

NOTICE OF ORDINARY MEETING

10 NOVEMBER 2020



The Mayor and Councillors attendance is respectfully requested:

Mayor: R Palmer (Chair).

Councillors: J Abbott, G Arnott, C Doohan, G Dunkley, K Jordan, P Le Mottee, J Nell, S Smith, S Tucker.

SCHEDULE OF MEETINGS

TIME	ITEM	VENUE
5:30pm:	Public Access (if applied for)	Council Chambers
Followed by:	Ordinary Meeting	Council Chambers

Please Note:

In accordance with the NSW Privacy and Personal Information Protection Act 1998, you are advised that all discussion held during the Open Council meeting is public information. This will include any discussion involving the Mayor, a Councillor, staff member or a member of the public. All persons present should withhold from making public comments about another individual without seeking the consent of that individual in the first instance. Should you have any questions concerning the privacy of individuals at the meeting, please speak with the Governance Section Manager or the General Manager prior to the meeting.

Please be aware that Council webcasts its Open Council meetings via its website. All persons should refrain from making any defamatory remarks. Council accepts no liability for any defamatory remarks made during the course of the Council meeting.

For the safety and wellbeing of the public, no signs, placards or other props made from material other than paper will be permitted in the Council Chamber. No material should be larger than A3 in size.

Food and beverages are not permitted in the Council Chamber.

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BUSINESS

- 1) Opening meeting.
- 2) Prayer - We ask Almighty God to give us wisdom and courage so we can serve our community, and uphold justice and equality in Port Stephens. Amen.
- 3) Acknowledgement of Country - Today, we are meeting on Worimi Country, we acknowledge the past, we are working towards a better tomorrow.
- 4) Apologies and applications for a leave of absence by Councillors.
- 5) Confirmation of minutes Ordinary Meeting of 27 October 2020.
- 6) Disclosure of interests.
- 7) Mayoral minute(s) – if submitted.
- 8) Motions to close the meeting to the public – if submitted.
- 9) Council Reports.
- 10) General Manager's reports – submitted.
- 11) Questions with Notice – if submitted.
- 12) Questions on Notice.
- 13) Information Papers.
- 14) Notices of Motion.
- 15) Rescission Motions – if submitted.
- 16) Confidential matters – if submitted.
- 17) Conclusion of the meeting.

PRINCIPLES FOR LOCAL GOVERNMENT

Port Stephens Council is a local authority constituted under the Local Government Act 1993. The Act includes the Principles for Local Government for all NSW Councils.

The object of the principles for councils is to provide guidance to enable councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous.

Guiding principles for Council

1. Exercise of functions generally

The following general principles apply to the exercise of functions by Council. Council should:

- (a) provide strong and effective representation, leadership, planning and decision-making.
- (b) carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) work with others to secure appropriate services for local community needs.
- (h) act fairly, ethically and without bias in the interests of the local community.
- (i) be responsible employers and provide a consultative and supportive working environment for staff.

2. Decision-making

The following principles apply to decision-making by Council (subject to any other applicable law). Council should:

- (a) recognise diverse local community needs and interests.
- (b) consider social justice principles.
- (c) consider the long term and cumulative effects of actions on future generations.
- (d) consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

3. Community participation

Council should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

Principles of sound financial management

The following principles of sound financial management apply to Council. Council should:

- (a) spend responsible and sustainable, aligning general revenue and expenses.
- (b) invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) have effective financial and asset management, including sound policies and processes for the following:
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) have regard to achieving intergenerational equity, including ensuring the following:
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services.

Integrated planning and reporting principles that apply to Council

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by Council. Council should:

- (a) identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) identify strategic goals to meet those needs and aspirations.
- (c) develop activities, and prioritise actions, to work towards the strategic goals.
- (d) ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) regularly review and evaluate progress towards achieving strategic goals.
- (f) maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) collaborate with others to maximise achievement of strategic goals.
- (h) manage risks to the local community or area or to the council effectively and proactively.
- (i) make appropriate evidence-based adaptations to meet changing needs and circumstances.

PORT STEPHENS COMMUNITY STRATEGIC PLAN

The Local Government Act requires Council to adopt a Community Strategic Plan (10+ years). The Plan includes a Delivery Program (3 years), Annual Operational Plan and a Resource Strategy, it also includes the Council's budget.

The Community Strategic Plan is organised into four focus areas:

OUR COMMUNITY – Port Stephens is a thriving and strong community respecting diversity and heritage.

OUR PLACE – Port Stephens is a liveable place supporting local economic growth.

OUR ENVIRONMENT – Port Stephens' environment is clean and green, protected and enhanced.

OUR COUNCIL – Port Stephens Council leads, manages and delivers valued community services in a responsible way.

BUSINESS EXCELLENCE

Port Stephens Council is a quality and a customer service focused organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on nine (9) principles.

These outcomes align with the following Business Excellence principles:

- 1) Clear direction and mutually agreed plans enable organisational alignment and focus on achievement of goals.
- 2) Understanding what customers and other stakeholders value, now and in the future, enables organisational direction, strategy and action.
- 3) All people work in a system. Outcomes are improved when people work on the system and its associated processes.
- 4) Engaging people's enthusiasm, resourcefulness and participation improves organisational performance.
- 5) Innovation and learning influence the agility and responsiveness of the organisation.
- 6) Effective use of facts, data and knowledge leads to improved decisions.
- 7) Variation impacts predictability, profitability and performance.
- 8) Sustainable performance is determined by an organisation's ability to deliver value for all stakeholders in an ethically, socially and environmentally responsible manner.
- 9) Leaders determine the culture and value system of the organisation through their decisions and behaviour.

MEETING PROCEDURES SUMMARY

Starting time – All meetings must commence within 30 minutes of the advertised time.

Quorum – A quorum at Port Stephens Council is six (6).

Declarations of Interest

Pecuniary – Councillors who have a pecuniary interest must declare the interest, not participate in the debate and leave the meeting.

Non-Pecuniary – Councillors are required to indicate if they have a non-pecuniary interest, should a Councillor declare a significant non-pecuniary they must not participate in the debate and leave the meeting. If a Councillor declares a less than significant non-pecuniary they must state why no further action should be taken. Councillors may remain in the meeting for a less than significant non-pecuniary.

Confirm the Minutes – Councillors are able to raise any matter concerning the Minutes prior to confirmation of the Minutes.

Public Access – Each speaker has five (5) minutes to address Council with no more than two (2) for and two (2) against the subject.

Motions and Amendments

Moving Recommendations – If a Committee recommendation is being moved, ie been to a Committee first, then the motion must be moved and seconded at Council prior to debate proceeding. A Councillor may move an alternate motion to the recommendation.

Amendments – A Councillor may move an amendment to any motion however only one amendment or motion can be before Council at any one time, if carried it becomes the motion.

Seconding Amendments – When moving an amendment, it must be seconded or it lapses.

Incorporating Amendments – If a motion has been moved and the mover and seconder agree with something which is being moved as an amendment by others, they may elect to incorporate it into their motion or amendment as the case may be.

Voting Order – When voting on a matter the order is as follows:

1. Amendment (If any)
2. Foreshadowed Amendments – (If any, and in the order they were moved)
3. Motion

NB – Where an amendment is carried, there must be another vote on the amendment becoming the motion.

Voting – an item is passed where a majority vote for the subject. If the voting is tied the Chairperson has a second (casting) vote which is used to break the deadlock.

