</p>
Item 4	Restrictions on functions delegated	<p>Any works undertaken will be with the knowledge and approval of the relevant Parks Program Officer and/or Community and Recreation Assets or Natural Resources Officer.</p> <p>Committees that have volunteers between the age of 15 to 18 years working on 355(c) projects are required to have at least one member present with a current Working With Children Check. Alternatively, a parent or guardian of that person under 18 years is required to be on site working with the young person in question.</p>
Item 5	Policies, legislation the committee is required to comply with	<p>Principle policies and legislation including but not limited to:</p> <ul style="list-style-type: none"> ▪ Local Government Act 1993 ▪ WHS Act 2011 ▪ Privacy and Personal Information Act 1998 ▪ State Records Act, 1998 ▪ PSC Code of Conduct 2014, Min No 043 ▪ PSC Code of Meeting Practice 2013, Min No 322 ▪ PSC WHS Statement of Commitment ▪ Accessing Information Policy ▪ Volunteers Strategy Framework 2012 ▪ PSC Disability Policy 2010, Min No 321
Item 6	Term of Committee	September of Council Election each four years. Council to readopt Terms of Reference within three months following election.

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

Item 7	Maximum number and make up of committee members	Up to fifty (50) General Members in total, with General Members being elected to four Executive and eight Advisory positions.
Item 8	Executive and Advisory members	<p>Four (4) Executive Members:</p> <ul style="list-style-type: none"> ▪ Chairperson ▪ Deputy Chairperson ▪ Secretary ▪ Treasurer <p>Up to eight (8) Advisory Members</p>
Item 9	Councillors	As resolved by Council
Item 10	Council employees	<p>Facilities and Services Group Community Services Section Manager Community Services Section Contracts and Services Coordinator Community and Recreation Coordinator Parks Program Coordinator and Officers Volunteers Coordinator Finance Officer</p> <p>Financial account signatories: Volunteers Coordinator (Melinda Anderson) Finance Officer (Lee Power)</p>
Item 11	Name of financial institution and type of account/s	Greater Bank – Cheque interest bearing BSB: 63700 Account: 720484501
Item 12	Name of any account operated by the committee	Corlette Parks Reserves and Landcare Group, a 355c Committee of Port Stephens Council
Item 13	Reporting	<p>Financial Record Keeping and Reporting</p> <ol style="list-style-type: none"> 1. Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. 2. With the introduction of the Goods and Services Tax effective from 1 July 2000, all 355(c) committees are obliged to comply with the new tax system. <ol style="list-style-type: none"> a) All committees are covered under Council's Australian Business Number. b) Committees are responsible for administering the requirements of GST Legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from ATO. c) Accordingly, each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by Australian Taxation Office. 3. The Treasurer shall be responsible for ensuring:

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<ul style="list-style-type: none"> a) The proper keeping of the books and accounts of the committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager. b) Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the committee. c) Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. (Only those committees with quarterly bank statements may choose to report quarterly instead of monthly.) <ul style="list-style-type: none"> i. This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format. ii. The cash book is completed each month and the original forwarded to Council with copies of tax invoices, tax input receipts and bank statements. iii. The totals of each month are entered onto the Annual Financial Summary reporting page. d) Receiving monies on behalf of the committee and maintaining accurate records of the receipt of such monies. e) Attending to the payment of accounts and other expenses approved by the committee on behalf of the committee, and maintaining an accurate record of such payments. f) Issuing of tax invoices. g) Annual Financial Summary to be forwarded prior to 31 March each year to Council's Responsible Officer for finance in a format as provided by Council, and to include: <ul style="list-style-type: none"> ▪ copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at the 31st December each year. ▪ copies of documentation supporting all increases and decreases in any investment accounts. <p>4. All monies received by the committee shall be deposited within seven (7) days of receipt into an account in the financial institution set out in Item 11 of the Appendix. Any such account must have the names of the account/s set out in Item 12 of the Appendix.</p> <p>5. The committee may only operate those accounts set out in Item 11 and 12 of the Appendix or as directed in writing by the General Manager.</p> <ul style="list-style-type: none"> a) Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any of the three Account Signatories as determined by the committee. b) All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix. c) All committees are required to advise Council of the details of the persons who are authorised signatories of the committee's bank account, when a new account is opened, and when changes to the signatories occurs.
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ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<p>d) All financial accounts held by the committee must include the words "A 355c Committee of Port Stephens Council" in the account name.</p> <p>e) The committee is also required to provide documentation at the Annual General Meeting listing the current signatories on each account held. This documentation will form part of the Minutes of the Annual General Meeting.</p> <p>6. The committee must not, at any time, incur any expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee, shall be paid unless authorised by resolution of the committee.</p> <p>7. The committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the committee.</p> <p>8. The financial year shall be the period from the 1 January to 31 December.</p> <p>General Reporting</p> <p>1. Annual Reporting - to be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers, and must include:</p> <ul style="list-style-type: none"> ▪ Minutes of AGM. ▪ Completed AGM checklist. ▪ Committee Annual Report - a summary of activities and projects undertaken by the committee between 1 January and 31 December, and proposed projects and activities to be undertaken by the committee during that current year. ▪ Updated list of all General Members, including notification of the elected Executive and Advisory Members, and Account Signatories.
Item 14	Changes to Terms of Reference or Appendix – Adopted by Council Meeting Date Minute No Resolution	Terms of Reference Adopted at Council Meeting 27 October 2015, Minute No 322.
Item 15	Additional clauses or amendments to Terms of Reference or Appendix To be listed in full – body of Terms of Reference not to be altered	<p>Clause 6 b) The committee may appoint General Members to Advisory positions, such as Bookings Officer and Works Coordinator up to a maximum of five (5) Advisory Members for one committee in any twelve (12) month term, in accordance with Item 8 of the Appendix.</p> <p>To be replaced with</p> <p>The committee may appoint General Members to Advisory positions, such as Bookings Officer and Works Coordinator up to a maximum of eight (8) Advisory Members for one committee in any twelve (12) month term, in accordance with Item 8 of the Appendix.</p>

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.**APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE**

Item 1	Name of committee	Shoal Bay Beach Preservation Committee
Item 2	Purpose of committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area
Item 3	Functions delegated by Council to committee (Objectives)	<ol style="list-style-type: none"> 1. Coordinate working bees, liaise with Council staff re working bees in Shoal Bay. 2. Encourage and support the community and/or community groups, to participate in programs benefiting Shoal Bay. 3. Coordinate and assist in the preparation of entries for environmental award programs for nominated or agreed projects in the Shoal Bay area. 4. Co-ordinate and assist Council and the community in the participation in international and national environmental events. 5. Assist in the sourcing of alternate funding (e.g. grants) or voluntary labour (e.g. work for the dole, community service orders) for committee projects. 6. Provide a community link to assist Council staff in consulting with the community on management plans. 7. To endeavour to co-operate with other agencies in order to keep the community fully informed of those facilities that exist within the district. 8. To co-operate with Council to ensure the facilities are provided and maintained at an acceptable standard. <p>See attached map of areas where Shoal Bay Beach Preservation Committee activities are undertaken.</p>
Item 4	Restrictions on functions delegated	<p>Any works undertaken will be with the knowledge and approval of the relevant Parks Program Officer and/or Community and Recreation Assets or Natural Resources Officer.</p> <p>Committees that have volunteers between the age of 15 to 18 years working on 355(c) projects are required to have at least one member present with a current Working With Children Check, alternatively a parent or guardian, of that person under 18 years is required to be on site working with the young person in question.</p>
Item 5	Policies, legislation the committee is required to comply with	<p>Principle policies and legislation including but not limited to:</p> <ul style="list-style-type: none"> ▪ Local Government Act 1993 ▪ WHS Act 2011 ▪ Privacy and Personal Information Act 1998 ▪ State Records Act, 1998 ▪ PSC Code of Conduct 2014, Min No 043 ▪ PSC Code of Meeting Practice 2013, Min No 322 ▪ PSC WHS Statement of Commitment ▪ Accessing Information Policy ▪ Volunteers Strategy Framework 2012 ▪ PSC Disability Policy 2010, Min No 321

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

Item 6	Term of committee	For the term of Council Election each four years. Council to readopt Terms of Reference within three months following election.
Item 7	Maximum number and make up of committee members	Up to one hundred (100) General Members of the committee and no less than three (3).
Item 8	Executive and Advisory members	<p>Four (4) Executive Members:</p> <p>Chairman Vice Chairman Secretary Treasurer</p> <p>Up to five (5) Advisory Members</p>
Item 9	Councillors	As resolved by Council
Item 10	Council employees	<p>Facilities and Services Group Community Services Section Manager Community Services Section Contracts and Services Coordinator Community and Recreation Coordinator Parks Program Coordinator and Officer Volunteers Coordinator Finance Officer</p> <p>Financial account signatories: Volunteers Coordinator (Melinda Anderson) Finance Officer (Lee Power)</p>
Item 11	Name of financial institution and type of account/s	Newcastle Permanent Building Society - Passbook account BSB: 650000 Account: 816794907
Item 12	Name of any account operated by the committee	Shoal Bay Beach Preservation Committee, a 355c Committee of Port Stephens Council
Item 13	Reporting	<p>Financial Record Keeping and Reporting</p> <ol style="list-style-type: none"> 1. Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. 2. With the introduction of the Goods and Services Tax effective from 1 July 2000, all section 355(c) committees are obliged to comply with the new tax system. <ol style="list-style-type: none"> a) All committees are covered under Council's Australian Business Number. b) Committees are responsible for administering the requirements of GST Legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from ATO. c) Accordingly each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS).

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<p>d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by Australian Taxation Office.</p> <p>3. The Treasurer shall be responsible for ensuring:</p> <p>a) The proper keeping of the books and accounts of the committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager.</p> <p>b) Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the committee.</p> <p>c) Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. (Only those committees with quarterly bank statements may choose to report quarterly instead of monthly.)</p> <p>i. This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format.</p> <p>ii. The cash book is completed each month and the original forwarded to Council with copies of tax invoices, tax input receipts and bank statements.</p> <p>iii. The totals of each month are entered onto the Annual Financial Summary reporting page.</p> <p>d) Receiving monies on behalf of the committee and maintaining accurate records of the receipt of such monies.</p> <p>e) Attending to the payment of accounts and other expenses approved by the committee on behalf of the committee, and maintaining an accurate record of such payments.</p> <p>f) Issuing of tax invoices.</p> <p>g) Annual Financial Summary to be forwarded prior to 31 March each year to Council's Responsible Officer for finance in a format as provided by Council, and to include:</p> <ul style="list-style-type: none"> ▪ copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at the 31st December each year. ▪ copies of documentation supporting all increases and decreases in any investment accounts. <p>4. All monies received by the committee shall be deposited within seven (7) days of receipt into an account in the financial institution set out in Item 11 of the Appendix. Any such account must have the names of the account/s set out in Item 12 of the Appendix.</p> <p>5. The committee may only operate those accounts set out in Item 11 and 12 of the Appendix or as directed in writing by the General Manager.</p> <p>a) Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any two (2) of the Executive as determined by the committee.</p> <p>b) All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix.</p>
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ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<p>c) All committees are required to advise Council of the details of the persons who are authorised signatories of the committee's bank account, when a new account is opened, and when changes to the signatories occurs.</p> <p>d) All financial accounts held by the committee must include the words "A 355c Committee of Port Stephens Council" in the account name.</p> <p>e) The committee is also required to provide documentation at the Annual General Meeting listing the current signatories on each account held. This documentation will form part of the Minutes of the Annual General Meeting.</p> <p>6. The committee must not, at any time, incur any expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee, shall be paid unless authorised by resolution of the committee.</p> <p>7. The committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the committee.</p> <p>8. The financial year shall be the period from the 1 January to 31 December.</p> <p>General Reporting</p> <p>1. Annual Reporting - to be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers and must include:</p> <ul style="list-style-type: none"> ▪ Minutes of AGM. ▪ Completed AGM checklist. ▪ Committee Annual Report - a summary of activities and projects undertaken by the committee between 1 January and 31 December, and proposed projects and activities to be undertaken by the committee during that current year. ▪ Updated list of all General Members, including notification of the elected Executive and Advisory Members, and Account Signatories.
Item 14	Changes to Terms of Reference or Appendix- Adopted by Council Meeting Date Minute No Resolution	Terms of Reference adopted at Council Meeting – 27 October 2015 Minute No 322
Item 15	Additional clauses or amendments to Terms of Reference or Appendix To be listed in full – body of Terms of Reference not to be altered	<p>5.1 There shall be no more than fifty (50) General Members of the committee and not less than three (3).</p> <p>To be replaced with</p> <p>There shall be no more than one hundred (100) General Members of the committee and not less than three (3).</p>

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.
APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE

Item 1	Name of committee	Soldiers Point - Salamander Bay Landcare Group
Item 2	Purpose of committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area.
Item 3	Functions delegated by Council to committee (Objectives)	<ol style="list-style-type: none"> 1. Encourage, support and coordinate working bees and liaise with Council staff re working bees in Soldiers Point and Salamander Bay and areas where joint ventures have been negotiated with other committees. 2. Participate in environmental programs such as: <ul style="list-style-type: none"> ▪ erosion control ▪ bush regeneration/revegetation ▪ litter control ▪ wildlife habitat and corridor protection ▪ weed eradication ▪ amenity improvement ▪ water quality monitoring 3. Coordinate and/or assist in the preparation of entries and attendance at environmental competitions or exhibitions for the Soldiers Point and Salamander Bay areas. 4. Coordinate and/or assist Council and the community in the participation in international and national environmental and educational events. 5. Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, community service orders) for committee projects. 6. Provide a community link to assist Council staff in consulting with the community on management plans. <p>See attached map of areas where Soldiers Point – Salamander Bay Landcare Group activities are undertaken.</p>
Item 4	Restrictions on functions delegated	<p>Any works undertaken will be with the knowledge and approval of the relevant Parks Program Officer and/or Community and Recreation Assets or Natural Resources Officer.</p> <p>Committees that have volunteers between the age of 15 to 18 years working on 355(c) projects are required to have at least one member present with a current Working With Children Check. Alternatively, a parent or guardian of that person under 18 years is required to be on site working with the young person in question.</p>
Item 5	Policies, legislation the committee is required to comply with	<p>Principle policies and legislation including but not limited to:</p> <ul style="list-style-type: none"> ▪ Local Government Act 1993 ▪ WHS Act 2011 ▪ Privacy and Personal Information Act 1998 ▪ State Records Act, 1998 ▪ PSC Code of Conduct 2014, Min No 043 ▪ PSC Code of Meeting Practice 2013, Min No 322 ▪ PSC WHS Statement of Commitment ▪ Accessing Information Policy ▪ Volunteers Strategy Framework 2012 ▪ PSC Disability Policy 2010, Min No 321