Closed Session – There must be a motion to close a meeting. Prior to voting on the motion the chairperson will invite the gallery to make representations if they believe the meeting shouldn't be closed. Then Councillors vote on the matter. If adopted the gallery should then be cleared and the matter considered in closed session. Any decision taken in session closed is a resolution. There must be a motion to reopen the Council meeting to the public. If decision occurred in 'closed session', the meeting is advised of the resolution in 'open session'.

Procedural Motion – Is a motion necessary for the conduct of the meeting, it is voted on without debate, eg defer an item to the end of the meeting (however, to defer an item to another meeting is not a procedural motion), extend the time for a Councillor to speak etc.

Points of Order – when any of the following are occurring or have occurred a Councillor can rise on a 'Point of Order', the breach is explained to the Chairperson who rules on the matter.

A Point of Order can be raised where:

1. There has been any non-compliance with procedure, eg motion not seconded etc.
2. A Councillor commits an act of disorder:
 - a) Contravenes the Act, any Regulation in force under the Act, the Code of Conduct or this Code.
 - b) Assaults or threatens to assault another Councillor or person present at the meeting.
 - c) Moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or address or attempts to address the Council or Committee on such a motion, amendment or matter.
 - d) Insults or makes personal reflections on or imputes improper motives to any other Councillor, any staff member or alleges a breach of Council's Code of Conduct.
 - e) Says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into disrepute.

Declarations of Conflict of Interest – Definitions

Pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in Clause 7 of the Code of Conduct.

Non Pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Code of Conduct. These commonly arise out of family or personal relationships or involvement in sporting, social or other cultural groups and associations and may include an interest of financial nature.

The matter of a report to council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore, there is no requirement for Councillors or the General Manager to disclose a conflict of interest in such a matter.

The political views of a Councillor do not constitute a private interest.



Form of Special Disclosure of Pecuniary Interest

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

ORDINARY COUNCIL - 10 NOVEMBER 2020

Special disclosure of pecuniary interests by [full name of councillor]

in the matter of [insert name of environmental planning instrument]

which is to be considered at a meeting of the PORT STEPHENS COUNCIL

to be held on the _____ day of _____ 20__

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The councillor has an interest in the land (eg is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	

¹ Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Mayor/Councillor's signature _____

Date _____

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]



Declaration of Interest form

Agenda item No. _____

Report title _____

Mayor/Councillor _____ declared a

Tick the relevant response:

<input type="checkbox"/>	pecuniary conflict of interest
<input type="checkbox"/>	significant non pecuniary conflict of interest
<input type="checkbox"/>	less than significant non- pecuniary conflict of interest

in this item. The nature of the interest is _____

If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict. (Attach a separate sheet if required.)

OFFICE USE ONLY: (Committee of the Whole may not be applicable at all meetings.)

Mayor/Councillor left the Council meeting in Committee of the Whole at _____pm.

Mayor/Councillor returned to the Council meeting in Committee of the Whole at _____ pm.

Mayor/Councillor left the Council meeting at _____ pm.

Mayor/Councillor returned to the Council meeting at _____ pm.

COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 20/284657
EDRMS NO: PSC2019-00821**

DRAFT LOCAL INFRASTRUCTURE CONTRIBUTION PLAN 2020 - AMENDMENT NO. 1

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Port Stephens Local Infrastructure Contributions Plan – Amendment No. 1 (**ATTACHMENT 1**).
- 2) Exhibit the draft Port Stephens Local Infrastructure Contributions Plan – Amendment No. 1 (the Amendment) for 28 days in accordance with the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000.
- 3) If no submissions are received, approve the Amendment as exhibited, without a further report to Council.

BACKGROUND

The purpose of this report is to seek endorsement to publicly exhibit the draft Port Stephens Local Infrastructure Contributions Plan – Amendment No. 1 (the Amendment).

The Amendment includes a new chapter that will apply to new development in the Kings Hill urban release area (URA) to require contributions of \$22,866 per residential lot.

The Amendment also includes changes to the Port Stephens Local Infrastructure Contributions Plan (the Plan) to make administrative amendments, including incorporating the Port Stephens Fixed Local Infrastructure Contributions Plan and changes to remove the infrastructure projects that have been completed since the Plan commenced.

The Kings Hill Chapter

The Amendment will enable Council to levy contributions (both land dedication and monetary contributions) from new residential development in the Kings Hill URA under section 7.11 of the Environmental Planning and Assessment Act (EP&A Act). The contributions will be applied towards the public infrastructure specified in the Amendment to support the expected population growth from the URA.

The infrastructure that will be funded has been identified following independent expert studies and reports and benchmarked against relevant standards and best practice guidance. As a comparison, the table below shows infrastructure contributions rates in neighbouring Local Government Area (LGA) URAs:

Urban release area	Local Contributions Rate
Kings Hill (Port Stephens LGA)	\$22,866
Farley (Maitland LGA)	\$30,000
Lochinvar (Maitland LGA)	\$25,513
Thornton North (Maitland LGA)	\$29,998
Glendale Central URA (Lake Macquarie LGA)	\$21,810
Arcadia Vale URA (Lake Macquarie LGA)	\$24,756
Lake Cathie/Bonny Hills (Port Macquarie-Hastings LGA)	\$33,419
Average rate	\$27,583

Some infrastructure items will be located in the URA (e.g. roads and parks); however, some of the funds will go towards upgrades and extensions of public infrastructure in Raymond Terrace, which will be used by the future population of Kings Hill.

New development in the URA will also contribute towards the public infrastructure items that benefit the entire Port Stephens LGA. All new development in other parts of Port Stephens currently contribute to these items and the common rate will be applied to Kings Hill. This funding also contributes to regional infrastructure items such as Boomerang Park, Lakeside Aquatic Centre and King Park Sports Complex.

A schedule, which summarises the specific infrastructure items that are to be funded, and an infrastructure map are included in the Amendment (**ATTACHMENT 2**).

Administrative amendments

The Amendment includes minor administrative amendments, including:

- The amalgamation of the Fixed Local Infrastructure Contributions Plan (otherwise known as 'section 7.12 contributions'). Combining the Plans will reduce duplication and improve readability.
- Deletion of infrastructure items that have been:
 - funded and completed
 - wholly funded by sources other than infrastructure contributions, or
 - duplicated elsewhere in the Plan.

- The addition of infrastructure projects that have been identified in the Capital Works Program where there is a nexus between the development and the identified infrastructure.
- The addition of infrastructure to support anticipated growth associated with proposed development, including the proposed redevelopment of the Stockton Rifle Range at Fern Bay.

The Amendment results in changes to the contribution rates for all the catchments in the LGA as a result of the administrative amendments above, as well as the inclusion of the population projections for Kings Hill.

As shown in the table below, most catchments will have a reduction in contributions rates as a result of the Amendment.

Contributions catchments	Current contribution rate	Proposed contribution rate	Difference
Raymond Terrace and the West	\$17,861	\$17,736	-\$125
Central Growth Corridor	\$19,845	\$18,309	-\$1,536
Tomaree	\$18,628	\$18,378	-\$250
Fern Bay	\$15,972	\$16,609	+\$637
Kings Hill URA	N/A	\$22,957	N/A

Fern Bay will not have a reduced rate as the Amendment includes significant new infrastructure items to support future growth, including local road upgrades. This aligns with Action 13 and 14 in the adopted Fern Bay and North Stockton Strategy.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

The Amendment aims to secure contributions from development towards local infrastructure. Should the Amendment be adopted, it will enable funding and construction of essential public infrastructure, including within Kings Hill, Raymond Terrace and Fern Bay, to satisfy the demands of the future population.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Developer Contributions (\$7.11)	Yes		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Amendment includes infrastructure not considered essential to support new development.	Low	<p>The Amendment has been informed by independent studies that identify the infrastructure needs of the projected increased population. The Plan will be regularly reviewed to ensure infrastructure needs align with the latest population projections.</p> <p>It is recommended that the draft be endorsed for public exhibition.</p>	Yes
There is a risk the Amendment includes infrastructure items that have been incorrectly costed and Council will need to fund a shortfall in the future.	Low	<p>The Amendment has been informed by independent reports and studies and the costs have been calculated based on the most up-to-date design information available. The Plan can be amended if costings are revised at a later date.</p> <p>It is recommended that the draft be endorsed for public exhibition.</p>	Yes

There is a risk that local contributions will impact development feasibility.	Low	<p>The contribution rates have been calculated to balance the need for infrastructure required by new development and development feasibility. Any reduction of infrastructure items or their costs would impact the standard of infrastructure.</p> <p>The contributions rates proposed for Kings Hill are less than, or commensurate with, URAs in other LGAs.</p> <p>The Amendment includes other changes to the Plan that will reduce contributions rates in all other catchments, except Fern Bay.</p> <p>It is recommended that the draft be endorsed for public exhibition.</p>	Yes
There is a risk that Council will not be able to provide the necessary infrastructure to support new development in Kings Hill if the Amendment is not adopted before a development consent for subdivision is granted. There are currently 3 applications under assessment in Kings Hill, 1 of the applications seeks consent for subdivision.	Medium	<p>The current Local Infrastructure Contribution Plan does not identify or fund the additional infrastructure to support future growth in Kings Hill. Adopting the Amendment will ensure Council can fund the necessary infrastructure.</p> <p>It is recommended that the draft be endorsed for public exhibition.</p>	

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

Division 7.1, sections 7.11 and 7.12 of the EP&A Act authorises Council to require new development to contribute to the provision and upgrade of local infrastructure through conditions of consent. These conditions are to be in accordance with an approved local infrastructure contributions plan.

The Amendment has been prepared in accordance with Division 7.1 of the EP&A Act. It will therefore allow contributions to be collected under sections 7.11 and 7.12.

Environmental Planning and Assessment Regulations 2000 (EP&A Regulation)

Part 4 of the EP&A Regulation relates to development contributions, and the Amendment will amend the current contribution plan, pursuant to clause 32(1).

Clause 27 sets out the particulars a local infrastructure contributions plan must contain, and the Amendment is consistent with this clause.

Division 2 of Part 4 of the EP&A Regulation sets out the exhibition requirements for amendments and draft contributions plans. The public exhibition of the Amendment will be in accordance with the EP&A Regulation, as detailed below.

Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012 (the Direction)

The Direction sets maximum contribution rates for new development and development in URAs, unless a contributions plan is reviewed by the Independent Pricing and Regulations Tribunal. In Port Stephens, the maximum rate per residential lot is \$20,000, and in the Kings Hill URA the maximum rate per residential lot is \$30,000. As the proposed rates are below these figures, the Amendment satisfies the Direction.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The population of the Kings Hill URA is expected to use new community, recreational and other facilities within the URA and also the existing facilities in nearby Raymond Terrace. The likely infrastructure demand has been informed by background studies, which identify the specific new or upgraded infrastructure likely to be required. The Amendment will provide a means of collecting, managing and administering the contributions to fund this infrastructure, therefore there will be overall positive implications.

The Amendment ensures an adequate standard of services and facilities can be provided in the LGA and that the existing community will not be funding the infrastructure needs that result from new development. This has been balanced against the need to ensure unreasonable costs are not imposed upon new residential development, thereby reducing financial viability. Therefore, it is expected that the Amendment will have an overall positive economic impact.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment section.

Internal

The Amendment has been prepared in consultation with the Development Contributions Analysis Team, Financial Services section, Assets section and Development Assessment and Compliance section.

The projects in the Amendment have been aligned with Council's Strategic Asset Management Plan and Capital Works Program and with other strategic asset management documents including plans of management for parks and community facilities, and adopted land use strategies.

External

Consultation has been undertaken with the landowners and developers of the Kings Hill URA. A workshop was held and 3 written submissions were received. All written and verbal submissions were taken into consideration in the preparation of the Amendment.

Community

The Amendment will be publicly exhibited in accordance with the EP&A Regulations for a period of 28 days. The Amendment will be made available on Council's website in accordance with the Environmental Planning and Assessment Amendment (Public Exhibition) 2020. Submissions can be made to Council during the exhibition period and if submissions are received, they will be considered in a report back to Council with details of any post-exhibition changes.

OPTIONS

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

ATTACHMENTS

- 1) Draft Port Stephens Local Infrastructure Contributions Plan 2020 - Amendment No. 1. (Provided under separate cover) [↗](#)
- 2) Infrastructure schedule for Kings Hill URA. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 2 INFRASTRUCTURE SCHEDULE FOR KINGS HILL URA.

The Kings Hill Chapter to the Local Infrastructure Contribution Plan – Infrastructure Schedule

Project No	Project Description	Estimate \$
KH1	East/west collector road (land acquisition and capital costs)	27,496,123
KH2	Intersection of east/west collector road and north/south road (land acquisition and capital costs)	4,075,800
KH3	Intersection of east/west collector road and Newline Road (land acquisition and capital costs)	4,393,000
KH4	Newline Road – road upgrades	2,256,800
KH5	Intersection upgrade at Newline Road, Seaham Road, Port Stephens Street, William Bailey Drive	4,355,000
KH6	Shared pathway along Newline Road	4,992,000
KH7	Multi-purpose community space (land acquisition and capital costs)	1,515,000
KH8	District park (land acquisition and capital costs)	6,018,530
KH9	Skate Park	374,000
KH10	Multi-purpose sports court	600,000
KH11	RFS station (land acquisition and capital costs)	404,500
KH12	Riverside Park and Lakeside Reserve – upgrade play equipment, additional pathways and amenity	700,000
KH13	Fitzgerald Bridge reserve – enhance area surrounding boat ramp	1,137,500
KH14	Raymond Terrace Cemetery – niche walls	98,000
KH15	Raymond Terrace Cemetery – expansion	3,627,000
KH16	Lakeside Sports Complex – floodlighting and car park upgrade	1,880,000
KH17	Raymond Terrace Library – expansion	5,921,000
KH18	Raymond Terrace – indoor sports and recreation centre	22,754,000
TOTAL		92,598,253



ITEM NO. 2

FILE NO: 20/307037
EDRMS NO: PSC2011-02260

LEGACY PLANNING PROPOSALS

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the correspondence from the Deputy Secretary of the NSW Department of Planning, Industry & Environment requiring councils to finalise long standing planning proposals by 31 December 2020 **(ATTACHMENT 1)**.
- 2) Discontinue the planning proposals to rezone land at:
 - a. 17 Fairlands Road and 2 Ferodale Road, Medowie (Lots 100-101, DP 583216) **(ATTACHMENT 2)**.
 - b. Lot 21 DP 718935, Lot A DP 360150, Lot 9001 DP 1039267, Lot 10 DP 884411, Lot 50 DP 1087677, Lot 21 DP 602720, Lot 222 DP 791705, Lot 221 DP 791705, Lot 2 DP 614468, Lot 4 DP 614468, Lot 963 DP 731955, Lot 962 DP 731955, Lot 961 DP 731955, Lot 22 DP 718935, Lot 23 DP 718935, Lot 1 DP 536350, Lot 952 DP 519188, Lot 1 DP 614468 and Lot 3 DP 614468, Old Main Road and Gan Gan Road, Anna Bay **(ATTACHMENT 3)**.
- 3) Request the Minister for Planning and Public Spaces determine that these matters not proceed under section 3.35 of the Environmental Planning and Assessment Act 1979 (NSW).