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

Item 6	Term of committee	September of Council Election each four years. Council to readopt Terms of Reference within three months following election.
Item 7	Maximum number and make up of committee members	The maximum number of committee members is up to sixty (60) General Members.
Item 8	Executive and Advisory members	Four (4) Executive Members: Chairperson Vice Chairperson Secretary Treasurer Up To five (5) Advisory Members
Item 9	Councillors	As resolved by Council
Item 10	Council employees	Facilities and Services Group Community Services Section Manager Community Services Section Contracts and Services Coordinator Community and Recreation Coordinator Parks Program Coordinator and Officers Volunteers Coordinator Finance Officer Financial account signatories: Volunteers Coordinator (Melinda Anderson) Finance Officer (Lee Power)
Item 11	Name of financial institution and type of account/s	Greater Building Society, Savings Account BSB: 637000 Account: 78174513
Item 12	Name of any account operated by the committee	Soldiers Point – Salamander Bay Landcare Group, a 355c Committee of Port Stephens Council.
Item 13	Reporting	Financial Record Keeping and Reporting 1. Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. 2. With the introduction of the Goods and Services Tax effective from 1 July 2000, all 355(c) committees are obliged to comply with the new tax system. a) All committees are covered under Council's Australian Business Number. b) Committees are responsible for administering the requirements of GST Legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from ATO. c) Accordingly, each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). d) Compliance with this request will ensure Council's obligation

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<p>is met on time and will avoid any interest or penalty chargeable by Australian Taxation Office.</p> <p>3. The Treasurer shall be responsible for ensuring:</p> <ul style="list-style-type: none"> a) The proper keeping of the books and accounts of the committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager. b) Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the committee. c) Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. (Only those with quarterly bank statements may choose to report quarterly instead of monthly.) <ul style="list-style-type: none"> i. This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format. ii. The cash book is completed each month and the original forwarded to Council with copies of tax invoices, tax input receipts and bank statements. iii. The totals of each month are entered onto the Annual Financial Summary reporting page which is forwarded to Council annually. d) Receiving monies on behalf of the committee and maintaining accurate records of the receipt of such monies. e) Attending to the payment of accounts and other expenses approved by the committee on behalf of the committee, and maintaining an accurate record of such payments. f) Issuing of tax invoices. g) Annual Financial Summary to be forwarded prior to 31 March each year to Council's Responsible Officer for finance in a format as provided by Council, and to include: <ul style="list-style-type: none"> ▪ copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at the 31st December each year. ▪ copies of documentation supporting all increases and decreases in any investment accounts. <p>4. All monies received by the committee shall be deposited within seven (7) days of receipt into an account in the financial institution set out in Item 11 of the Appendix. Any such account must have the names of the account/s set out in Item 12 of the Appendix.</p> <p>5. The committee may only operate those accounts set out in Item 11 and 12 of the Appendix or as directed in writing by the General Manager.</p> <ul style="list-style-type: none"> a) Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any two (2) of the Account Signatories as determined by the committee. b) All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix. c) All committees are required to advise Council of the details of the persons who are authorised signatories of the
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ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<p>committee's bank account, when a new account is opened, and when changes to the signatories occurs.</p> <p>d) All financial accounts held by the committee must include the words "a 355c Committee of Port Stephens Council" in the account name.</p> <p>e) The committee is also required to provide documentation at the Annual General Meeting listing the current signatories on each account held. This documentation will form part of the Minutes of the Annual General Meeting.</p> <p>6. The committee must not, at any time, incur any expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee shall be paid unless authorised by resolution of the committee.</p> <p>7. The committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the committee.</p> <p>8. The financial year shall be the period from the 1 January to 31 December.</p> <p>General Reporting</p> <p>1. Annual Reporting - to be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers and must include:</p> <ul style="list-style-type: none"> ▪ Minutes of AGM. ▪ Completed AGM checklist. ▪ Committee Annual Report - a summary of activities and projects undertaken by the committee between 1 January and 31 December, and proposed projects and activities to be undertaken by the committee during that current year. ▪ Updated list of all General Members, including notification of the elected Executive and Advisory Members, and Account Signatories.
Item 14	Changes to Terms of Reference or Appendix – Adopted by Council Meeting Date Minute No Resolution	Terms of Reference adopted at Council Meeting 27 October 2015 Minute No 322
Item 15	Additional clauses or amendments to Terms of Reference or Appendix To be listed in full – body of Terms of Reference not to be altered	<p>5.1 There shall be no more than fifty (50) General Members of the committee and not less than three (3).</p> <p>To be replaced with</p> <p>There shall be no more than sixty (60) General Members of the committee and not less than three (3).</p>

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.**APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE**

Item 1	Name of committee	Tanilba Bay Parks, Reserves and Hall Committee
Item 2	Purpose of committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area.
Item 3	Functions delegated by Council to committee (Objectives)	<ol style="list-style-type: none"> 1. Cooperate with Council to ensure that the facility of the hall is provided and maintained at an acceptable standard. 2. Undertake the functions of: <ul style="list-style-type: none"> ▪ arranging bookings for hire of the hall; ▪ receiving and banking fees and charges; ▪ arranging cleaning; ▪ providing reports to Council on maintenance requirements. 3. Make recommendations to Council as to the development, planning and management of Tanilba Foreshore Hall. 4. Make recommendations to Council on appropriate charges for the use of community hall. 5. Provide forward works priorities to Council for consideration and planning of future works. 6. Coordinate working bees and liaise with Council staff re working bees in the Tanilba Bay area. 7. Coordinate and/or assist in the preparation of entries for environmental award programs for the Tanilba Bay area. 8. In cooperation with Council and other government bodies or organisations, ensure that wherever possible optimum use is made of existing facilities. 9. Endeavour to cooperate with other agencies in order to keep the community fully informed of those facilities that exist within the district. 10. Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, community service orders, Green Army groups). 11. Provide a community link to assist Council staff in consulting with the community on management plans and raise community issues. <p>See attached map of areas where Tanilba Bay Parks, Reserves and Hall Committee activities are undertaken.</p>
Item 4	Restrictions on functions delegated	<p>Any works undertaken will be with the knowledge and approval of the Community and Recreation Coordinator and/or Parks Program Officer and or Natural Resources Team.</p> <p>Committees that have volunteers between the age of 15 to 18 years working on 355(c) projects are required to have at least one member present with a current Working With Children Check, alternatively a parent or guardian, of that person under 18 years is required to be on site working with the young person in question.</p>

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

Item 5	Policies, legislation the committee is required to comply with	Principle policies and legislation including but not limited to: <ul style="list-style-type: none"> Local Government Act 1993 WHS Act 2011 Privacy and Personal Information Act 1998 State Records Act, 1998 PSC Code of Conduct 2014, Min No 043 PSC Code of Meeting Practice 2013, Min No 322 PSC WHS Statement of Commitment Accessing Information Policy Volunteers Strategy Framework 2012 PSC Disability Policy 2010, Min No 321
Item 6	Term of Committee	September of Council Election each four years. Council to readopt Terms of Reference within three months following election.
Item 7	Maximum number and make up of committee members	Up to fifty (50) General Members.
Item 8	Executive and Advisory members	Four (4) Executive Members: Chairperson Vice Chairperson Treasurer Secretary
Item 9	Councillors	As resolved by Council
Item 10	Council employees	Facilities and Services Group Community Services Section Manager Community Services Section Contracts and Services Coordinator Community and Recreation Coordinator Parks Program Coordinator and Officer Building Trades Coordinator Community and Recreation Asset Officer Volunteers Coordinator Finance Officer Financial Account signatories: Volunteers Coordinator (Melinda Anderson) Finance Officer (Lee Power)
Item 11	Name of financial institution and type of account/s	Greater Building Society – Tanilba Bay BSB: 637000 Account: 781583553
Item 12	Name of any account operated by the committee	Tanilba Bay Parks, Reserves & Hall Committee, a 355c Committee of Port Stephens Council
Item 13	Reporting	Financial Record Keeping and Reporting <ol style="list-style-type: none"> Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. With the introduction of the Goods and Services Tax effective from 1 July 2000, all 355(c) committees are obliged to comply with the new tax system.

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<ul style="list-style-type: none"> a) All committees are covered under Council's Australian Business Number. b) Committees are responsible for administering the requirements of GST Legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from ATO. c) Accordingly, each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by Australian Taxation Office. <p>3. The Treasurer shall be responsible for ensuring:</p> <ul style="list-style-type: none"> a) The proper keeping of the books and accounts of the committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager. b) Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the committee. c) Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. (Only those Committees with quarterly bank statements may choose to report quarterly instead of monthly.) <ul style="list-style-type: none"> i. This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format. ii. The cash book is completed each month and the original forwarded to Council with copies of tax invoices, tax input receipts and bank statements. iii. The totals of each month are entered onto the Annual Financial Summary reporting page. d) Receiving monies on behalf of the committee and maintaining accurate records of the receipt of such monies. e) Attending to the payment of accounts and other expenses approved by the committee on behalf of the committee, and maintaining an accurate record of such payments. f) Issuing of tax invoices. g) Annual Financial Summary to be forwarded prior to 31 March each year to Council's Responsible Officer for finance in a format as provided by Council, and to include: <ul style="list-style-type: none"> ▪ copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at
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ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<p>the 31st December each year.</p> <ul style="list-style-type: none"> ▪ copies of documentation supporting all increases and decreases in any investment accounts. <p>4. All monies received by the committee shall be deposited within seven (7) days of receipt into an account in the financial institution set out in Item 11 of the Appendix. Any such account must have the names of the account/s set out in Item 12 of the Appendix.</p> <p>5. The committee may only operate those accounts set out in Item 11 and 12 of the Appendix or as directed in writing by the General Manager.</p> <ul style="list-style-type: none"> a) Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any two (2) of the Executive as determined by the committee. b) All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix. c) All committees are required to advise Council of the details of the persons who are authorised signatories of the committee's bank account, when a new account is opened, and when changes to the signatories occurs. d) All financial accounts held by the committee must include the words "A 355c Committee of Port Stephens Council" in the account name. e) The committee is also required to provide documentation at the Annual General Meeting, from the financial institution, listing the current signatories, on each account held. This documentation will form part of the Minutes of the Annual General Meeting. <p>6. The committee must not, at any time, incur any expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee, shall be paid unless authorised by resolution of the committee.</p> <p>7. The committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the committee.</p> <p>8. The financial year shall be the period from the 1 January to 31 December.</p> <p>General Reporting</p> <p>1. Annual Reporting - to be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers and must include:</p> <ul style="list-style-type: none"> ▪ Minutes of AGM. ▪ Completed AGM checklist. ▪ Committee Annual Report - a summary of activities and projects undertaken by the committee between 1
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ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<p>January and 31 December, and proposed projects and activities to be undertaken by the committee during that current year.</p> <ul style="list-style-type: none"> ▪ Updated list of all General Members, including notification of the elected Executive and Advisory Members, and Account Signatories. <p>2. Recommendations for Fees and Charges to be forwarded to Council by 1st December each year.</p> <p>a) The fees and charges are set by Council, taking into consideration the recommendations of the committee and the operating requirements of the facility.</p> <p>b) The committee is not able to provide subsidies or waive hire fees as specified in Item 4 of the Appendix.</p> <p>3. Uninsured Casual Hirers - Committees are required to report the number of times the facility is used by uninsured casual hirers to enable Council to complete its Insurance Renewal Declaration. This information is required to be forwarded to Council's Responsible Officer for Volunteers prior to 31 March each year.</p> <ul style="list-style-type: none"> ▪ An uninsured 'Casual Hirer' means <i>"any person or group of persons (not being a sporting body, club, association, corporation or incorporated body), who hires a Council facility for non-commercial or non-profit making purposes, less frequently than once per calendar month or 12 times per calendar year"</i>. ▪ Notification to Council should also include a brief description of the type of use on those occasions, eg birthday party, family reunion etc.
Item 14	Changes to Terms of Reference or Appendix – Adopted by Council Meeting Date Minute No Resolution	Terms of Reference Adopted at Council Meeting 27 October 2015 Minute No 322
Item 15	Additional clauses or amendments to Terms of Reference or Schedule To be listed in full – body of terms of Reference not to be altered	<p>Clause 16 – Halls</p> <p>The committee will be required to meet the following expenses from income received from the hire of the hall:</p> <ul style="list-style-type: none"> ▪ Water usage charges ▪ Electricity charges ▪ Cleaning costs ▪ Agreed contribution to repairs and maintenance <p>Council will meet the following expenses:</p> <ul style="list-style-type: none"> ▪ Council rates ▪ Standing charges for water ▪ Sewerage charges ▪ Waste collection ▪ Structural maintenance and repairs

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.
APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE

Item 1	Name of Committee	Tilligerry Landcare Group
Item 2	Purpose of Committee	6.1.1 Council will engage its citizens in developing plans for the future of the Port Stephens Local Government Area.
Item 3	Functions delegated by Council to committee (Objectives)	<ol style="list-style-type: none"> 1. Initiate, encourage and support the community and/or community groups, to participate in programs and activities across the Tilligerry Peninsula for the benefit of the environment and the community. 2. Where joint ventures have been negotiated with other committees on the Tilligerry peninsula, coordinate working bees and liaise with Council staff in organising working bees for nominated or agreed projects. 3. Coordinate and/or assist in the preparation of entries for environmental award programs for nominated or agreed projects. 4. Coordinate and/or assist Council and the community in the participation in international and national environmental events. 5. Assist in the sourcing of alternate funding (eg grants) or voluntary labour (eg work for dole, community service orders, and Green Army groups) for committee projects. 6. Provide a community link to assist Council staff in consulting with the community on management plans and raise community issues. <p>See attached map of areas where Tilligerry Landcare Group activities are undertaken.</p>
Item 4	Restrictions on functions delegated	<p>Any works undertaken will be with the knowledge and approval of the relevant Parks Program Officer and/or Community and Recreation Assets or Natural Resources Officer.</p> <p>Committees that have volunteers between the age of 15 to 18 years working on 355(c) projects are required to have at least one member present with a current Working With Children Check, alternatively a parent or guardian, of that person under 18 years is required to be on site working with the young person in question.</p>
Item 5	Policies, legislation the committee is required to comply with	<p>Principle policies and legislation including but not limited to:</p> <ul style="list-style-type: none"> ▪ Local Government Act 1993 ▪ WHS Act 2011 ▪ Privacy and Personal Information Act 1998 ▪ State Records Act, 1998 ▪ PSC Code of Conduct 2014, Min No 043 ▪ PSC Code of Meeting Practice 2013, Min No322 ▪ PSC WHS Statement of Commitment ▪ Accessing Information Policy ▪ Volunteers Strategy Framework 2012 ▪ PSC Disability Policy 2010, Min No 321
Item 6	Term of Committee	September of Council Election each four years. Council to readopt Terms of Reference within three months following election.