BACKGROUND

The purpose of this report is to finalise long standing planning proposals in accordance with the correspondence from the Deputy Secretary of the NSW Department of Planning, Industry and Environment (DPIE), dated 1 October 2020 **(ATTACHMENT 1)**. Note that planning proposals where the amendments to the Port Stephens Local Environmental Plan 2013 are gazetted and commenced are considered finalised.

The planning proposals listed in **(ATTACHMENT 1)** are required by DPIE to be finalised by 31 December 2020 and the DPIE Public Spaces Legacy Program requires Council to meet certain targets, including the finalisation of these planning proposals, to be eligible for up to \$3 million of grant funding for public space improvement projects.

The planning proposal to rezone land at 17 Fairlands Road and 2 Ferodale Road, Medowie (**ATTACHMENT 2**) has been identified in (**ATTACHMENT 1**) by DPIE for finalisation by 31 December 2020. Lodged in November 2013, the planning proposal requires further studies, including a contamination assessment, Aboriginal cultural heritage assessment, stormwater management strategy and infrastructure servicing strategy, in order for the planning proposal to proceed to public exhibition and progress. Given the estimated time to complete the outstanding studies and processes (i.e. public exhibition, referral to State agencies, report to Council, and gazettal), it is not feasible to make this planning proposal by 31 December 2020.

The planning proposal to rezone multiple lots at Old Main Road and Gan Gan Road, Anna Bay (**ATTACHMENT 3**) has been identified in (**ATTACHMENT 1**) by DPIE for finalisation by 31 December 2020. Lodged in June 2011, the planning proposal requires further studies, including a biodiversity and ecological assessment (including impacts on koala populations), bushfire hazard assessment, traffic impact assessment, acid sulphate soils assessment, preliminary contamination assessment, flood and drainage assessment, Aboriginal cultural heritage assessment, and infrastructure and service strategy, in order for the planning proposal to proceed to public exhibition and progress. Given the estimated time to complete the outstanding studies and processes (i.e. public exhibition, referral to State agencies, report to Council, and gazettal), it is not feasible to make this planning proposal by 31 December 2020.

As it is not feasible to complete the processes to finalise the above planning proposals within the DPIE timeframe, this report seeks approval to discontinue the proposals. It would remain open to the proponents to seek to make new rezoning requests in accordance with Council's adopted Rezoning Request Policy.

Council staff are working with DPIE to finalise all other planning proposals identified in (**ATTACHMENT 1**) by 31 December 2020.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

The Public Spaces Legacy Fund provides for up to \$3 million in grant funding to Port Stephens Council, subject to Council meeting certain targets, including the finalisation of these planning proposals by 31 December 2020.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no significant legal, policy or risk implications.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if these matters are not determined it may effect DPIE funding for the NSW Public Spaces Legacy Program.	Medium	Adopt the recommendations.	Yes.

Environmental Planning and Assessment Act 1979

Under section 3.35 of the Environmental Planning and Assessment Act 1979 (NSW), a council may, at any time, request the Minister for Planning and Public Spaces determine that a planning proposal not proceed.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no significant social, economic or environmental implications as a result of the recommendations.

CONSULTATION

Council staff have offered opportunities for the proponents to withdraw their planning proposals and obtain a refund of fees in accordance with Council's Fees and Charges Schedule. The proponents have refused to withdraw the planning proposals and declined the refund.

Council staff have consulted the NSW Department of Planning, Industry and Environment who have indicated support for the recommendations.

OPTIONS

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

ATTACHMENTS

- 1) Letter from NSW Department of Planning, Industry & Environment. [↓](#)
- 2) Planning Proposal - 17 Fairlands Road, Medowie. (Provided under separate cover)
- 3) [↗](#) Planning Proposal - Anna Bay North. (Provided under separate cover) [↗](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 2 - ATTACHMENT 1 LETTER FROM NSW DEPARTMENT OF
PLANNING, INDUSTRY & ENVIRONMENT.**



**Planning,
Industry &
Environment**

IRF20/4503

1 October 2020

Mr Wayne Wallis, General Manager

Email: council@portstephens.nsw.gov.au

Dear Mr Wallis

On 15 July 2020 the Premier announced the Planning System Acceleration Program to reform the NSW planning system. The reforms, which streamline and simplify the planning system, will unlock productivity, keep people in jobs and support sustained economic recovery from the Covid-19 pandemic.

A key part of the reform program involves delivering improved processes for determining and finalising planning proposals more efficiently to cut the time taken to finalise rezoning decisions by 33%. This will provide greater clarity to local government and the community, and more certainty to proponents and investors.

Going forward our intention is that planning proposals should generally take 1 year and no more than 2 years to complete. This has been shown to be achievable in many cases where applications are supported by enough evidence to justify strategic and site-specific merit, and when proposals are aligned to a strong strategic planning framework.

Further information about changes and improvements to existing processes such as online lodgement via the NSW Planning Portal will be provided to councils as part of ongoing communication about the planning reform program.

To ensure the new system achieves these outcomes we must first clear the backlog of planning proposals that have remained under consideration for an extended period.

A review of current proposals identified a number that have been delayed or, are yet to be finalised after more than four years. To address these, the Department is commencing a focused program to work with councils to finalise these proposals by 31 December 2020. Following the initial focus on proposals lodged more than four years ago the program will start to address those that are between two – four years old.

I am aware that many councils are working to improve planning assessment timeframes. This includes eligible councils with long standing proposals applying to the Public Spaces Legacy Program. The Department will work with all councils to help finalise the long standing proposals.

**ITEM 2 - ATTACHMENT 1 LETTER FROM NSW DEPARTMENT OF
PLANNING, INDUSTRY & ENVIRONMENT.**



**Planning,
Industry &
Environment**

Port Stephens Council has the following planning proposals that we will initially be working with you to finalise by 31 December 2020:

- PP_2012_PORTS_001_00
- PP_2012_PORTS_005_00
- PP_2012_PORTS_009_00
- PP_2013_PORTS_004_01
- PP_2015_PORTS_003_02
- PP_2016_PORTS_002_00

Daniel Simpkins, Director Hunter & Central Coast Region, will contact you in the coming days to establish a project plan and timeframe for finalising the above proposals.

Should Council have any immediate questions regarding the finalisation program please discuss these with Dan Simpkins during this initial discussion.

Alternatively, you can contact Dan Simpkins on 02 9373 2820 or daniel.simpkins@planning.nsw.gov.au

We look forward to working with Council to deliver this program as a major step towards improving and streamlining the plan making process.

Yours sincerely

**Marcus Ray
Group Deputy Secretary
Planning and Assessment**

ITEM NO. 3

**FILE NO: 20/177267
EDRMS NO: PSC2015-01492**

2019 - 2020 ANNUAL FINANCIAL STATEMENTS

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the 2019-2020 Annual Financial Statements (**ATTACHMENT 1**) and accept the Auditor's reports, as submitted by the Audit Office of New South Wales.
 - 2) Place the 2019-2020 Annual Financial Statements on public exhibition, with submissions accepted until 5.00pm on 17 November 2020 in line with legislation.
-

BACKGROUND

The purpose of this report is to advise Council that the 2019-2020 Annual Financial Statements have been prepared in accordance with Australian Accounting Standards, the Local Government Act 1993 and associated regulations and the Local Government Code of Accounting Practice.

The Annual Financial reports have been reviewed by Council's Auditors (The Audit Office of New South Wales) and the Audit Committee. This report is to formally present Council's Annual Financial Statements for the year ended 30 June 2020, together with the Auditor's Report, to the public in accordance with sections 418 and 419 of the Local Government Act 1993.

Included with the Annual Financial Statements is a holiday parks and investment property report, which shows the financial result for all holiday parks operated by Council, together with the financial result for Council's investment property portfolio and the Newcastle Airport.

A summary of the key points of the 2019-2020 Annual Financial Statements is shown at (**ATTACHMENT 2**) to assist with legibility.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known legal or policy implications. The risk implications are listed in the table below.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the Annual Financial Statements will not be adopted by Council and contravene legislation.	Low	That Council adopt the Annual Financial Statements and submit for public exhibition.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Completion of the Annual Financial reports provides Council with the information needed to facilitate prudent financial management decision making which will have a positive impact on the community.

CONSULTATION

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

The Annual Financial Statements, including the Auditor's reports, have been circulated separately to Councillors for their information and a two way conversation was held with one of the auditors in attendance to discuss the reports.

Internal

- Senior Leadership Team.
- Audit Committee.

External

- The Audit Office of New South Wales.

Public notice of the presentation of the audited Annual Financial Statements was advertised in the Port Stephens Examiner from 29 October 2020 and copies of the Annual Financial Statements have been made available on Council's website.

Submissions from the public on the audited Annual Financial Statements will be accepted for 7 days after the Council meeting from 11 November 2020 to 17 November 2020 in accordance with relevant legislation.

OPTIONS

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

ATTACHMENTS

- 1) 2019 - 2020 Annual Financial Statements. (Provided under separate cover) [⇒](#)
- 2) 2019 - 2020 Annual Financial Statements - Summary Paper. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 2 2019 - 2020 ANNUAL FINANCIAL STATEMENTS - SUMMARY PAPER.**PORT STEPHENS**
C O U N C I L**SUMMARY POINTS**
10 November 2020

TITLE: Annual Financial Statements
PRESENTER: Tim Hazell – Financial Services Section Manager

BACKGROUND

Each year, individual local governments across NSW are required to present a set of audited financial statements. The statements set out the financial performance, financial position, and cash flows of the council for the financial year ending 30 June 2020.

The annual financial statements comprise:

1. General purpose financial statements
2. Special schedules

The statements comply with both the accounting and reporting requirements of Australian Accounting Standards and requirements as set down by the Office of Local Government. They were audited by the Audit Office of NSW.

KEY POINTS**Audit Process & Areas of Importance**

1. RSM were engaged by the Audit Office of NSW to perform the audit of PSC for the second year running
2. The audit process has followed the agreed timetable and been on budget
3. An unqualified audit opinion of the financial statements has been issued indicating the following -
 - Council's accounting records have been kept in accordance with the requirements of the *Local Government Act 1993*, Chapter 13, Part 3, Division 2 (the Division).
 - The financial statements:
 - have been presented, in all material respects, in accordance with the requirements of this Division
 - are consistent with the Council's accounting records
 - present fairly, in all material respects, the financial position of the Council as at 30 June 2020, and of its financial performance and its cash flows for the year then ended
 - in accordance with Australian Accounting Standards.
 - All information relevant to the conduct of the audit has been obtained.
 - No material deficiencies in the accounting records or financial statements have come to light during the audit.
4. Council has revalued its Road and Drainage network assets this year.

ITEM 3 - ATTACHMENT 2 2019 - 2020 ANNUAL FINANCIAL STATEMENTS - SUMMARY PAPER.

5. There were two new accounting standards adopted this year along with increased disclosure requirements which have had a major affect on the statements. The main impact of those two standards are as follows.
 - Revenue – Grant income is now apportioned based on milestone completion rather than in full on receipt.
 - Leasing – Recognition of non current assets (e.g garbage trucks, carparks and photocopiers) and a corresponding liability for payment.

Income Statement

1. The underlying operating result for Council was a deficit of \$185k which is done on last years underlying surplus of \$1M. The cause of this was a \$4M downturn in gross revenue across Council operations as a result of Covid-19.
2. Total income decreased by \$597k or 0.5%.
3. Total expenditure grew by \$4.5M or 4%.

Statement of Financial Position (Balance Sheet)Assets

1. Total Cash & investments decreased due to the Capex Program (Use of cash reserves)
2. IPPE increased in value. The main drivers was the capex program of \$60M.
3. Right of Use Assets has been recognised for the first time to the value of \$4.7M due to the new leasing standard. The garbage trucks make up 75% of this value.
4. Investment Properties were independently valued and saw a slight increase in fair value

Liabilities

1. Current payables slightly decreased due to cost control procoediures implemented due to CV-19
2. Bank loans increased due to new loans brought in to fund the Capex program
3. Employee provions increased due to discounting factors in a low inflationary environment (LSL) and reduced leave hours taken due to CV-19.
4. Contract liabilities represent the value of unspent grant income at 30 June. The majority of these funds relate to capital grants for projects that were in progress at 30 June.

Performance Indicators

1. All financial indicators have exceeded the industry benchmarks except for the Operating Performance Ratio which was affected by CV-19.
2. All asset management indicators have met industry benchmarks.

ITEM NO. 4

**FILE NO: 20/288392
EDRMS NO: PSC2005-3980**

BIRUBI POINT COMMUNITY PRESCHOOL - LICENCE

REPORT OF: TAMMY GUTSCHE - COMMUNITY SERVICES SECTION
MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the proposed grant of a 5 year licence plus 5 year option to Birubi Point Community Preschool for the Multipurpose Centre at 1A Fisherman's Bay Road, Anna Bay.
 - 2) Place the proposed licence on public exhibition for 28 days.
 - 3) Approve the proposed licence, should no submissions be received.
-

BACKGROUND

The purpose of this report is to seek Council's adoption to provide Birubi Point Community Preschool a 5 year plus 5 year lease agreement. This will support the preschool in meeting the Department of Education's licence tenure and Start Strong capital grant funding program requirements.

Birubi Point Community Preschool Incorporated is a community based not for profit organisation managed by a committee of parents and residents who have occupied Council's Multipurpose Centre on community land (Part Lot 258 DP 753204) at 1A Fisherman's Bay Road Anna Bay under a 5 year licence agreement since July 2015.

While Council has been extremely happy with the licence arrangements and childcare education services provided, Birubi Point Community Preschool has now come to the end of its 5 year licence term and has requested a new agreement with Port Stephens Council.

As a part of this process, Birubi Point Community Preschool has approached Council requesting a 5 year plus 5 year term licence agreement so they can access capital grant funding programs that are available through the Department of Education. Under the current capital grant arrangements, the Department of Education requires Birubi Point Community Preschool to supply proof of land ownership and to confirm that there is a licence in place for a period of at least 10 years or, in the case of the current 5 year licence term, that there is the option to extend the arrangement for a further 5 years.

ORDINARY COUNCIL - 10 NOVEMBER 2020

The Department of Education has advised that they would accept a statement from Council noting that they support any proposed capital projects put forward by Birubi Point Community Preschool and that there is an option to renew the licence for the additional period, as they require a 10 year licence term as a security provision for all capital grants from the date that Funding Agreements are executed.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Partnerships	Assist community service providers to effectively deliver services in the region.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications with adopting the recommendations. Implementation of the licence will be carried out without impacting existing budgets and there are no known financial implications for Council related to the adoption of the new agreement.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy implications with adopting the recommendations. Any activity on Council land classified as Community Land requires formal approval as per the Local Government Act 1993, Section 47 and 47A.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that by not agreeing to provide the licence term, the Birubi Point Community Preschool will lose access to the	Medium	Adopt the recommendations.	Yes

Department of Education's capital grant funding program, which will negatively impact Council's budget by having to directly fund any capital infrastructure projects on the facility into the future.			
There is a risk that by not agreeing to provide the licence term, Council may not be in a position to fund capital improvements in an appropriate timeframe which may place further pressure on Council's budget with increased maintenance costs leading to a devaluation of the asset.	Medium	Adopt the recommendations.	Yes
There is a risk that private entities may object that they were not given an opportunity to apply for a 5 year licence to operate the facility.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendations will create opportunities for Birubi Point Community Preschool to independently apply for Capital Grant funding through the Department of Education into the future and, as a result, reduce its reliance on Council funds to implement infrastructure improvements to the preschool facility.