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

Item 7	Maximum number and make up of committee members	Up to fifty (50) General Members.
Item 8	Executive and Advisory members	Four (4) Executive Members: Chairperson Vice Chairperson Treasurer Secretary
Item 9	Councillors	As resolved by Council
Item 10	Council employees	Facilities and Services Group Community Services Section Manager Community Services Section Contracts and Services Coordinator Community and Recreation Coordinator Parks Program Coordinator and Officers Volunteers Coordinator Finance Officer Financial account signatories: Volunteers Coordinator (Melinda Anderson) Finance Officer (Lee Power)
Item 11	Name of financial institution and type of account/s	Greater Building Society, Tanilba Bay - Savings Account BSB: 637000 Account: 781373931
Item 12	Name of any account operated by the committee	Tilligerry Landcare Group, a 355c Committee of Port Stephens Council.
Item 13	Reporting	Financial Record Keeping and Reporting 1. Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the Appendix. 2. With the introduction of the Goods and Services Tax effective from 1 July 2000, all 355(c) committees are obliged to comply with the new tax system. a) All committees are covered under Council's Australian Business Number. b) Committees are responsible for administering the requirements of GST Legislation, that is charging GST on taxable supplies and correctly identifying input tax credits claimable from ATO. c) Accordingly, each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by Australian Taxation Office. 3. The Treasurer shall be responsible for ensuring:

ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<ul style="list-style-type: none"> a) The proper keeping of the books and accounts of the committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager. b) Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the committee. c) Forwarding monthly or quarterly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. (Only those Committees with quarterly bank statements may choose to report quarterly instead of monthly.) <ul style="list-style-type: none"> i. This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format. ii. The cash book is completed each month or and the original forwarded to Council with copies of tax invoices, tax input receipts and bank statements. iii. The totals of each month are entered onto the Annual Financial Summary reporting page which is forwarded to Council annually. d) Receiving monies on behalf of the committee and maintaining accurate records of the receipt of such monies. e) Attending to the payment of accounts and other expenses approved by the committee on behalf of the committee, and maintaining an accurate record of such payments. f) Issuing of tax invoices. g) Annual Financial Summary to be forwarded prior to 31 March each year to Council's Responsible Officer for finance in a format as provided by Council, and to include: <ul style="list-style-type: none"> ▪ copy of bank statement, bank book or on-line banking printout clearly indicating the balance as at the 31st December each year. ▪ copies of documentation supporting all increases and decreases in any investment accounts. <p>4. All monies received by the committee shall be deposited within seven (7) days of receipt into an account in the financial institution set out in Item 11 of the Appendix. Any such account must have the names of the account/s set out in Item 12 of the Appendix.</p> <p>5. The Committee may only operate those accounts set out in Item 11 and 12 of the Appendix or as directed in writing by the General Manager.</p> <ul style="list-style-type: none"> a) Any cheques drawn on behalf of the committee or withdrawals from any account operated by the committee shall be signed by any two (2) of the Executive as determined by the committee. b) All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix.
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ITEM 1 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE TERMS OF REFERENCE APPENDICES.

		<p>c) All committees are required to advise Council of the details of the persons who are authorised signatories of the committee's bank account, when a new account is opened, and when changes to the signatories occurs.</p> <p>d) All financial accounts held by the committee must include the words "A 355c Committee of Port Stephens Council" in the account name.</p> <p>e) The committee is also required to provide documentation at the Annual General Meeting listing the current signatories on each account held. This documentation will form part of the Minutes of the Annual General Meeting.</p> <p>6. The committee must not, at any time, incur any expenditure in excess of the amount held in the committee's credit in the account operated by the committee. In any event, no expenses of any member of the committee, or the committee, shall be paid unless authorised by resolution of the committee.</p> <p>7. The committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the committee.</p> <p>8. The financial year shall be the period from the 1 January to 31 December.</p> <p>General Reporting</p> <p>1. Annual Reporting - to be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers and must include:</p> <ul style="list-style-type: none"> ▪ Minutes of AGM. ▪ Completed AGM checklist. ▪ Committee Annual Report - a summary of activities and projects undertaken by the committee between 1 January and 31 December, and proposed projects and activities to be undertaken by the committee during that current year. ▪ Updated list of all General Members, including notification of the elected Executive and Advisory Members, and Account Signatories.
Item 14	Changes to Terms of Reference or Appendix – Adopted by Council Meeting Date Minute No Resolution	Terms of Reference adopted at Council Meeting 27 October 2015 Minute No 322
Item 15	Additional clauses or amendments to Terms of Reference or Appendix To be listed in full – body of Terms of Reference not to be altered	

ITEM NO. 2**FILE NO: 16/376382
RM8 REF NO: PSC2016-01962****EXPRESSION OF INTEREST (EOI) 42 WILLIAM STREET, RAYMOND TERRACE -
EVALUATION AND RECOMMENDATION REPORT****REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Enter into Lease for 42 William Street, Raymond Terrace with the Police Citizens Youth Club (PCYC) as per the details in the report.
 - 2) Authorise the Mayor and General Manager to sign and affix the seal of Council to the Lease documentation and any other associated legal documentation for Council owned property situated at 42 William Street, Raymond Terrace (Lot 1 DP 1003417) for a lease period of 10 years plus a five year option to the Police Citizens Youth Club (PCYC).
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**ORDINARY COUNCIL MEETING - 23 AUGUST 2016
MOTION**

239	Councillor Ken Jordan Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Enter into Lease for 42 William Street, Raymond Terrace with the Police Citizens Youth Club (PCYC) as per the details in the report.2) Authorise the Mayor and General Manager to sign and affix the seal of Council to the Lease documentation and any other associated legal documentation for Council owned property situated at 42 William Street, Raymond Terrace (Lot 1 DP 1003417) for a lease period of 10 years plus a five year option to the Police Citizens Youth Club (PCYC).
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BACKGROUND

The purpose of this report is to inform Council of the process to secure a new gym operator following the Young Men's Christian Association (YMCA) ceasing operations in Raymond Terrace. On 23 June 2016, the YMCA provided notice to terminate the lease over Shops 15 and 16 - 42 William Street, Raymond Terrace, with the

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

proposed termination to take effect as at close of business on Friday 22 July 2016. It was evident the four week timeframe provided by YMCA NSW for Port Stephens Council to source an alternate service provider was not feasible.

As a result, Council successfully negotiated with YMCA's management to extend operations at the YMCA Raymond Terrace facility until Friday 2 September 2016. This allowed an opportunity to run an Expression of Interest (EOI) process to secure a new provider.

The EOI process was presented openly to the market with a closing date of 22 July 2016 for submissions. At closing, EOI's from the following four proponents had been received:

- Ellie Christina Fitness Centre (ECFC).
- Police Citizens Youth Club (PCYC).
- Belgravia Health & Leisure Group Pty Ltd.
- Fernwood Women's Health Clubs (Australia) Pty Ltd.

The evaluation of the EOI submissions was undertaken on Monday 25 July 2016 by a panel drawn from Property and Financial Services. The Evaluation Panel consisted of Glenn Bunny, Property Services Section Manager, Peter Moeller, Investment and Asset Manager, Rex Morrison, Finance Officer - Procurement & Contract Management Specialist.

Scoring for each criterion was based on the information presented in the proposal. The Panel objectively rated each criterion by identifying the strengths and weaknesses of each submission based on the requirements.

The Evaluation Panel considered the following selection criteria during the evaluation phase:

- Community programs and engagement methodology.
- Social impact to the community.
- Capability to operate like for like services to existing business model, including staff and resources.
- Transition Strategy - capability to provide continuity of service to existing members and the community.
- Financial capacity or demonstrated experience to maintain Council asset
- Insurances.
- Company searches.

As a result of the assessment process, the Police Citizens Youth Club (PCYC) was identified as the preferred proponent.

In order to achieve a transition whereby there is no interruption to the service provision, it is recommended that the building is licensed to the PCYC as an interim

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

measure until a lease can be prepared and executed. At this time the licence will be expired.

The YMCA will cease operating on 2 September 2016 and under the licence the PCYC will commence operating from 3 September 2016. Transition discussions are currently underway at the time of writing this report and include transfer of equipment leases and the like.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Recreation and Leisure.	Maintain and develop recreational facilities for residents and visitors.

FINANCIAL/RESOURCE IMPLICATIONS

Council has made significant contributions to the YMCA over the term of the lease in the amount of \$376,371 in capital works costs and \$56,819 in maintenance costs. The total expenses incurred by Council over the 2010-2016 lease term to date are \$433,190. The rental return to Council over the same period is \$275,000, resulting in a \$158,190 net loss to Council.

The new lease with the PCYC complies with the Community Leasing Policy and Council will be in a substantially more favourable financial position not contributing to capital costs.

The proposed terms of the lease are 10 years with a five year option.

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 lease will specify under the terms and conditions that the business will continue to operate as a gymnasium.

There are no legal impediments for adopting the recommendations.

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

The lease documentation will be prepared by one of Council's preferred legal providers. Council's Community Leasing and Tenancy Policy has been applied to the process.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the community may not have a community gym provider in Raymond Terrace following the departure of the YMCA.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation ensures a secure tenant for the facility and enables the tenant to manage and maintain the facility for community use at a reasonable rent. Highly valued community gym and health programs will be maintained and even increased under the management of the PCYC.

Council's financial assistance to the facility is reduced overall. The benefit to the communities of NSW from having the presence and programs of the PCYC is estimated to be over \$20 million savings per year in crime prevention and juvenile detention expenses. Raymond Terrace will now be included in communities that experience this significant benefit.

MERGER PROPOSAL IMPLICATIONS

There are no merger implications as a result of this proposal.

CONSULTATION

Consultation with key stakeholders has been undertaken by Council officers in order to achieve zero interruption to the operation of the gym, transition the YMCA out and secure a preferred operator for the future, and ensure the needs of Council and the community are best managed.

Internal

Property Services staff engaged with the Community Services Section Manager to ensure the best application of the Community Leasing and Tenancy Policy. The Executive Leadership Team was also consulted with to ensure that staff were affecting the best outcome in the interest of the Council.

External

All proponents were consulted with during and after the EOI process, particularly with the PCYC as the preferred proponent. This will continue as a final lease is created and executed.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3**FILE NO: 16/387105
RM8 REF NO: PSC2016-02383****SALAMANDER WAY LOANS****REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the General Manager (or delegate) to secure loan funding to the amount of \$4.87 million for the construction of the subdivision works at 155 Salamander Way, Salamander Bay as approved.
 - 2) Grant authority to affix Council's seal where necessary to the loan documentation.
-

**ORDINARY COUNCIL MEETING - 23 AUGUST 2016
MOTION**

240	Mayor Bruce MacKenzie Councillor John Nell It was resolved that Council: <ol style="list-style-type: none">1) Authorise the General Manager (or delegate) to secure loan funding to the amount of \$4.87 million for the construction of the subdivision works at 155 Salamander Way, Salamander Bay as approved.2) Grant authority to affix Council's seal where necessary to the loan documentation.
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BACKGROUND

The purpose of this report is to seek Council's approval to raise loan funds.

Council, at its June 2016 meeting, resolved to award the construction tender for the subdivision works at 155 Salamander Way, Salamander Bay. The tender for construction works totalled \$4.87 million dollars and it was originally suggested that funding, in the initial stages, would be from Council's own internal sources being the Property Restricted Asset.

While this would have meant an immediate draw down of Council's available cash reserves, it was felt that this could be sustained during the construction phase. These

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

funds could then be reimbursed when the subject land was sold in the first six months of 2017.

It is now apparent that Council's cash flow is not sufficient to fund this capital outflow due to the fact that the outstanding claims for the April storm damage are yet to be reimbursed to Council. These claims total over \$6.1 million and represent a significant shortfall in available cash reserves. In addition, recent claims for Roads and Maritime Services works are yet to be received. These claims, totalling \$2.6 million, add to the difficulty currently being experienced.

Therefore, it is proposed to seek external loan funding for the construction works at Salamander Way with the loan to be repaid at the close of the project when the subject land has been sold. It is envisaged that this would be a 12 month loan period.

Given the current economic conditions, external loan funding is comparatively inexpensive and any interest charges on the loan can be funded from the overall project.

It should be noted that Council had previously considered loan funding for this project in October 2013. This loan funding was secured and was utilised for the early design/concept costs for the project before the project was stalled. Loan funds that remained were then utilised on other property projects such as the Tarrant Road development.

Council is also required by the Office of Local Government to submit annual loan borrowing programs for notation and approval. The opportunity was taken to include a request for this project to the extent of \$4.87 million as a precautionary measure should internal funding sources be unavailable.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
A Sustainable Council.	<p>Council will maintain its underlying financial performance to budget at break even or better.</p> <p>Council will increase its revenue from non-rates sources.</p> <p>Manage risks across Council.</p> <p>Attract, retain and develop staff to meet current and future workforce needs.</p> <p>Provide enabling business support services for Council's operations.</p>

FINANCIAL/RESOURCE IMPLICATIONS

Council needs to raise a short term loan, 12 month period, to fund the construction works with the loan to be repaid from sale proceeds of the subject development.

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the subject land will not be sold within the timeframe indicated.	Low	Should existing negotiations not proceed, the subject land can be re-marketed. There is strong demand for commercial land in the area.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This development will return a net profit to Council which will assist in the delivery of further services to the community.

MERGER PROPOSAL IMPLICATIONS

This project has been included in Council's integrated plans since 2012-2013 and, as such, is an existing project that was identified prior to the merger proposal being announced.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Property Section. This consultation has been ongoing since the project was first adopted. A number of Council two way conversations have been held and the project has been included in public exhibitions of Strategic Asset Management Plans over the past years.

As this is simply a report to confirm funding strategies, consultation has been limited to internal parties only, consisting of the Property and Finance Sections.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

**FILE NO: 16/379942
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) Receive and note the submission.
 - 2) Revoke the Access to Information policy dated 11 February 2014, Minute No. 016 shown at **ATTACHMENT 1**.
 - 3) Adopt the Access to Information Policy shown at **ATTACHMENT 2**.
 - 4) Action the recommendations contained in **ATTACHMENT 4**.
-

**ORDINARY COUNCIL MEETING - 23 AUGUST 2016
MOTION**

241	Councillor John Nell Councillor Chris Doohan It was resolved that Council: <ol style="list-style-type: none">1) Receive and note the submission.2) Revoke the Access to Information policy dated 11 February 2014, Minute No. 016 shown at ATTACHMENT 1.3) Adopt the Access to Information Policy shown at ATTACHMENT 2.4) Action the recommendations contained in ATTACHMENT 4.
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BACKGROUND

The purpose of this report is to provide Council with the comments received as part of the public exhibition of the Access to Information policy (policy).

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

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

legislative responsibilities such as, but not limited to, the *Copyright Act 1968* and the *Privacy and Personal Information Protection Act 1998*.

Council has received one submission in response to the public exhibition **ATTACHMENT 3**, these comments have been summarised in **(ATTACHMENT 4)** of the report.

It should be noted that Council continues to review and seek to improve access to information in accordance with the relevant legislation provisions. The legislative environment continues to change and place greater burden on Councils.

The policy is presented for Council's determination.

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.

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.

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 policy was placed 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) Current Access to Information policy and guidelines.
- 2) Revised Access to Information policy and guidelines.
- 3) Submission.
- 4) Summary of matters raised in the submission.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 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 4 - ATTACHMENT 1 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 4 - ATTACHMENT 1 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 4 - ATTACHMENT 1 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 4 - ATTACHMENT 1 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)

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- 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

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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

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- business interests of agencies and other persons
- environment, culture, economy and general matters
- secrecy provisions (in legislation other than those listed in Schedule 1)
- exempt documents under interstate Freedom of Information legislation.

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

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

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

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

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

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

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

4. Accessing Information and Making an Application

The public may obtain access to information as follows:

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

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- 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.

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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 4 - ATTACHMENT 2 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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ITEM 4 - ATTACHMENT 2 REVISED ACCESS TO INFORMATION POLICY AND GUIDELINES.

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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.

Policy

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ITEM 4 - ATTACHMENT 2 REVISED ACCESS TO INFORMATION POLICY AND GUIDELINES.

Policy



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:

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ITEM 4 - ATTACHMENT 2 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;

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ITEM 4 - ATTACHMENT 2 REVISED ACCESS TO INFORMATION POLICY AND GUIDELINES.

Policy



- 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.

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Policy



- 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.

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21 July 2016

The General Manager
Port Stephens Council

Re: Access to Information Policy: Your reference PSC 2009-09420

As regular applicants for information from Council, we have reviewed the revised Access to Information Policy. We note that changes from the previous policy (version dated 11 February 2014) are largely cosmetic or updating references. We generally support the Policy as a statement of how Council will comply with the requirements of the *Government Information (Public Access) Act 2009* (GIPA Act).

We take this opportunity, however, to mention several issues relating to the operation of the policy in practice, and make suggestions some of which could usefully be incorporated into the Policy.

Our submission is entirely concerned with that side of the GIPA Act, and Access Policy, which deals with requests for access to information that is not primarily personal information; i.e. where the applicant is seeking information about Council matters of public interest rather than personal information about themselves. We understand that a large proportion of GIPA applications are for personal information – while this is an important policy area we do not make any comment in this submission on processes for handling such requests.

Policy Statement

We acknowledge the commitment to both the letter and the spirit of the GIPA Act expressed by the Policy. However, we note that the Policy Statement includes a significant caveat:

‘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 ...’ (our emphasis)

We submit that it will rarely be a significant cost involved in providing an online link to documents already held in electronic form, and indeed that providing such links can result in significant cost savings compared to when a member of the public seeks access to information and it has to be processed and provided manually. **We submit that**



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Council should have a default position that all information that is available to the public should be provided online unless there are *significant* practical or cost barriers.

Mandatory release/open access information

We have reviewed Council's Register of Registers (on line at <http://www.portstephens.nsw.gov.au/your-council/policies-forms-publications/publications-and-information/registers>) and have pointed out a number of errors and unclear descriptions which Council's Governance Manager has acknowledged and is addressing. We make the general observation that any access to information policy will fail in practice if key items of information are out of date or incorrect. We acknowledge the time and effort that it takes to ensure all Council documentation and the website are always current and consistent, but submit that this must be a high priority.

Formal vs Informal requests

It will generally be in everyone's interests for as many requests as possible to be dealt with as informal requests rather than as formal GIPA applications. However, there is no statutory time frame for Councils to respond to informal requests whereas there are express time limits for responses to formal applications.

This distinction opens up the possibility of Council encouraging applicants to make an informal request, and then deliberately delaying its response, in circumstances where Council may be reluctant to disclose the requested information (for whatever reason). **We submit that Council should voluntarily adopt some reasonable time limits (service standards) in relation to informal requests for information**, and publish those standards so that interested parties can make an informed judgement about which method of access to choose.

We note that Council may require the completion of an Informal Access Request Form (page 12 of Access to Information Guidelines appended to the Policy) (our emphasis). Our experience is that Council does not always require this, and applaud that flexibility. However, we would like to see Council formally acknowledge that it will accept and process requests for information which are either non-specific, or which expressly provide for alternatives, along the lines of this text which we have used in some of our requests:

'Please treat this as a request, for each specific item, under the Government Information (Public Access) Act 2009 (GIPA Act), and advise whether the information is:

- (a) open access information already available, and if so direct us to it, or
- (b) information you can make available as part of a 'proactive release' or
- (c) information you are able to make available through 'informal release'.



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If none of these apply to any requested item, please treat this request as a formal 'access request' under GIPA Act, and let us know so that we can send the \$30 application fee.'

We submit that accepting requests for information in this combined form will save both the applicant and Council time and effort.

GIPA Act Formal Application Disclosure Log

We note that this log – described somewhat confusingly in the Register of Registers as 'GIPA Formal Applications Register' contains brief details of those GIPA formal access applications which have (a) resulted in a release of information and (b) been judged by Council as 'likely to be of interest to members of the public'.

The Governance Manager has explained that an additional criterion for inclusion is that 'there is no objection received from the applicant' and that:

'Generally, an applicant will object to the details being included in the log because the information is of a personal nature or legal proceeding maybe about to commence – in those cases Council would normal not include the information in the log.'

We hope that Council is making judgements that released information is 'likely to be of interest to members of the public' in a way that clearly favours inclusion in the disclosure log. We would be concerned if Council was making separate judgements about personal information content as grounds for withholding even if the applicant has not objected, or withholding information without specific reason to believe that it is not likely to be of interest. In respect of personal information content, Council should make a clear distinction between information in the nature of 'personal affairs' and information which, while technically falling within the definition of 'personal information' is about individuals acting in a business or professional capacity, whether employees of Council or another public agency, or representatives of legal entities such as businesses or NGOs.

The GIPA Act clearly requires agencies, including Councils, to apply a balancing test when considering if personal information should be withheld, and we submit that the above distinction is relevant to the application of such a test. We observe that in practice, Port Stephens Council does not slavishly redact all personal information in the 'business affairs' category, but **we submit that Council should formally make this distinction in its policy and practice.** (This recommendation applies to Council's handling of all requests for information, not just in the context of the Disclosure Log.)

We would also be concerned if Council was withholding information from being referenced in the Disclosure Log without specific reason to believe that it is not likely to be of interest.



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We submit that there should be a default presumption that any information that has been released in response to a formal GIPA application, and to the release of which the applicant has not objected (and whether or not it contains personal information), should be routinely included in the disclosure log. This would be consistent with the overall objectives of the GIPA Act and the Access to Information Policy.

We acknowledge that Council's Disclosure Log appears to be kept up to date (the latest entry is for a decision made on 14 July 2016). However, we submit that the description of the Information Requested is of variable detail and utility. For example, reference to a DA number without any address or even general location, and without any description of the type of development, is entirely unhelpful, and requires the viewer to go to the separate DA Tracker website to find out what the entry is about, as a precursor to deciding if it is a matter of interest. Council must have decided that information about a particular DA is 'likely to be of interest to the public' in order to have included it in the Disclosure Log – it therefore seems perverse not to offer sufficient information for this 'interest' to be apparent from the entry itself. **We submit that the description of Information Requested in entries in the Disclosure Log contain more detail** with a conscious objective of being more helpful and transparent (some entries are already quite helpful).

The Information and Privacy Commission NSW has issued advice Good Practice for Disclosure Logs <https://www.ipc.nsw.gov.au/good-practice-disclosure-logs#> It includes the following:

'Ideally, a disclosure log should:

- provide a link for people to access the information online, or
- include a statement explaining how the information can alternatively be accessed.

If information released in response to an access application is available online via the disclosure log, agencies have an ongoing responsibility to ensure that the links to electronic information are not broken and are in working order.'

We note that Port Stephens Council has chosen not to include online links in its Disclosure Log. This is disappointing and contrary to the spirit of the GIPA Act and the Access to Information Policy. It means that interested members of the public have to contact Councils' Right to Information Officer to see the information that has been released. **There is unlikely to be a significant cost in providing an online link and we submit that Council should routinely do so.**



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Conclusion

TRRA Inc. acknowledges that Port Stephens Council has made efforts in recent years to improve the implementation of its Access to Information Policy (and thereby its compliance with both the letter and the spirit of the GIPA Act). However, aspects of the Policy and its implementation still provide barriers to ready and speedy access to information of public interest to the Community. We submit that there is still room for significant further improvement, and have made various recommendations in this submission. We hope that Council is able to adopt these recommendations.

Nigel Waters
Convenor, Planning Committee
Tomaree Ratepayers & Residents Association Inc.

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MINUTES ORDINARY COUNCIL - 23 AUGUST 2016**ITEM 4 - ATTACHMENT 4 SUMMARY OF MATTERS RAISED IN THE SUBMISSION.**

Summary of amendments raised from the public exhibition of the Access to Information policy.

Author of submission/s	Amendments raised	Council's response
Tomaree Ratepayers and Residents Association Inc. Note: The full submission has been provided as there are no privacy consideration given the submission is from a community group.	1. Policy Statement within the policy – "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"	The wording of the 'Policy Statement' is in accordance with the Government Information (Public Access) Act 2009 (GIPA Act). Council's approach to the release of information is to provide 'open access information' on the website where appropriate and practical to do so, in accordance with the legislation.
	The author states that Council should have a default position to provide all information available to the public online unless there are significant practical or cost barriers.	It is recommended that no change be made to the Policy Statement as it ensures compliance with the GIPA Act and Council will continue to monitor what information can be made by electronic means.
	2. Mandatory release/open access information. The author reviewed the Register of Registers on the Council website and has been in communication with Council officers concerning the information.	Noted.

ITEM 4 - ATTACHMENT 4 SUMMARY OF MATTERS RAISED IN THE SUBMISSION.

	<p>3. Timeframe for informal GIPA requests</p> <p>The author requests that Council adopt timeframes to deal with informal requests for information.</p>	<p>Section 8 of the GIPA Act allows Council to release information informally. It should be noted that it is not a requirement of the GIPA Act that Council must release information informally. Council could decide that all applications are to be formal application.</p> <p>This approach is not one that Council has elected to do. Council encourages the community to firstly visit the website for the information being sought and if it cannot be found, to contact Council. This can be verbally, by completing the Informal Request form, by email, fax or letter.</p> <p>Whilst the legislation does not stipulate a timeframe, Council generally adopts the same timeframe as a formal application (20 working days) subject to workloads.</p> <p>In the 2015-16 Council processed 485 Informal Requests for information. Council also received 22 formal applications. This demonstrates Council's commitment to release informally, where appropriate to do so.</p> <p>It is recommended that Council provide comment on its website regarding the timeframes for Informal Requests.</p>
	<p>4. Informal Request form</p> <p>The author requests Council to include wording that provides alternatives to the current practices of the Informal Request form.</p>	<p>Council encourages the community to firstly visit the website for the information being sought and if it cannot be found, to contact Council. This can be verbally, by completing the Informal Request form, by email, fax or letter.</p> <p>It is recommended that no action be taken on this item as alternatives already exist.</p>

ITEM 4 - ATTACHMENT 4 SUMMARY OF MATTERS RAISED IN THE SUBMISSION.

	<p>5. Disclosure Log</p> <p>The author requests Council to consider providing additional detail of the information sought in the Disclosure Log.</p> <p>Requests that Council ensure due consideration is giving to whether the information is included in the Disclosure Log or not.</p> <p>Requests Council make a clear distinction between the redaction of personal information vs business affairs in its policy.</p>	<p>Council is required under the GIPA Act to maintain a Disclosure Log for formal applications. An applicant of a formal application can object to the information be included in the Disclosure Log. Council would process this objection in accordance with the GIPA Act.</p> <p>All formal applications are given due consideration in accordance with the legislation with regard to the inclusion in the Disclosure Log.</p> <p>Council is required to ensure it complies with the <i>Privacy & Personal Information Protection act 1998</i>, when dealing with information of a personal nature. When dealing with information that may be considered business affairs, the same level of redact is not required. It is not considered that this detail is required in the policy as it is contained within the GIPA Act.</p> <p>It is recommended that Council:</p> <ol style="list-style-type: none">1. Review the level of detail provided in the Disclosure Log.2. Continue to apply the legislation when considering the inclusion of information in the Disclosure Log.3. Continue to apply all relevant legislation when redacting information.
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ITEM NO. 5

**FILE NO: 16/382803
RM8 REF NO: A2004-0284**

**POLICY REVIEW: PAYMENT OF EXPENSES AND PROVISION OF FACILITIES
TO COUNCILLORS**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy shown at **(ATTACHMENT 1)**.
- 2) Place the Payment of Expenses and Provision of Facilities to Mayor/Councillors 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 Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy dated 22 September 2015, Min No. 295 **(ATTACHMENT 2)**, should no submissions be received.

**ORDINARY COUNCIL MEETING - 23 AUGUST 2016
MOTION**

242	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy shown at (ATTACHMENT 1).2) Place the Payment of Expenses and Provision of Facilities to Mayor/Councillors 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 Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy dated 22 September 2015, Min No. 295 (ATTACHMENT 2), should no submissions be received.
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BACKGROUND

The purpose of this report is to provide Council with the revised Payment of Expenses & Provision of Facilities to Councillors Policy in accordance with Section

MINUTES ORDINARY COUNCIL - 23 AUGUST 2016

252 of the *Local Government Act 1993* and the Office of Local Government's Guideline.

Council last adopted the policy on 22 September 2015, which includes public consultation as required by legislation.

A copy of Council's current Policy is shown at **(ATTACHMENT 2)**.

It is proposed to amend the Policy as follows (highlighted in yellow in the policy):

- 1) Clause 1.12.1 (page 13 of the policy), to increase the allowance payable for the purchase of a personal computer/laptop, multifunction device, peripherals and Microsoft office software from \$3,000 to \$4,000 per term. This will allow Councillors to access the appropriate information technology as required, as the local government council meeting environment changes into the future.
- 2) Clause 1.15.1 (page 16 of the policy), change the name of the Local Government Pecuniary Interest Tribunal to NSW Civil and Administrative Tribunal.
- 3) Clause 8 (page 19 of the policy), change the clause references stated in clause 8.
- 4) Under the "Exclusion from Policy" (page 19 of the policy) change the name of Department of Local Government to Office of Local Government.

The revised policy is shown at **(ATTACHMENT 1)** and is provided for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
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

Expenditure associated with this policy is included in Council's 2016-2017 budget.

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

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Other	No		
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LEGAL, POLICY AND RISK IMPLICATIONS

Under Section 252 and 253 of the *Local Government Act 1993*, Council must adopt a policy concerning the payment of expenses incurred by Councillors in relation to discharging the functions of civic office. It is a requirement of the *Local Government Act 1993* that Council adopt the policy after June 30 each year and lodge the adopted policy with the Office of Local Government prior to November 30 each year.

Council is required to give 28 days public notice of the proposed policy changes.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of Section 252 & 253 of the <i>Local Government Act 1993</i> , should this Policy not be adopted.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Policy allows Councillors to effectively carry out their responsibilities as members of the Council and as community representatives without suffering financial hardship.

MERGER PROPOSAL IMPLICATIONS

As stated above, the *Local Government Act 1993* requires this Policy to be reviewed annually. Should the merger proposal proceed, the entity will be required to review the Policy in accordance with the Proclamation and other NSW State Government requirements.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance and Legal Services Unit.

Since the last adoption of the Policy, the comments and information provided has been used to inform the review.