CONSULTATION

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

The objectives of the consultation has been to ensure all stakeholders are included to provide their opinion and to reach consensus on providing Birubi Point Community Preschool a licence term of a 5 year plus 5 year agreement.

Internal

- Community Services Section – Section Manager.
- Community Services Section – Contracts & Services Coordinator.

- Property Services Section – Commercial Investment Manager.
- Assets Section – Community and Recreation Coordinator.
- Public Domain Services Section – Building Trades Coordinator.
- Legal Services.

External

- Meetings and phone conversations were held with the Birubi Point Community Preschool committee and the NSW Department of Education to discuss the proposed licence extension and the Department of Education requirements to access the Start Strong Capital Grant funding program.
- Birubi Point Community Preschool Committee.
- NSW Department of Education.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: 20/234345
EDRMS NO: PSC2018-02573-007

POLICY REVIEW: EXCEPTIONS TO DEVELOPMENT STANDARDS

REPORT OF: JANELLE GARDNER - ACTING STRATEGY & ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Exceptions to Development Standards Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Exceptions to Development Standards Policy on public exhibition for 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Exceptions to Development Standards Policy dated 25 September 2018, Minute Number 095, should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council endorsement to place the revised Exceptions to Development Standards Policy (the policy) **(ATTACHMENT 1)** on public exhibition following a review.

The policy aims to provide guidance on the application and administration of Clause 4.6 Exceptions to Development Standards in the Port Stephens Local Environmental Plan 2013 (LEP 2013).

The review has determined that no changes to the policy are required. Therefore, it is recommended that the policy be endorsed for public exhibition.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

The recommendation will not result in any financial or resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known legal or policy implications as a result of the proposed recommendation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the legislative process will not be clear to some applicants, resulting in delays to the development assessment process.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy is intended to:

- Set out the processes and requirements that apply when development applications are lodged that seek to vary development standards under Clause 4.6 of the LEP 2013.
- Create opportunities for greater transparency and community participation when decisions are made to vary development standards.

Exhibition of the policy will ensure the aims continue to be met.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment section.

Internal

Internal consultation was undertaken with the Development Assessment and Compliance section, and the units responsible for administering the policy. No objections were raised.

The Executive Team has been consulted to seek management endorsement.

External

In accordance with local government legislation the revised Exceptions to Development Standards Policy will go on public exhibition for a period of 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Exceptions to Development Standards Policy. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2018-02573-007.
TITLE: Exceptions to Development Standards
OWNER: Group Manager Development Services

1. PURPOSE:

1.1 The purpose of this policy is to provide guidance on the application and administration of Clause 4.6 Exceptions to development standards in the Port Stephens Local Environmental Plan 2013 (PSLEP).

2. CONTEXT/BACKGROUND:

2.1 Clause 4.6 Exceptions to Development Standards enables development standards such as minimum lot sizes, height and floor space ratio to be varied in certain circumstances. This clause is included in all local environmental planning instruments across NSW.

2.2 Clause 4.6 Exceptions to Development Standards aims to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for and from development in particular circumstances.

3. SCOPE:

3.1 This policy applies to development applications in the Port Stephens local government area.

3.1 The policy relates specifically to the following Council functions:

- a) assessment of development applications
- b) review of provisions in the PSLEP and strategic planning.

4. DEFINITIONS:

Development application	An application for consent to carry out development, but does not include an application for a complying development certificate.
Development consent	Approval to carry out development the subject of a development application.

Policy

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Policy



Development standards

The Environmental Planning and Assessment Act 1979 includes a legal definition of 'development standards' (See section 4).

Development standards are provisions in an environmental planning instrument that guide development to be carried out in accordance with particular requirements under certain circumstances. For example maximum building heights in residential areas, or minimum lot sizes for subdivision in rural areas.

Development standards are a means to achieve a particular environmental planning objectives in an area. Clause 4.6 of the PSLEP provides flexibility to allow planning objectives to be met by varying development standards in certain circumstances.

Clause 4.6 of the PSLEP applies when applications are made for exceptions to development standards.

Environmental planning instrument

A legal instrument that guides development, such as a Local Environmental Plan (e.g. the PSLEP).

5. STATEMENT:

- 5.1 This policy sets out the processes that apply when development applications are lodged that seek to vary the development standards under Clause 4.6 of the PSLEP. Applicants are advised to refer to the Policy prior to lodging a development application that includes an application under Clause 4.6.
- 5.2 This policy aims to create opportunities for greater transparency and community participation when decisions are made to vary development standards and to achieve better decision making through robust assessments. It seeks to ensure the assessment and administration of applications to vary development standards includes consideration of the principles established by the NSW Land and Environment Court and the strategic planning context.
- 5.3 This policy adopts transparent reporting and other recommendations issued by the NSW Department of Planning and Environment and the NSW Independent Commission Against Corruption.

Policy

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ITEM 5 - ATTACHMENT 1 REVISED EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.

Policy



5.4 Council will implement the following actions:

- a) development applications that include a request under Clause 4.6 Exceptions to Development Standards of the PSLEP must be accompanied by the Clause 4.6 Application Form.
- b) Council will exhibit the Clause 4.6 Application Form accompanying a development application when advertising or notifying an Application.
- c) development applications accompanied by a Clause 4.6 Application Form will be assessed in accordance with Varying Development Standards: A Guide (published August 2011 by the former NSW Department of Planning and Infrastructure).
- d) development applications which include a Clause 4.6 Application Form seeking to vary a development standard by greater than 10% will be determined by the Council.
- e) Council will maintain a register of development consents that have included exceptions to development standards and the information will be made publicly available.
- f) the Development Assessment and Compliance team will refer development standards that are the subject of frequent development consents that include exceptions to development standards to the Strategic Planning team for review. A review will be carried out to ensure the development standards in the PSLEP remain relevant to achieving the environmental planning objectives in an area.

6. POLICY RESPONSIBILITIES:

6.1 Development Assessment and Compliance team (development application assessment).

6.2 Strategic Planning team (policy review and local environmental plan review).

7. RELATED DOCUMENTS:

7.1 Clause 4.6 Application Form.

7.2 Port Stephens Local Environmental Plan 2013 (NSW).

7.3 Environmental Planning and Assessment Act 1979 (NSW).

7.4 Varying Development Standards: A Guide (Former NSW Department of Planning and Infrastructure).

7.5 NSW Department of Planning and Environment Circular PS 08-003 Variations to Development Standards.

7.6 NSW Department of Planning and Environment Circular PS 11-014 Reporting Variations to Development Standards.

Policy

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ITEM 5 - ATTACHMENT 1 REVISED EXCEPTIONS TO DEVELOPMENT STANDARDS POLICY.

Policy



- 7.7 NSW Department of Planning and Environment Circular PS 11-018 Monitoring and Reporting Variations to Development Standards.
- 7.8 Corruption Risks in NSW Development Approval Process: Position Paper (NSW Independent Commission Against Corruption).
- 7.9 Development Assessment Internal Audit Tool (NSW Independent Commission Against Corruption).
- 7.10 Port Stephens Council Discussion Paper – Progress of the Nelson Bay Town Centre & Foreshore Strategy.