Internal

- Any comments and information provided by Councillors.
- 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 adoption, the Policy will be placed on public exhibition in the Port Stephens Examiner and on Council's website.

In accordance with *Local Government Act 1993* the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy will go on public exhibition from 1 September 2016 to 29 September 2016 for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Draft Payment of Expenses an Provision of Facilities to Councillors policy
- 2) Current Payment of Expenses an Provision of Facilities to Councillors policy

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 DRAFT PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY

Policy



FILE NO: A2004-0284

TITLE: PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR/COUNCILLORS POLICY

POLICY OWNER: GOVERNANCE MANAGER

PURPOSE:

The purpose of the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy ('the Policy') is to ensure that Councillors receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties. It ensures that these are provided in an accountable and transparent manner.

CONTEXT/BACKGROUND:

This Policy is made under the *Local Government Act 1993*, including Sections 248 to 254 and 731 and having regard to the provisions of the Division of Local Government Circular No. 09-36, 7 October 2009.

The Act requires that the Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and Councillors.

This Policy is to be adopted by Council annually, within five months after the end of the year.

Prior to adoption public notice must be given and public submissions invited for 28 days. Council must then consider all submissions received and make any appropriate changes to the Policy.

Council need not give public notice of a proposed amendment if Council is of the opinion that the proposed amendments are not substantial. The term 'not substantial' should be taken to mean minor changes to wording of the policy or changes to monetary provisions or rates that are less than 5% or changes to the standard of equipment and facilities to be provided. Public notice is required prior to each annual adoption of the policy even if there are no proposed changes.

Section 428 of the Act and Clause 271 of the Regulation requires Councils to include detailed information in their annual reports about the payments of expenses and facilities to Councillors.

Legislative provisions

The relevant legislative provisions are the *Local Government Act 1993* and the *Local Government (General) Regulations 2005*.

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ITEM 5 - ATTACHMENT 1 DRAFT PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY

Policy



Local Government Act 1993

248 FIXING AND PAYMENT OF ANNUAL FEES FOR COUNCILLORS

- (1) A council must pay each councillor an annual fee.
- (2) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (3) The annual fee so fixed must be the same for each councillor.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.

248A ANNUAL FEES OR OTHER REMUNERATION NOT TO BE PAID DURING PERIOD OF SUSPENSION

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act, unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

249 FIXING AND PAYMENT OF ANNUAL FEES FOR THE MAYOR

- (1) A council must pay the mayor an annual fee.
- (2) The annual fee must be paid in addition to the fee paid to the mayor as a councillor.
- (3) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.
- (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

252 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.

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- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

253 REQUIREMENTS BEFORE POLICY CONCERNING EXPENSES AND FACILITIES CAN BE ADOPTED OR AMENDED

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
 - (c) a copy of the notice given under subsection (1).
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

254 DECISION TO BE MADE IN OPEN MEETING

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

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254A CIRCUMSTANCES IN WHICH ANNUAL FEES MAY BE WITHHELD

- (1) Despite this Division, a council may resolve that an annual fee will not be paid to a councillor or that a councillor will be paid a reduced annual fee determined by the council:
 - (a) for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or
 - (b) in any other circumstances prescribed by the regulations.
- (2) Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.

428 ANNUAL REPORTS

- (1) Within 5 months after the end of each year, a council must prepare a report (its "annual report") for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed.

Local Government (General) Regulations 2005

217 ADDITIONAL INFORMATION FOR INCLUSION IN ANNUAL REPORT

- (1) For the purposes of section 428 (4) (b) of the Act, an annual report of a council is to include the following information:
 - (a) details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),
 - (a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:
 - (i) the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),

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- (ii) telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,
- (iii) the attendance of councillors at conferences and seminars,
- (iv) the training of councillors and the provision of skill development for councillors,
- (v) interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- (vi) overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- (vii) the expenses of any spouse, partner (whether of the same or the opposite sex) or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,
- (viii) expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions

403 Payment of expenses and provision of facilities

A policy under section 252 of the Act must not include any provision enabling a council:

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or
- (b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.

404 CIRCUMSTANCES IN WHICH COUNCILLORS' ANNUAL FEES MAY BE REDUCED OR NOT PAID

A definition of what is included and what is excluded from the policy. The scope may also include – what, when and where the policy applies; who will be affected and how it will affect them; what impact the policy will have? Exclusions to policy application should also be included, if applicable.

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The scope of this Policy is to detail those Councillor expenses and facilities the cost of which shall be met by Council.

This Policy also aims to ensure compliance of the Port Stephens Council Code of Conduct.

DEFINITIONS:

Councillor	Means a Councillor elected to Port Stephens Council, including the Mayor.
Official Business of Council	Meeting of Council; Meetings of Committees of the Whole Site inspection where resolved by Council; Meetings of committees where Council has endorsed the Councillor's membership; Civic receptions hosted or sponsored by Council; Meetings or functions to which the Councillors attendance has been approved by the General Manager and/or the Mayor. Functions or meetings where the invitation to attend arises only as a result of the Councillor's position as a Councillor.
Council term	Period of elected Council (generally 4 years under the Local Government Act 1993)
Port Stephens local government area	Local government area of Port Stephens
The Act	Local Government Act 1993
The Regulation	Local Government (General) Regulation 2005

POLICY STATEMENT:**Part 1 - Payment of Expenses****1.1 General Provisions**

- 1.1.1 Council will determine an annual allowance, to be paid monthly in arrears, in accordance with Section 248 - 251 of the Local Government Act and the determination of the Local Government Remuneration Tribunal.

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- 1.1.2 This Policy is intended to cover most situations where a Councillor reasonably incurs expenses in discharging the functions of civic office. The annual fees paid to each Councillors is generally not intended to offset those costs.
- 1.1.3 All allowances and reimbursements of expenses made under this Policy shall be in respect to costs directly associated with the functions of civic office.
- 1.1.4 Councillors are not permitted to claim expenses in connection with political activities, including political fundraising as this is considered a personal interest.
- 1.1.5 Councillors will not be provided with general expense allowance. A general expense allowance is a sum of money paid by a Council to a Councillor to expend on an item or a service that is not required to be receipted and/or otherwise reconciled according to a set procedure and within a specific timeframe
- 1.2 Reimbursement and reconciliation of expenses processes**
- 1.2.1 All claims for reimbursement must be made within four (4) months of incurring the expense and shall be subject to the General Manager or delegated officer discretion.
- 1.2.2 All claims shall be submitted to the General Manager and the delegated officer for assessment against the policy on **FORM 1.**"
- 1.2.3 All claims must be supplied with a tax invoice or receipt to support the claim. If a Councillor is not able to provide a tax invoice or receipt then a Statutory Declaration is to be provided.
- 1.2.4 Claims for travel under this Policy shall be lodged using travel **FORM 2**, include:
- Date
 - Place of departure and arrival
 - Distance travelled
 - Fare and parking fees paid
- 1.2.5 The kilometre rate payable to Councillors who travel in their own vehicle shall be the rate payable under the Local Government State Award.
- 1.2.6 Where travel is outside the Hunter Councils Area, Council shall as appropriate meet or reimbursement the lesser amount of the following expenses:
- a) The cost of an economy class air ticket and associated taxi transfers.
 - b) The cost of a first class rail ticket and associated taxi transfers.
 - c) Transportation expenses using a Councillor's own vehicle (calculated under clause 1.2.5).

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- d) Transportation using a Council-owned vehicles, actual costs incurred.
- 1.2.7 Where possible Council will pay all expenses directly by account or through use of a corporate credit card. In some instances, it may be necessary for Councillors to pay unexpected costs and seek reimbursement.
- 1.2.8 Once expenses of attending conferences, seminars or training course have been finalised, an invoice shall be forwarded to Councillors for any expenses payable by them.
- 1.3 Approval and Dispute resolution**
- 1.3.1 The Executive Assistant – Councillor Support shall assess all claims against this Policy and provide the assessed documentation to the General Manager and Executive Officer for approval.
- 1.3.2 Claims will be paid on a monthly basis, generally the first Friday of the month.
- 1.3.3 Should the General Manager and Governance Manager determine that a claim should not be paid, the Councillor should be advised in writing. Should the Councillor still believe that the claim should be paid, in part or full, it shall be considered that a dispute exists.
- 1.3.4 In the event of a dispute at any time regarding payment of a claim or anything else under this Policy, the parties to this dispute shall each provide a written report on the nature of the dispute. The General Manager shall submit such reports to the next open meeting of Council. The dispute shall then be determined by a resolution of Council having regard to the reports, this Policy, Act and any other relevant laws.
- 1.3.5 The decision of Council pursuant to clause 1.3.4 shall be binding on all parties.
- 1.4 Payment in advance**
- 1.4.1 Councillors may require advance payment for an anticipated expense associated with attendance at a conference, seminar and training course. The amount is **\$200** per Councillor per event.
- 1.4.2 In the event of a payment being made in advance, Councillors must full reconcile all expenses against the amount of the advance and submit the reconciliation to Council with **30 days** of the event.

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1.5 Monetary Limits

- 1.5.1 Monetary limits set out in this Policy are the maximum amount payable in respect of any facility or expense. Any additional costs above the limit will be incurred by the Councillor. All monetary limits are exclusive of GST.
- 1.5.2 Monetary limits may only be waived by a resolution of Council in exceptional circumstances. Any waiver of a monetary limit will apply to a particular event or circumstance and will not constitute an amendment to this Policy.

Spouse and Partner Expenses

- 1.6.1 Accompanying person means a person who has a close relationship with a Councillor and/or provides carer support to the Councillor.
- 1.6.2 In limited circumstances, Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions with the Port Stephens Local Government Area, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of **\$500** per year of term, not including the Local Government NSW annual conference.
- 1.6.3 Costs and expense incurred by the Councillor on behalf of their spouse, partner or accompanying person shall be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function.
- 1.6.4 In limited circumstances, Council shall meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Mayor is entitled to a maximum of **\$1000.00** per year of term, not including the Local Government NSW annual conference.
- 1.6.5 Council shall meet limited expenses of spouse, partner or accompanying person associated with attendance at the Local Government NSW annual conference. These expenses are limited to the costs of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program shall not be met by Council.

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- 1.6.6 Costs associated with spouse, partner or accompanying person associated with attendance conferences other than the Local Government NSW annual conference, or any seminars or training shall not be met by Council.
- 1.6.7 In no circumstances will the peripheral expenses of spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Specific Expenses for Councillors

1.7 Attendance at seminars, conferences, training and educational expenses

- 1.7.1 Council shall meet expenses incurred by Councillors in attending conferences and seminars or undertaking training and educational courses when the attendance is:
- a) To the Local Government NSW annual conference; or
 - b) Authorised by resolution of an open meeting of Council.
- 1.7.2 Councillors should generally have their attendance at a conference, seminar or participation in a training course authorised by Council in accordance with clause 1.7.1 (b).
- 1.7.3 Where it is impractical to have a Councillor's attendance or participation authorised by Council in accordance with clause 1.7.1 (b), Councillors wishing to claim expenses incurred due to their attendance or participation shall obtain the approval of the Mayor and the General Manager prior to attendance. Where the Mayor is seeking approval to claim his or her attendance or participation expenses under this clause, he or she shall obtain the approval of the Deputy Mayor and the General Manager.
- 1.7.4 Councillors shall submit their request for attendance in writing with the appropriate notice detailing the costs and benefits to the Councillor, to Council and the community.
- 1.7.5 In making its decision, the General Manager/Mayor or Council should consider:
- a) The relevance of the seminar, conference, training or educational expenses to Council and the potential benefit that may result from attendance;
 - b) The special interest of the Councillor/s wishing to attend;
 - c) The total cost to Council of attendance relative to the Program budget;
 - d) The fair and equitable division of opportunity for Councillors to attend conferences/seminars.

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1.7.6 Councillors shall at the conclusion of their attendance at the seminar, conference, or training provide a written report to Council on the aspects of the seminar, conference or training. This report should be submitted to Council within one month of their attendance. Attendance at the Local Government NSW annual conference will not require a report to Council.

1.7.7 The General Manager's Office will make all arrangements for the attendance of Councillors and accompanying persons, where required at a conference, seminar or training.

1.8 Seminars, Conferences and Training Expenses

1.8.1 Council will meet the costs for attendance at approved conferences and seminars, training and educational courses to a maximum of **\$5,000.00** per Councillor per year of term, excluding the costs associated with attendance at the Local Government NSW annual conference:

- a) **Registration fees** – Council will meet the cost of the registration fee set by the organiser, including costs of related official lunches and dinners, and associated tours where they are relevant to the business and interests of Council.
- b) **Accommodation** – where a conference, seminar or training course is not located within the Port Stephens Local Government Area, Councillors shall where required be accommodated in the hotel where the event is being held or the nearest hotel to it that is of a similar standard, or as arranged by the conference organiser. Accommodation shall be provided at the rate of a double room. Any additional nights prior to or following the conference, seminar or training course Council will not be included in the expenses paid by Council. **Note:** Movie hire and Mini Bar Facilities will be paid for by the Councillor.
- c) **Transportation** – Councillors attending a conference, seminar or training course shall travel by the most appropriate route, subject to any personal medical requirements. Any costs incurred in undertaking activities not related to attendance at the conference, seminar or training course shall not be included in any expenses paid by Council.
- d) **Educational Materials** – where a Councillor is participating in an approved training or educational course and specific reference materials are required (for example, prescribed textbooks), Council shall purchase such educational materials on the Councillor's behalf. At the completion of the relevant training or educational course, educational materials purchased pursuant to this clause shall be returned to Council and be available for the use of all Councillors in the Councillor's Room

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1.8.2 Conferences, seminars and training held outside the Port Stephens Local Government Area, Council shall as appropriate (having regard to availability, time/cost effectiveness of the transport options) meet or reimburse the lesser amount of the following transportation expenses:

- a) The cost of an economy class air ticket and associated taxi transfers.
- b) The cost of a first-class rail ticket and associated taxi transfers.
- c) Transportation expenses by a Councillor with the Councillor's own vehicle (refer to clause 1.2.5).

1.8.3. If a Council-owned vehicle utilised that cost will be determined by way of actual costs incurred.

1.9 Meals

1.9.1 Council shall meet the cost of breakfast, lunch and dinner for Councillors attending a conference, seminar or training course where any such meal is not provided by the organiser. Council shall also meet the reasonable cost of drinks accompanying the meals.

1.9.2 Costs payable by Council under clauses 1.9.1 and 1.9.2 shall be capped at a maximum of **\$100.00** per Councillor per day inclusive. Councillors will be paid actual costs if under **\$100.00** per day.

1.9.3 Council shall meet the reasonable cost of Councillors' meals where due to their attendance to Official Business of Council the Councillor is reasonably unable to partake of a meal at their residence and so incurs additional expense.

1.9.4 Costs payable by Council under clause 1.9.3 shall be capped at a maximum of **\$50.00** per Councillor per day or actual costs, whichever is less.

1.10 Local Travel Arrangements and Associated Expenses

1.10.1 Travelling expenses shall be reimbursed to Councillors for travel by public transport or private vehicle on Official Business of Council in the Hunter Councils area, to a maximum amount of **\$6,000.00** per Councillor per year of term.

1.10.2 Councillors may, where available, use Council owned vehicles to attend to Official Business of Council.

1.10.3 Council shall meet the cost of parking fees and road tolls but not the cost of traffic or parking fines, which shall remain the sole responsibility of the Councillor.

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1.10.4 Claims for reimbursement under this clause 1.10 shall be made in accordance with clause 1.2.

1.11 Travel outside the HROC Area including Interstate and Overseas Travel

1.11.1 Payment of any travel expenses to a Councillor, incurred on Council related business outside of the Hunter Councils area and not otherwise addressed in clause 2.8 requires approval by resolution of Council in an open meeting.

1.11.2 Approval for payment of travel expenses under clause 1.11.1 may be granted subject to any conditions Council so determines, and Council shall meet only those expenses that Council so determines.

1.12 Communication Device Costs and Expenses

1.12.1 Council shall reimburse Councillors to a maximum of **\$4,000.00** per term for the purchase of a personal computer/laptop, multifunction device, peripherals and Microsoft office software.

1.12.2 Council shall not purchase the equipment in item 1.12.1 on a Councillors behalf.

1.12.3 Council shall reimburse Councillors for all maintenance and repairs, which are to be arranged by individual Councillors.

1.12.4 Council shall reimburse Councillors for all consumables such as ink cartridges and reasonable supply of paper for official Council business.

1.12.5 Council shall reimburse Councillors for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business to a maximum cost of **\$200.00** per Councillor per month of term. All communication device costs incurred above this maximum are at the Councillors own expense.

1.12.6 As an alternative to clause 1.12.5, Council shall reimburse Councillors for their communication device costs where it is part of a bundle plan. This would include landline costs and internet where costs were incurred in attending to Council business to a maximum cost of **\$120.00** per Councillor per month of term. The maximum cost for a mobile phone plan would be **\$100.00** per Councillor per month of term.

All communication device costs incurred above this maximum are at the Councillors own expense.

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1.12.7 If a Councillor does not have a telephone line or internet connection at their home, Council shall meet the installation costs.

1.12.8 Council shall meet the cost of providing and maintaining an internet connection at the residence of the Councillor to a maximum of **\$60.00** per Councillor per month of term. Any internet costs incurred above this maximum are at the Councillors own expense.

1.13 Care and Other Related Expenses.

1.13.1 In this clause, "relative" shall have the same meaning as set out in the Dictionary in the Act, being at the date of this policy:

"Relative, in relation to a person, means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;*
- (b) the spouse or de facto partner of the person or of a person referred to in paragraph (a)."*

1.13.2 Where a Councillor has sole responsibility for the care and support of any relative, Council shall reimburse expenses for carer arrangements, where expenses relate to a relative as defined under clause 1.13.1 and are payable when a Councillor is required to attend the following to discharge the functions of civic office:

- a) Council meetings, committee meetings, inspections, formal briefings, civic and ceremonial functions relating to civic office;
- b) Meetings scheduled by Council and/or the Mayor;
- c) Meetings arising as a result of a Councillor being appointed by Council to an outside body or committee;
- d) A meeting, function or other official role as a representative of the Mayor or Council.

1.13.3 The total amount paid to a Councillor under this clause 1.13 shall not exceed **\$2,000** per year of term.

1.13.4 Claims for reimbursement under this clause 1.13 shall be made in accordance with clause 1.2.

1.14 Insurance Expenses

Councillors shall receive the benefit of insurance cover for:

1.14.1 Personal Accident - Personal Accident insurance covers personal injury, which is caused by violent, accidental external and visible means that solely and independently of any other cause results in a Councillor's death or disablement. The cover applies

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anywhere in the world during and while travelling to and from Council business. The capital benefit for the death of a Councillor is \$500,000. The cover does not include medical expenses.

- 1.14.2 Professional Indemnity - Professional Indemnity insurance covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.
- 1.14.3 Public Liability - Public Liability insurance covers Council's legal liability to pay compensation to third parties arising in connection with the business activities of Council. Matters arising from Councillors' performance of civic duties or exercise of their functions as Councillors are covered subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme policy wording.
- 1.14.4 Councillors' & Officers' Liability - Councillors' & Officers' Liability insurance protects Councillors and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Councillors for personal liabilities as a result of wrongful acts subject to any limitations or conditions set out in the policy of insurance.

Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by the Risk Management Coordinator.

1.15 Legal Expenses

- 1.15.1 Councillors may be entitled to indemnity for an enquiry, investigation or hearing commenced by or official body.

Legal proceedings being taken against a Councillor, arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor (with the exception of defamation proceedings), Council shall reimburse such a Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED THAT:

The amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

The Councillor's performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper (Section 731 of the Act).

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The amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's Hunter based Solicitors will be paid ie any portion of the expenses representing any hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

Defamation proceedings or other proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

Note: Council may not meet the costs of any action in defamation taken by a Councillor as plaintiff in any circumstances (DLG Circular 00/22).

To ensure that indemnity or reimbursement in respect of costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the NSW Civil and Administrative Tribunal or an investigative body PROVIDED the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.

Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something, which a councillor has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.

In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach has occurred may not necessarily be considered a substantially unfavourable outcome.

- 1.15.2 Council shall not meet any Councillor's costs of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, Council itself.

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General

Where proceedings have been foreshadowed or commenced against any of the Mayor and Councillors arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following "Three Criteria" are satisfied through the required procedure set out below namely:

- (a) The statement was made or the act was done in relation to discharging the functions of civic office;
- (b) The Councillor concerned was acting in good faith; and
- (c) The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will indemnify or reimburse the Councillor for:

- (a) all legal expenses properly and reasonably incurred, given the nature of the legal services provided; and
- (b) any other fees, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

In responding to or defending such proceeding **PROVIDED THAT** the amount of such indemnity or reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

Engagement of Legal Representatives – Required Procedure

1. The Councillor must, as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. This notification must;
 - i. be in written form;
 - ii. include all details including any correspondence from the alleged injured party concerning the possible claim; and
 - iii. Include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2. The Councillor must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by Council or its solicitor or the insurer or its solicitor. The Councillor must at all times without undue delay keep Council

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fully informed of any oral or written communications made to the Councillor by the alleged injured party or the injured party's agents or legal representative in respect of the claim.

3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.
4.
 - i. If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed Solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Councillor concerned in written form of that view.
 - ii. If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.
5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause (4); the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to consultation with the General Manager and the Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the insurers the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
 - If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as

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nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.

7. If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
 - i. Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - ii. Accounts being considered and approved by the General Manager prior to payment; and
 - iii. All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.
8. Notwithstanding the provisions of paragraph 7 (ii) and 7 above, once proceedings have actually been commenced then the procedures set out in paragraph 7 above must be followed. (Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

This policy will not apply to any defamation or other action brought by any Councillor or Council employee against any Councillor, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:

- i. The statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Office of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
- ii. The statement:
 - is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and
 - is in accordance with the Local Government (General) Regulations 2005 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and

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- Does not breach any other law.

Part 2 - Provision of Facilities

2.1 Provision of Facilities Generally

- 2.1.1 Unless otherwise stated, where a facility may be provided by Council in accordance with this Policy and a Councillor chooses to accept the facility, it shall be provided by Council with all establishment, routine maintenance, operating, training, replacement and insurance costs being met by Council, subject to any limits specified and adequate funds being allocated and available in Council's adopted Integrated Strategic Plans.
- 2.1.2 All facilities provided shall be of adequate capacity and functionality to allow the role of Councillor to be fully undertaken.

2.2 Private Use of Equipment and Facilities

- 2.2.1 Councillors shall not generally obtain private benefit from the provision of equipment and facilities. This includes benefits such as a travel bonus or other benefit arising from a loyalty scheme. However, incidental personal use of Council equipment and facilities may occur from time to time. No entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.
- 2.2.2 If a Councillor does obtain a private benefit for the use of a facility provided by Council being more than incidental use, the Councillor shall be invoiced for the amount of the private benefit with repayment to be in accordance with Council's normal terms.
- 2.2.3 The value of a private benefit to be invoiced under this clause 2.2 shall be determined by the General Manager or, at the request of the Councillor in receipt of the private benefit, the General Manager, or any two Councillors, by resolution of an open meeting of Council.
- 2.2.4 Equipment, facilities and services provided under this Policy shall not be used to produce election material or for any other political purposes.

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2.3 Councillors' Room

- 2.3.1 Councillors shall be provided with equipment and facilities at the Raymond Terrace Administration Building. Equipment provided under this clause remains the property of Council.
- 2.3.2 The Councillors' Room furnished for use by all Councillors shall be provided with:
- a) A telephone, computer with internet access, multifunction device and computer peripherals for use by all Councillors.
 - b) A library including Council policies, relevant legislation, reports on Development Applications and other relevant documents.

2.4 Administration Support, Stationery, Postage & Business Cards

- 2.4.1 Council shall provide the support services of Councillor Support Executive Assistant with suitable experience and skills to support Councillors.
- 2.4.2 Council shall post all correspondence for Councillors relative to the discharge of the functions of civic office.
- 2.4.3 Council shall provide appropriate letterhead stationery, business cards and Christmas cards for use by Councillors.
- 2.4.4 Correspondence by Councillors relative to the discharge of the functions of civic office is considered official correspondence of Council where the matter is referred to the General Manager for attention. The correspondence shall be attached to the appropriate Council file for registration, attention and reply.
- 2.4.5 Under no circumstances shall Councillors use the administration services, staff or other facilities provided in association with Local, State or Federal Government Elections.
- 2.4.6 Under no circumstances shall Councillors use the administration services or other facilities provided for the initiation of circular type letters without prior authority of the Council being obtained.
- 2.4.7 Council shall provide Councillors with official name badges indicating the wearer holds the office of Councillor, to wear at Civic functions.

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2.5 Meals

- 2.5.1 Councillors will be provided with meals and refreshments following Committee and Council meetings and at other times considered appropriate by the Mayor and General Manager. The standard of the meal will be determined by the Mayor and/or the General Manager.
- 2.5.2 Light refreshments such as biscuits, health bars and beverages will be provided in the Councillors Room.

2.6 Transport Facilities

- 2.6.1 Four designated car parking spaces shall be provided for Councillors in the Council car park at the Council administration building, to be shared amongst Councillors.
- 2.6.2 Councillors will be reimbursed for all transport costs (taxi, use of private vehicle, etc) in accordance with clause 2.2 for their attendance at official Council functions. This includes deputising for the Mayor.

2.7 Corporate Uniform

- 2.7.1 Councillors may choose from a selection of Corporate Uniform provided by Council's approved supplier. Council will contribute a subsidy to 35% of the initial cost to a maximum of \$250 per annum. A sundry debtor account will then be forwarded to the Councillor for payment of the balance. Alternatively, a deduction can be made from the Councillor's monthly allowance.

2.8 Superannuation

- 2.8.1 Councillors may elect to contribute all or part of their Councillor Allowance into an approved Superannuation Scheme by completing **FORM 3**.

2.9 Health & Wellbeing Initiative

- 2.9.1 Councillors shall be able to access a Health Initiative program, which includes gym membership at local facilities. The program requires a minimum six (6) month membership with a payment to be made in advance for three (3) months – non refundable.
- 2.9.2 Councillors shall investigate any taxation implications for individual councillors as a result of the membership.

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2.9.3 Further details can be obtained through Council's Councillor Support Executive Assistant.

2.10 Provision of Safety equipment

2.10.1 Councillors shall be provided with the following Protective Apparel:

- hard hat;
- safety vest;
- safety footwear;
- safety glasses and;
- hearing protection

to accord with the NSW Workplace Health & Safety Act, for on-site inspections.

Provision of Additional Expenses, Equipment and Facilities for the Mayor

2.11 Additional Expenses, Equipment and Facilities

2.11.1 The Mayor is paid an additional annual fee. The fee is the amount fixed by Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

2.11.2 This Policy is intended to cover most situations where the Mayor reasonably incurs additional expenses in discharging the functions of Mayoral office. The annual fee paid to the Mayor is generally not intended to offset those costs.

2.12 Equipment and Facilities

2.12.1 The Mayor shall be provided with additional equipment and facilities. Equipment provided under this clause remains the property of Council.

2.12.2 The following facilities and equipment shall be provided to the Mayor:

2.12.3 A furnished office with computer, printer, internet access, phone, facsimile and computer peripherals.

2.12.4 Office refreshments.

2.12.5 Mayoral letterhead.

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2.12.6 A corporate credit card, to be used only to pay expenses allowed under this policy.

2.12.7 All items provided to the Mayor under this clause 2.12 must be returned to Council when the Mayor ceases to hold office.

2.13 Mayor's Staff

2.13.1 Council shall provide the services of the Councillor Support Executive Assistant with suitable experience and skills to support the Mayor.

2.13.2 The Councillor Support Executive Assistant shall provide support to the Deputy Mayor in the absence of the Mayor.

2.14 Mayoral Motor Vehicle

2.14.1 The Mayor shall be provided with:

2.14.2 A fully maintained motor vehicle, of a standard appropriate to the Office of the Mayor for the use of discharging function of the Mayor.

2.14.3 A fuel card, to be used for official Council business.

2.14.4 A car parking space at the Raymond Terrace Administration Building.

2.14.5 All items provided to the Mayor under this clause 2.14 must be returned to Council when the Mayor ceases to hold office.

POLICY RESPONSIBILITIES:

- 1) The Governance Manager will be responsible for the implementation, monitoring and re-evaluating the policy.

RELATED DOCUMENTS:

- Office of Local Government Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors.
- Port Stephens Council Code of Conduct, as amended.
- Office of Local Government Model Code of Conduct – as amended.
- Independent Commission Against Corruption (ICAC) Publications.

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TRIM container No	A2004-0284	TRIM record No	
Audience	Mayor and Councillors		
Process owner	Governance Manager		
Author	Governance Manager		
Review timeframe	Annually	Next review date	July 2017
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	28/06/1994	Assistant General Manager		342
2.0	13/12/1994	Assistant General Manager		691
3.0	14/11/1995	Assistant General Manager		562
4.0	10/09/1996	Assistant General Manager		528
5.0	23/12/1997	Assistant General Manager		1471
6.0	09/03/2004	Governance Officer		107
7.0	31/01/2006	Governance Coordinator		398
8.0	27/11/2006	Governance Coordinator		758
9.0	25/03/2008	Governance Coordinator		069
10.0	16/12/2008	Executive Officer		398
11.0	24/11/2009	Executive Officer		399
12.0	23/11/2010	Executive Officer		373
13.0	18/11/2011	Executive Officer		385
14.0	27/11/2012	Executive Officer		323

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Version	Date	Author	Details	Minute No.
15.0	26/11/2013	Executive Officer		345
16.0	26/08/2014	Executive Officer		229
17.0	22/09/2015	Governance Manager	Transferred policy to new corporate policy template and updated forms. No changes to the intent or objectives of the policy.	295
18.0		Governance Manager	<p>It is proposed to amend the Policy as follows:</p> <ol style="list-style-type: none"> 1) Increase cl. 1.12.1 to increase the allowance from \$3,000 to \$4,000 per term. 2) Amend cl. 1.15.1 change name of the Local Government Pecuniary Interest Tribunal to NSW Civil and Administrative Tribunal. 3) Cl. 8 change clause references stated in clause 8. 4) Under the "Exclusion from Policy" change name of Department of Local Government to Office of Local Government. 	