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website: www.portstephens.nsw.gov.au .			
EDRMS container No.	PSC2018-02573-007	EDRMS record No.	20/290147
Audience	Councillors, staff and the community		
Process owner	Group Manager Development Services		
Author	Strategic Planning Coordinator		
Review timeframe	2 years	Next review date	TBA
Adoption date	25 September 2018		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.	25 September 2018	Strategic Planning Coordinator	First draft version placed on public exhibition in February 2018. Updated to new template to include paragraph numbering. 5.4.4 – Updated following public exhibition period.	095
2.	TBA	Strategic Planning Coordinator	Version control has been updated and no other amendments are required. The policy has been formatted into the new template.	TBA

Policy

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ITEM NO. 6

**FILE NO: 20/295822
EDRMS NO: PSC2013-00406**

POLICY REVIEW: DEVELOPMENT APPLICATIONS TO BE REPORTED TO COUNCIL POLICY

REPORT OF: KATE DRINAN - DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submission shown at **(ATTACHMENT 1)**.
- 2) Endorse the revised Planning Matters to be reported to Council Policy **(ATTACHMENT 2)**.
- 3) Revoke the Development Applications to be reported to Council Policy dated 25 September 2018, Minute Number 098.

BACKGROUND

The purpose of this report is to seek endorsement of the revised Planning Matters to be reported to Council Policy (the policy) **(ATTACHMENT 2)** following public exhibition.

The proposed amendments to the policy reported to Council on 25 August 2020 can be summarised as follows:

- Change the name of the policy to Planning Matters to be reported to Council Policy.
- Add planning proposals into the policy as a matter to be reported to Council.
- Alter the mandatory call up requirements for development on council land or development undertaken by or on behalf of Council to include:
 - minor types of development where the cost of works is less than \$250,000
 - the development application is for infrastructure works on Council's road reserve
 - modifications with minor environmental impact (section 4.55(1A)).

The policy was exhibited from 27 August 2020 to 25 September 2020. During this time, 1 submission was received which is summarised in **(ATTACHMENT 1)**. Minor changes have been made to the related documents listed in the policy as a result of the submission. No changes have been made to the content or intent of the policy.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Enhance public safety, health and liveability through use of Council's regulatory controls and services.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial/resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing existing policies and this policy is considered to assist in facilitating more efficient and robust decision making.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk of making inconsistent decisions as a result of an out-dated policy.	Medium	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are minimal direct sustainability implications. The policy enables the effective determination of development applications on a merits basis considering all respective legislation.

CONSULTATION

Internal

Consultation has been undertaken within the Development Assessment and Compliance section, including the Planning and Developer Relations, Strategic Planning and Building and Developer Relations teams that directly implement this policy.

The Executive Team has been consulted to seek management endorsement.

External

In accordance with local government legislation the revised Planning Matters to be reported to Council Policy was placed on public exhibition for 28 days. Submissions were invited via a notification placed on Council's website.

During this period, 1 submission was received. A summary and response to the submission is provided at **(ATTACHMENT 1)**.

OPTIONS

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

ATTACHMENTS

- 1) Summary of submission. [↓](#)
- 2) Revised Planning Matters to be reported to Council Policy. [↓](#)

COUNCILLORS ROOM

- 1) Copy of submission.

TABLED DOCUMENTS

Nil.

ITEM 6 - ATTACHMENT 1 SUMMARY OF SUBMISSION.

Policy Review: Development Applications to be Reported to Council.

No.	Author of submission	Comment	Council response
1	Tomaree Ratepayers and Residents Association Inc. (TRRA)	The proposed name change to 'Planning Matters' creates confusion with the recently adopted <i>Rezoning Request Policy</i> .	The Policies deal with very different issues and it is considered that the Policies are named appropriately. The Planning Matters to be Reported To Council policy deals with the reporting of applications to council, whereas the Rezoning Request Policy deals with requests to rezone land.
		The PS Newsletter (or at least the parts of each issue that lists DAs and Planning Proposals received) should be made public.	All lodged development applications are made available on Council's DA Tacker and is available to the public via Council's website.
		Planning Proposals for significant changes to the LEP should not be allowed to proceed under Delegated Authority. The <i>Rezoning Request Policy</i> should be withdrawn and revised to include appropriate thresholds of 'significance' so that LEP changes with the potential to deliver large increases in land value to private landowners or developers remain more transparent and accountable.	<p>This submission relates to the content of the Rezoning Request Policy which was not the subject of the review or the community consultation on the Planning Matters to be Reported to Council Policy.</p> <p>If Council has signed off on a strategy, including a strategy that proposes 'significant' or controversial changes, the streamlined approach to implementation set out in the Rezoning Request Policy is appropriate. It is important to note that the Rezoning Request Policy does not make any changes to the assessment or community consultation undertaken for rezonings so as to reduce the scrutiny or rigour of these statutory processes. All significant and controversial rezonings will continue to have the same level of assessment and scrutiny under the planning legislation.</p> <p>Adopted strategies and policies are published on Council's website and are available in other locations for the community to view at any time, these strategies contain information about potential future rezonings that may be subject to</p>

ITEM 6 - ATTACHMENT 1 SUMMARY OF SUBMISSION.

			<p>delegated authority prior to Gateway. It is important to note that Council retains the ultimate decision making function of whether or not a rezoning should be made. In all circumstances rezonings are required to be the subject of community consultation and a final amendment to the LEP is reported to Council for adoption.</p> <p>As set out in the Rezoning Request Policy, Councillors are notified of all rezoning requests on lodgement, including whether or not the request is consistent with an adopted strategy and if delegations may be exercised. Councillors can request a rezoning request to be reported to Council in accordance with the Call to Council Policy (which was the subject of this policy review and community consultation).</p>
		<p><i>The Planning Matters to be reported to Council Policy should formally recognise 'significant objection/submission from one or more recognised community representative organisation(s)' as an additional trigger for reporting a DA or Planning Proposal to Council.</i></p>	<p>The additional trigger proposed in the submission is not considered to be necessary as community groups can request Councillors to call planning matters to Council, similar to all other residents.</p>
		<p>Council should revisit its policy on 'call-up' of DAs and Planning Proposals to ensure that it is more transparent, and to require only 2 Councillors to request a call-up.</p>	<p>The existing and proposed number of Councillors (3) required to call a DA to Council is consistent with the Department of Planning and Environment's - Development Assessment Best Practice Guidelines. Further, the requirement for 3 Councillors to call up a DA reflects the existing practice for rescission motions.</p>
		<p>The Planning Matters to be reported to Council Policy, the DA End to End Process, and the DA Work Practice Note should all be revised to include a more balanced summary of</p>	<p>Applications lodged with Council are required to be described and notified/advertised in accordance with the Community Participation</p>

ITEM 6 - ATTACHMENT 1

SUMMARY OF SUBMISSION.

		<p>the objectives of the planning legislation, including:</p> <ul style="list-style-type: none"> • Adequate descriptions of DAs in the DA Tracker • Adequate public advertising of DAs, where appropriate. <p>Appropriate development assessment policies and processes</p>	<p>Plan and the Environmental Planning and Assessment Regulation 2000.</p> <p>Development applications are to be assessed in accordance with the relevant legislation including the Environmental Planning and Assessment Act 1979, Port Stephens Local Environmental Plan and Port Stephens Development Control Plan. The Sustainability Review - End to End Process and Work Practice Note: Development Assessment Process are no longer relevant or related documents to the Planning Matters to be reported to Council Policy and reference to these documents have been removed from the Policy.</p>
		<p>Council should publish information about the DA process at least as complete and detailed as was available in 2015.</p>	<p>The DA assessment process documents are internal administrative documents.</p> <p>DA assessments is regulated through the Environmental Assessment Act 1979 and associated Regulations. Council's internal processes are consistent with the legislative requirements.</p>

ITEM 6 - ATTACHMENT 2 REVISED PLANNING MATTERS TO BE
REPORTED TO COUNCIL POLICY.