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**ITEM 5 - ATTACHMENT 2 CURRENT PAYMENT OF EXPENSES AND
PROVISION OF FACILITIES TO COUNCILLORS POLICY**

Policy



FILE NO: **A2004-0284**

TITLE: **PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO
MAYOR/COUNCILLORS POLICY**

POLICY OWNER: **GOVERNANCE MANAGER**

PURPOSE:

The purpose of the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy ('the Policy') is to ensure that Councillors receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties. It ensures that these are provided in an accountable and transparent manner.

CONTEXT/BACKGROUND:

This Policy is made under the *Local Government Act 1993*, including Sections 248 to 254 and 731 and having regard to the provisions of the Division of Local Government Circular No. 09-36, 7 October 2009.

The Act requires that the Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and Councillors.

This Policy is to be adopted by Council annually, within five months after the end of the year.

Prior to adoption public notice must be given and public submissions invited for 28 days. Council must then consider all submissions received and make any appropriate changes to the Policy.

Council need not give public notice of a proposed amendment if Council is of the opinion that the proposed amendments are not substantial. The term 'not substantial' should be taken to mean minor changes to wording of the policy or changes to monetary provisions or rates that are less than 5% or changes to the standard of equipment and facilities to be provided. Public notice is required prior to each annual adoption of the policy even if there are no proposed changes.

Section 428 of the Act and Clause 271 of the Regulation requires Councils to include detailed information in their annual reports about the payments of expenses and facilities to Councillors.

Legislative provisions

The relevant legislative provisions are the *Local Government Act 1993* and the *Local Government (General) Regulations 2005*.

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**ITEM 5 - ATTACHMENT 2 CURRENT PAYMENT OF EXPENSES AND
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Local Government Act 1993

248 FIXING AND PAYMENT OF ANNUAL FEES FOR COUNCILLORS

- (1) A council must pay each councillor an annual fee.
- (2) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (3) The annual fee so fixed must be the same for each councillor.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.

**248A ANNUAL FEES OR OTHER REMUNERATION NOT TO BE PAID DURING PERIOD OF
SUSPENSION**

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act, unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

249 FIXING AND PAYMENT OF ANNUAL FEES FOR THE MAYOR

- (1) A council must pay the mayor an annual fee.
- (2) The annual fee must be paid in addition to the fee paid to the mayor as a councillor.
- (3) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.
- (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

252 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.

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- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

253 REQUIREMENTS BEFORE POLICY CONCERNING EXPENSES AND FACILITIES CAN BE ADOPTED OR AMENDED

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
 - (c) a copy of the notice given under subsection (1).
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

254 DECISION TO BE MADE IN OPEN MEETING

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

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254A CIRCUMSTANCES IN WHICH ANNUAL FEES MAY BE WITHHELD

- (1) Despite this Division, a council may resolve that an annual fee will not be paid to a councillor or that a councillor will be paid a reduced annual fee determined by the council:
 - (a) for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or
 - (b) in any other circumstances prescribed by the regulations.
- (2) Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.

428 ANNUAL REPORTS

- (1) Within 5 months after the end of each year, a council must prepare a report (its "annual report") for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed.

Local Government (General) Regulations 2005

217 ADDITIONAL INFORMATION FOR INCLUSION IN ANNUAL REPORT

- (1) For the purposes of section 428 (4) (b) of the Act, an annual report of a council is to include the following information:
 - (a) details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),
 - (a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:
 - (i) the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),

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- (ii) telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,
- (iii) the attendance of councillors at conferences and seminars,
- (iv) the training of councillors and the provision of skill development for councillors,
- (v) interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- (vi) overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- (vii) the expenses of any spouse, partner (whether of the same or the opposite sex) or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,
- (viii) expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions

403 Payment of expenses and provision of facilities

A policy under section 252 of the Act must not include any provision enabling a council:

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or
- (b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.

404 CIRCUMSTANCES IN WHICH COUNCILLORS' ANNUAL FEES MAY BE REDUCED OR NOT PAID

A definition of what is included and what is excluded from the policy. The scope may also include – what, when and where the policy applies; who will be affected and how it will affect them; what impact the policy will have? Exclusions to policy application should also be included, if applicable.

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**ITEM 5 - ATTACHMENT 2 CURRENT PAYMENT OF EXPENSES AND
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The scope of this Policy is to detail those Councillor expenses and facilities the cost of which shall be met by Council.

This Policy also aims to ensure compliance of the Port Stephens Council Code of Conduct.

DEFINITIONS:

Councillor	Means a Councillor elected to Port Stephens Council, including the Mayor.
Official Business of Council	Meeting of Council; Meetings of Committees of the Whole Site inspection where resolved by Council; Meetings of committees where Council has endorsed the Councillor's membership; Civic receptions hosted or sponsored by Council; Meetings or functions to which the Councillors attendance has been approved by the General Manager and/or the Mayor. Functions or meetings where the invitation to attend arises only as a result of the Councillor's position as a Councillor.
Council term	Period of elected Council (generally 4 years under the Local Government Act 1993)
Port Stephens local government area	Local government area of Port Stephens
The Act	Local Government Act 1993
The Regulation	Local Government (General) Regulation 2005

POLICY STATEMENT:**Part 1 - Payment of Expenses****1.1 General Provisions**

- 1.1.1 Council will determine an annual allowance, to be paid monthly in arrears, in accordance with Section 248 - 251 of the Local Government Act and the determination of the Local Government Remuneration Tribunal.

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- 1.1.2 This Policy is intended to cover most situations where a Councillor reasonably incurs expenses in discharging the functions of civic office. The annual fees paid to each Councillors is generally not intended to offset those costs.
- 1.1.3 All allowances and reimbursements of expenses made under this Policy shall be in respect to costs directly associated with the functions of civic office.
- 1.1.4 Councillors are not permitted to claim expenses in connection with political activities, including political fundraising as this is considered a personal interest.
- 1.1.5 Councillors will not be provided with general expense allowance. A general expense allowance is a sum of money paid by a Council to a Councillor to expend on an item or a service that is not required to be receipted and/or otherwise reconciled according to a set procedure and within a specific timeframe
- 1.2 Reimbursement and reconciliation of expenses processes**
- 1.2.1 All claims for reimbursement must be made within four (4) months of incurring the expense and shall be subject to the General Manager or delegated officer discretion.
- 1.2.2 All claims shall be submitted to the General Manager and the delegated officer for assessment against the policy on **FORM 1.**"
- 1.2.3 All claims must be supplied with a tax invoice or receipt to support the claim. If a Councillor is not able to provide a tax invoice or receipt then a Statutory Declaration is to be provided.
- 1.2.4 Claims for travel under this Policy shall be lodged using travel **FORM 2**, include:
- Date
 - Place of departure and arrival
 - Distance travelled
 - Fare and parking fees paid
- 1.2.5 The kilometre rate payable to Councillors who travel in their own vehicle shall be the rate payable under the Local Government State Award.
- 1.2.6 Where travel is outside the Hunter Councils Area, Council shall as appropriate meet or reimbursement the lesser amount of the following expenses:
- a) The cost of an economy class air ticket and associated taxi transfers.
 - b) The cost of a first class rail ticket and associated taxi transfers.
 - c) Transportation expenses using a Councillor's own vehicle (calculated under clause 1.2.5).

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- d) Transportation using a Council-owned vehicles, actual costs incurred.
- 1.2.7 Where possible Council will pay all expenses directly by account or through use of a corporate credit card. In some instances, it may be necessary for Councillors to pay unexpected costs and seek reimbursement.
- 1.2.8 Once expenses of attending conferences, seminars or training course have been finalised, an invoice shall be forwarded to Councillors for any expenses payable by them.

1.3 Approval and Dispute resolution

- 1.3.1 The Executive Assistant – Councillor Support shall assess all claims against this Policy and provide the assessed documentation to the General Manager and Executive Officer for approval.
- 1.3.2 Claims will be paid on a monthly basis, generally the first Friday of the month.
- 1.3.3 Should the General Manager and Governance Manager determine that a claim should not be paid, the Councillor should be advised in writing. Should the Councillor still believe that the claim should be paid, in part or full, it shall be considered that a dispute exists.
- 1.3.4 In the event of a dispute at any time regarding payment of a claim or anything else under this Policy, the parties to this dispute shall each provide a written report on the nature of the dispute. The General Manager shall submit such reports to the next open meeting of Council. The dispute shall then be determined by a resolution of Council having regard to the reports, this Policy, Act and any other relevant laws.
- 1.3.5 The decision of Council pursuant to clause 1.3.4 shall be binding on all parties.

1.4 Payment in advance

- 1.4.1 Councillors may require advance payment for an anticipated expense associated with attendance at a conference, seminar and training course. The amount is **\$200** per Councillor per event.
- 1.4.2 In the event of a payment being made in advance, Councillors must full reconcile all expenses against the amount of the advance and submit the reconciliation to Council with **30 days** of the event.

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1.5 Monetary Limits

- 1.5.1 Monetary limits set out in this Policy are the maximum amount payable in respect of any facility or expense. Any additional costs above the limit will be incurred by the Councillor. All monetary limits are exclusive of GST.
- 1.5.2 Monetary limits may only be waived by a resolution of Council in exceptional circumstances. Any waiver of a monetary limit will apply to a particular event or circumstance and will not constitute an amendment to this Policy.

Spouse and Partner Expenses

- 1.6.1 Accompanying person means a person who has a close relationship with a Councillor and/or provides carer support to the Councillor.
- 1.6.2 In limited circumstances, Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions with the Port Stephens Local Government Area, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of **\$500** per year of term, not including the Local Government NSW annual conference.
- 1.6.3 Costs and expense incurred by the Councillor on behalf of their spouse, partner or accompanying person shall be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function.
- 1.6.4 In limited circumstances, Council shall meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Mayor is entitled to a maximum of **\$1000.00** per year of term, not including the Local Government NSW annual conference.
- 1.6.5 Council shall meet limited expenses of spouse, partner or accompanying person associated with attendance at the Local Government NSW annual conference. These expenses are limited to the costs of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program shall not be met by Council.

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- 1.6.6 Costs associated with spouse, partner or accompanying person associated with attendance conferences other than the Local Government NSW annual conference, or any seminars or training shall not be met by Council.
- 1.6.7 In no circumstances will the peripheral expenses of spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Specific Expenses for Councillors

1.7 Attendance at seminars, conferences, training and educational expenses

- 1.7.1 Council shall meet expenses incurred by Councillors in attending conferences and seminars or undertaking training and educational courses when the attendance is:
- a) To the Local Government NSW annual conference; or
 - b) Authorised by resolution of an open meeting of Council.
- 1.7.2 Councillors should generally have their attendance at a conference, seminar or participation in a training course authorised by Council in accordance with clause 1.7.1 (b).
- 1.7.3 Where it is impractical to have a Councillor's attendance or participation authorised by Council in accordance with clause 1.7.1 (b), Councillors wishing to claim expenses incurred due to their attendance or participation shall obtain the approval of the Mayor and the General Manager prior to attendance. Where the Mayor is seeking approval to claim his or her attendance or participation expenses under this clause, he or she shall obtain the approval of the Deputy Mayor and the General Manager.
- 1.7.4 Councillors shall submit their request for attendance in writing with the appropriate notice detailing the costs and benefits to the Councillor, to Council and the community.
- 1.7.5 In making its decision, the General Manager/Mayor or Council should consider:
- a) The relevance of the seminar, conference, training or educational expenses to Council and the potential benefit that may result from attendance;
 - b) The special interest of the Councillor/s wishing to attend;
 - c) The total cost to Council of attendance relative to the Program budget;
 - d) The fair and equitable division of opportunity for Councillors to attend conferences/seminars.

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1.7.6 Councillors shall at the conclusion of their attendance at the seminar, conference, or training provide a written report to Council on the aspects of the seminar, conference or training. This report should be submitted to Council within one month of their attendance. Attendance at the Local Government NSW annual conference will not require a report to Council.

1.7.7 The General Manager's Office will make all arrangements for the attendance of Councillors and accompanying persons, where required at a conference, seminar or training.

1.8 Seminars, Conferences and Training Expenses

1.8.1 Council will meet the costs for attendance at approved conferences and seminars, training and educational courses to a maximum of **\$5,000.00** per Councillor per year of term, excluding the costs associated with attendance at the Local Government NSW annual conference:

- a) **Registration fees** – Council will meet the cost of the registration fee set by the organiser, including costs of related official lunches and dinners, and associated tours where they are relevant to the business and interests of Council.
- b) **Accommodation** – where a conference, seminar or training course is not located within the Port Stephens Local Government Area, Councillors shall where required be accommodated in the hotel where the event is being held or the nearest hotel to it that is of a similar standard, or as arranged by the conference organiser. Accommodation shall be provided at the rate of a double room. Any additional nights prior to or following the conference, seminar or training course Council will not be included in the expenses paid by Council. **Note:** Movie hire and Mini Bar Facilities will be paid for by the Councillor.
- c) **Transportation** – Councillors attending a conference, seminar or training course shall travel by the most appropriate route, subject to any personal medical requirements. Any costs incurred in undertaking activities not related to attendance at the conference, seminar or training course shall not be included in any expenses paid by Council.
- d) **Educational Materials** – where a Councillor is participating in an approved training or educational course and specific reference materials are required (for example, prescribed textbooks), Council shall purchase such educational materials on the Councillor's behalf. At the completion of the relevant training or educational course, educational materials purchased pursuant to this clause shall be returned to Council and be available for the use of all Councillors in the Councillor's Room

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1.8.2 Conferences, seminars and training held outside the Port Stephens Local Government Area, Council shall as appropriate (having regard to availability, time/cost effectiveness of the transport options) meet or reimburse the lesser amount of the following transportation expenses:

- a) The cost of an economy class air ticket and associated taxi transfers.
- b) The cost of a first-class rail ticket and associated taxi transfers.
- c) Transportation expenses by a Councillor with the Councillor's own vehicle (refer to clause 1.2.5).

1.8.3 If a Council-owned vehicle utilised that cost will be determined by way of actual costs incurred.

1.9 Meals

1.9.1 Council shall meet the cost of breakfast, lunch and dinner for Councillors attending a conference, seminar or training course where any such meal is not provided by the organiser. Council shall also meet the reasonable cost of drinks accompanying the meals.

1.9.2 Costs payable by Council under clauses 1.9.1 and 1.9.2 shall be capped at a maximum of **\$100.00** per Councillor per day inclusive. Councillors will be paid actual costs if under **\$100.00** per day.

1.9.3 Council shall meet the reasonable cost of Councillors' meals where due to their attendance to Official Business of Council the Councillor is reasonably unable to partake of a meal at their residence and so incurs additional expense.

1.9.4 Costs payable by Council under clause 1.9.3 shall be capped at a maximum of **\$50.00** per Councillor per day or actual costs, whichever is less.

1.10 Local Travel Arrangements and Associated Expenses

1.10.1 Travelling expenses shall be reimbursed to Councillors for travel by public transport or private vehicle on Official Business of Council in the Hunter Councils area, to a maximum amount of **\$6,000.00** per Councillor per year of term.

1.10.2 Councillors may, where available, use Council owned vehicles to attend to Official Business of Council.

1.10.3 Council shall meet the cost of parking fees and road tolls but not the cost of traffic or parking fines, which shall remain the sole responsibility of the Councillor.

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1.10.4 Claims for reimbursement under this clause 1.10 shall be made in accordance with clause 1.2.

1.11 Travel outside the HROC Area including Interstate and Overseas Travel

1.11.1 Payment of any travel expenses to a Councillor, incurred on Council related business outside of the Hunter Councils area and not otherwise addressed in clause 2.8 requires approval by resolution of Council in an open meeting.

1.11.2 Approval for payment of travel expenses under clause 1.11.1 may be granted subject to any conditions Council so determines, and Council shall meet only those expenses that Council so determines.

1.12 Communication Device Costs and Expenses

1.12.1 Council shall reimburse Councillors to a maximum of **\$3,000.00** per term for the purchase of a personal computer/laptop, multifunction device, peripherals and Microsoft office software.

1.12.2 Council shall not purchase the equipment in item 1.12.1 on a Councillors behalf.

1.12.3 Council shall reimburse Councillors for all maintenance and repairs, which are to be arranged by individual Councillors.

1.12.4 Council shall reimburse Councillors for all consumables such as ink cartridges and reasonable supply of paper for official Council business.

1.12.5 Council shall reimburse Councillors for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business to a maximum cost of **\$200.00** per Councillor per month of term. All communication device costs incurred above this maximum are at the Councillors own expense.

1.12.6 As an alternative to clause 1.12.5, Council shall reimburse Councillors for their communication device costs where it is part of a bundle plan. This would include landline costs and internet where costs were incurred in attending to Council business to a maximum cost of **\$120.00** per Councillor per month of term. The maximum cost for a mobile phone plan would be **\$100.00** per Councillor per month of term.

All communication device costs incurred above this maximum are at the Councillors own expense.

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1.12.7 If a Councillor does not have a telephone line or internet connection at their home, Council shall meet the installation costs.

1.12.8 Council shall meet the cost of providing and maintaining an internet connection at the residence of the Councillor to a maximum of **\$60.00** per Councillor per month of term. Any internet costs incurred above this maximum are at the Councillors own expense.

1.13 Care and Other Related Expenses.

1.13.1 In this clause, "relative" shall have the same meaning as set out in the Dictionary in the Act, being at the date of this policy:

"Relative, in relation to a person, means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;*
- (b) the spouse or de facto partner of the person or of a person referred to in paragraph (a)."*

1.13.2 Where a Councillor has sole responsibility for the care and support of any relative, Council shall reimburse expenses for carer arrangements, where expenses relate to a relative as defined under clause 1.13.1 and are payable when a Councillor is required to attend the following to discharge the functions of civic office:

- a) Council meetings, committee meetings, inspections, formal briefings, civic and ceremonial functions relating to civic office;
- b) Meetings scheduled by Council and/or the Mayor;
- c) Meetings arising as a result of a Councillor being appointed by Council to an outside body or committee;
- d) A meeting, function or other official role as a representative of the Mayor or Council.

1.13.3 The total amount paid to a Councillor under this clause 1.13 shall not exceed **\$2,000** per year of term.

1.13.4 Claims for reimbursement under this clause 1.13 shall be made in accordance with clause 1.2.

1.14 Insurance Expenses

Councillors shall receive the benefit of insurance cover for:

1.14.1 Personal Accident - Personal Accident insurance covers personal injury, which is caused by violent, accidental external and visible means that solely and independently of any other cause results in a Councillor's death or disablement. The cover applies

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anywhere in the world during and while travelling to and from Council business. The capital benefit for the death of a Councillor is \$500,000. The cover does not include medical expenses.

- 1.14.2 Professional Indemnity - Professional Indemnity insurance covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.
- 1.14.3 Public Liability - Public Liability insurance covers Council's legal liability to pay compensation to third parties arising in connection with the business activities of Council. Matters arising from Councillors' performance of civic duties or exercise of their functions as Councillors are covered subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme policy wording.
- 1.14.4 Councillors' & Officers' Liability - Councillors' & Officers' Liability insurance protects Councillors and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Councillors for personal liabilities as a result of wrongful acts subject to any limitations or conditions set out in the policy of insurance.

Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by the Risk Management Coordinator.

1.15 Legal Expenses

- 1.15.1 Councillors may be entitled to indemnity for an enquiry, investigation or hearing commenced by of official body.

Legal proceedings being taken against a Councillor, arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor (with the exception of defamation proceedings), Council shall reimburse such a Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED THAT:

The amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

The Councillor's performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper (Section 731 of the Act).

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The amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's Hunter based Solicitors will be paid ie any portion of the expenses representing any hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

Defamation proceedings or other proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

Note: Council may not meet the costs of any action in defamation taken by a Councillor as plaintiff in any circumstances (DLG Circular 00/22).

To ensure that indemnity or reimbursement in respect of costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the Local Government Pecuniary Interest Tribunal or an investigative body PROVIDED the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.

Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something, which a councillor has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.

In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach has occurred may not necessarily be considered a substantially unfavourable outcome.

- 1.15.2 Council shall not meet any Councillor's costs of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, Council itself.

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General

Where proceedings have been foreshadowed or commenced against any of the Mayor and Councillors arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following "Three Criteria" are satisfied through the required procedure set out below namely:

- (a) The statement was made or the act was done in relation to discharging the functions of civic office;
- (b) The Councillor concerned was acting in good faith; and
- (c) The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will indemnify or reimburse the Councillor for:

- (a) all legal expenses properly and reasonably incurred, given the nature of the legal services provided; and
- (b) any other fees, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

In responding to or defending such proceeding **PROVIDED THAT** the amount of such indemnity or reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

Engagement of Legal Representatives – Required Procedure

1. The Councillor must, as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. This notification must;
 - i. be in written form;
 - ii. include all details including any correspondence from the alleged injured party concerning the possible claim; and
 - iii. Include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2. The Councillor must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by council or its solicitor or the insurer or its solicitor. The Councillor must at all times without undue delay keep Council fully

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informed of any oral or written communications made to the Councillor by the alleged injured party or the injured party's agents or legal representative in respect of the claim.

3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.
4.
 - i. If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed Solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Councillor concerned in written form of that view.
 - ii. If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.
5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause (4); the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to consultation with the General Manager and the Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the insurers the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
 - If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as

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nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.

7. If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
 - i. Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - ii. Accounts being considered and approved by the General Manager prior to payment; and
 - iii. All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.
8. Notwithstanding the provisions of paragraph 5.1 (ii) and 5 above, once proceedings have actually been commenced then the procedures set out in paragraph 5 above must be followed. (Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

This policy will not apply to any defamation or other action brought by any Councillor or Council employee against any Councillor, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:

- i. The statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Department of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
- ii. The statement:
 - is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and

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- is in accordance with the Local Government (General) Regulations 2005 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
- Does not breach any other law.

Part 2 - Provision of Facilities

2.1 Provision of Facilities Generally

- 2.1.1 Unless otherwise stated, where a facility may be provided by Council in accordance with this Policy and a Councillor chooses to accept the facility, it shall be provided by Council with all establishment, routine maintenance, operating, training, replacement and insurance costs being met by Council, subject to any limits specified and adequate funds being allocated and available in Council's adopted Integrated Strategic Plans.
- 2.1.2 All facilities provided shall be of adequate capacity and functionality to allow the role of Councillor to be fully undertaken.

2.2 Private Use of Equipment and Facilities

- 2.2.1 Councillors shall not generally obtain private benefit from the provision of equipment and facilities. This includes benefits such as a travel bonus or other benefit arising from a loyalty scheme. However, incidental personal use of Council equipment and facilities may occur from time to time. No entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.
- 2.2.2 If a Councillor does obtain a private benefit for the use of a facility provided by Council being more than incidental use, the Councillor shall be invoiced for the amount of the private benefit with repayment to be in accordance with Council's normal terms.
- 2.2.3 The value of a private benefit to be invoiced under this clause 2.2 shall be determined by the General Manager or, at the request of the Councillor in receipt of the private benefit, the General Manager, or any two Councillors, by resolution of an open meeting of Council.
- 2.2.4 Equipment, facilities and services provided under this Policy shall not be used to produce election material or for any other political purposes.

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2.3 Councillors' Room

- 2.3.1 Councillors shall be provided with equipment and facilities at the Raymond Terrace Administration Building. Equipment provided under this clause remains the property of Council.
- 2.3.2 The Councillors' Room furnished for use by all Councillors shall be provided with:
- a) A telephone, computer with internet access, multifunction device and computer peripherals for use by all Councillors.
 - b) A library including Council policies, relevant legislation, reports on Development Applications and other relevant documents.

2.4 Administration Support, Stationery, Postage & Business Cards

- 2.4.1 Council shall provide the support services of Councillor Support Executive Assistant with suitable experience and skills to support Councillors.
- 2.4.2 Council shall post all correspondence for Councillors relative to the discharge of the functions of civic office.
- 2.4.3 Council shall provide appropriate letterhead stationery, business cards and Christmas cards for use by Councillors.
- 2.4.4 Correspondence by Councillors relative to the discharge of the functions of civic office is considered official correspondence of Council where the matter is referred to the General Manager for attention. The correspondence shall be attached to the appropriate Council file for registration, attention and reply.
- 2.4.5 Under no circumstances shall Councillors use the administration services, staff or other facilities provided in association with Local, State or Federal Government Elections.
- 2.4.6 Under no circumstances shall Councillors use the administration services or other facilities provided for the initiation of circular type letters without prior authority of the Council being obtained.
- 2.4.7 Council shall provide Councillors with official name badges indicating the wearer holds the office of Councillor, to wear at Civic functions.

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2.5 Meals

- 2.5.1 Councillors will be provided with meals and refreshments following Committee and Council meetings and at other times considered appropriate by the Mayor and General Manager. The standard of the meal will be determined by the Mayor and/or the General Manager.
- 2.5.2 Light refreshments such as biscuits, health bars and beverages will be provided in the Councillors Room.

2.6 Transport Facilities

- 2.6.1 Four designated car parking spaces shall be provided for Councillors in the Council car park at the Council administration building, to be shared amongst Councillors.
- 2.6.2 Councillors will be reimbursed for all transport costs (taxi, use of private vehicle, etc) in accordance with clause 2.2 for their attendance at official Council functions. This includes deputising for the Mayor.

2.7 Corporate Uniform

- 2.7.1 Councillors may choose from a selection of Corporate Uniform provided by Council's approved supplier. Council will contribute a subsidy to 35% of the initial cost to a maximum of \$250 per annum. A sundry debtor account will then be forwarded to the Councillor for payment of the balance. Alternatively, a deduction can be made from the Councillor's monthly allowance.

2.8 Superannuation

- 2.8.1 Councillors may elect to contribute all or part of their Councillor Allowance into an approved Superannuation Scheme by completing **FORM 3**.

2.9 Health & Wellbeing Initiative

- 2.9.1 Councillors shall be able to access a Health Initiative program, which includes gym membership at local facilities. The program requires a minimum six (6) month membership with a payment to be made in advance for three (3) months – non refundable.
- 2.9.2 Councillors shall investigate any taxation implications for individual councillors as a result of the membership.

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2.9.3 Further details can be obtained through Council's Councillor Support Executive Assistant.

2.10 Provision of Safety equipment

2.10.1 Councillors shall be provided with the following Protective Apparel:

- hard hat;
- safety vest;
- safety footwear;
- safety glasses and;
- hearing protection

to accord with the NSW Workplace Health & Safety Act, for on-site inspections.

Provision of Additional Expenses, Equipment and Facilities for the Mayor

2.11 Additional Expenses, Equipment and Facilities

2.11.1 The Mayor is paid an additional annual fee. The fee is the amount fixed by Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

2.11.2 This Policy is intended to cover most situations where the Mayor reasonably incurs additional expenses in discharging the functions of Mayoral office. The annual fee paid to the Mayor is generally not intended to offset those costs.

2.12 Equipment and Facilities

2.12.1 The Mayor shall be provided with additional equipment and facilities. Equipment provided under this clause remains the property of Council.

2.12.2 The following facilities and equipment shall be provided to the Mayor:

2.12.3 A furnished office with computer, printer, internet access, phone, facsimile and computer peripherals.

2.12.4 Office refreshments.

2.12.5 Mayoral letterhead.

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2.12.6 A corporate credit card, to be used only to pay expenses allowed under this policy.

2.12.7 All items provided to the Mayor under this clause 2.12 must be returned to Council when the Mayor ceases to hold office.

2.13 Mayor's Staff

2.13.1 Council shall provide the services of the Councillor Support Executive Assistant with suitable experience and skills to support the Mayor.

2.13.2 The Councillor Support Executive Assistant shall provide support to the Deputy Mayor in the absence of the Mayor.

2.14 Mayoral Motor Vehicle

2.14.1 The Mayor shall be provided with:

2.14.2 A fully maintained motor vehicle, of a standard appropriate to the Office of the Mayor for the use of discharging function of the Mayor.

2.14.3 A fuel card, to be used for official Council business.

2.14.4 A car parking space at the Raymond Terrace Administration Building.

2.14.5 All items provided to the Mayor under this clause 2.14 must be returned to Council when the Mayor ceases to hold office.

POLICY RESPONSIBILITIES:

- 1) The Governance Manager will be responsible for the implementation, monitoring and re-evaluating the policy.

RELATED DOCUMENTS:

- Office of Local Government Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors.
- Port Stephens Council Code of Conduct, as amended.
- Office of Local Government Model Code of Conduct – as amended.
- Independent Commission Against Corruption (ICAC) Publications.

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1.0	28/06/1994	Assistant General Manager		342
2.0	13/12/1994	Assistant General Manager		691
3.0	14/11/1995	Assistant General Manager		562
4.0	10/09/1996	Assistant General Manager		528
5.0	23/12/1997	Assistant General Manager		1471
6.0	09/03/2004	Governance Officer		107
7.0	31/01/2006	Governance Coordinator		398
8.0	27/11/2006	Governance Coordinator		758
9.0	25/03/2008	Governance Coordinator		069
10.0	16/12/2008	Executive Officer		398
11.0	24/11/2009	Executive Officer		399
12.0	23/11/2010	Executive Officer		373
13.0	18/11/2011	Executive Officer		385
14.0	27/11/2012	Executive Officer		323

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Version	Date	Author	Details	Minute No.
15.0	26/11/2013	Executive Officer		345
16.0	26/08/2014	Executive Officer		229
17.0	22/09/2015	Governance Manager	Transferred policy to new corporate policy template and updated forms. No changes to the intent or objectives of the policy.	295

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