Policy



FILE NO: PSC2013-00406

TITLE: **PLANNING MATTERS DEVELOPMENT APPLICATIONS TO BE REPORTED TO COUNCIL**

POLICY OWNER: **DEVELOPMENT ASSESSMENT & COMPLIANCE SECTION MANAGER**

1. PURPOSE:

1.1 To ensure that Councillors are provided with the opportunity for input into the determination of development applications (DA's) prior to decisions being finalised and determinations granted.

1.2 To ensure that Councillors are provided with the opportunity for input into planning proposals prior to forwarding applications for Gateway determination.

2. CONTEXT/BACKGROUND:

2.1 The majority of DA's are determined by Council's assessment officers, utilising delegated authority and may require review in accordance with Council's Development Assessment Process (DAP). ~~This Policy is aimed at ensuring that Councillors are aware of how they can access information on the receipt and determination of DA's.~~ This policy provides Council with an understanding of the types of applications that are mandatory to report to Council for determination and the process involved in calling DA's to Council prior to determination.

2.2 Council's Rezoning Request Policy does not require reporting of some planning proposals prior to forwarding proposals to the Department of Planning, Infrastructure and Environment for Gateway determination. This policy provides Council with an understanding of the process involved in calling planning proposals to Council prior to seeking Gateway determination.

3. SCOPE:

3.1 The use of delegated authority provides an opportunity for effective and timely decision making; however, it is appropriate that Council is informed of the exercise of delegated authority.

Policy

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**ITEM 6 - ATTACHMENT 2 REVISED PLANNING MATTERS TO BE
REPORTED TO COUNCIL POLICY.**

Policy



3.2 Given the scope of planning decisions, it is appropriate that delegated assessment staff, are able to use their discretion and judgement for those matters which should be reported to Council.

3.3 The delegations are drafted such that the Mayor/Councillors may request the staff delegation be withdrawn and a DA or planning proposal be reported to Council for determination. To do this, the Mayor/Councillor completes the DA-Call to Council Up-Form and obtains two (2) other supporting Councillor signatures.

4. DEFINITIONS:

DA	Development Application
DAP	Development Assessment Process

5. POLICY STATEMENT:

5.1 Council shall be informed with regard to DA's and Section 4.55 modification applications planning matters in the following way:

- a) All current DA's lodged are publicly available and listed on the Council website via the DA Tracker.
- b) A report is generated weekly of all new DA's lodged and this is circulated weekly via PS Newsletter to the Mayor/Councillors and other relevant internal staff.
- c) At any time prior to determination of a DA, the Mayor/Councillor may request that the application be reported to Council for determination by completing a DA-Call Up-Form Call to Council Form with two (2) other supporting Councillor signatures. If a completed DA-Call Up-Form Call to Council Form is submitted to Council prior to determination of the DA, a report will be forwarded to Council at the completion of the assessment.
- d) DA's with a cost of works exceeding \$250,000, with the exception of infrastructure works within Council's road reserve, and Section 4.55(1A) and (2) modification applications will be reported to Council where Council is the owner of the land on which the development is to be carried out or where the development is being carried out on behalf of Council. Where not reported to Council, those Council DA's with a cost of works of less than \$250,000 or for infrastructure works within a Council road reserve or Section 4.55(1A) modification applications, will be reported in the PS Newsletter prior to determination.
- e) DA's and Section 4.55 modification applications will be reported to Council where the application relates to the carrying out of development on Community land, other than where the proposed works comprise amenity buildings and structures such as; toilet facilities, playgrounds, small refreshment kiosks and the like.

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ITEM 6 - ATTACHMENT 2 REVISED PLANNING MATTERS TO BE
REPORTED TO COUNCIL POLICY.

Policy



- f) Section 4.55(2) modification applications where the original DA was determined by Council, will be reported to Council for determination.
- g) Councillors will be advised via PS Newsletter prior to the determination of Section 4.55(1A) modification applications where the original DA was determined by Council.
- h) DA's with a **Request to vary a Development Standard**, ~~Clause 4.6 Variation Request~~ which seeks to vary a development standard by greater than 10%, will be reported to Council for determination.
- i) The Group Manager, Development Services and/or Section Manager, Development Assessment & Compliance, at their discretion, may report any DA to Council for determination.

5.2 Council shall be informed with regard to planning proposals in the following way:

- a) A report is generated of all new planning proposals lodged and this is circulated via PS Newsletter to the Mayor/Councillors and other relevant internal staff.
- b) At any time prior to forwarding a planning proposals for Gateway determination, the Mayor/Councillor may request that the application be reported to Council for determination by completing a Call to Council Form with 2 other supporting Councillor signatures. If a completed Call to Council Form is submitted to Council prior to forwarding a planning proposals for Gateway determination, a report will be forwarded to Council.
- c) The Group Manager, Development Services and/or Section Manager, Strategy and Environment, at their discretion, may report any planning proposal to Council.

6. POLICY RESPONSIBILITIES:

- 6.1 Development **Services Group** ~~Assessment and Compliance section~~ is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the Policy.

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ITEM 6 - ATTACHMENT 2 REVISED PLANNING MATTERS TO BE REPORTED TO COUNCIL POLICY.

Policy



7. RELATED DOCUMENTS:

- ~~7.1 Sustainability Review – End to End Process~~
- ~~7.1 Development Control Plan~~
- ~~7.3 Work Practice Note: Development Assessment Process~~
- 7.2 Environmental Planning & Assessment Act 1979
- 7.3 Department Planning and Environment (DPE) – Development Assessment Best Practice Guide – March 2017
- 7.4 Rezoning Request Policy
- 7.5 Community Engagement Strategy

CONTROLLED DOCUMENT INFORMATION:

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TRIM container No	PSC2013-00406	TRIM record No	TBA
Audience	Elected Council, Public and Development Services		
Process owner	Manager Development Assessment & Compliance		
Author	Coordinator Planning & Developer Relations		
Review timeframe	2 Years	Next review date	September 2022
Adoption date	26/02/2002		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	26/2/2002	Group Manager Sustainable Planning	Original planning matters to be reported to Council policy.	048

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ITEM 6 - ATTACHMENT 2 REVISED PLANNING MATTERS TO BE REPORTED TO COUNCIL POLICY.

Policy



2	23/6/2013	Manager Development Assessment and Compliance	Updated policy to Development applications to be reported to Council.	217
3	10/11/2015	Coordinator Planning and Developer Relations	Review and minor updates to policy.	339
4	September 2018	Manager Development Assessment and Compliance	<p>Updated to new policy template to include paragraph numbering and update version control.</p> <p>3.3: Updated number of Councillors required to call a DA to Council to reflect the DPE Development Assessment Best Practice Guide.</p> <p>5.1.2: Modified mechanism to report weekly DA list to Mayor/Councillors.</p> <p>5.1.3: Updated requirements for Call to Council form.</p> <p>5.1.4, 5.1.5, 5.1.6, 5.1.7, 5.1.8: Included additional DA types to be reported to Council for determination.</p> <p>7.5 Inclusion of Department Planning and Environment (DPE) – Development Assessment Best Practice Guide.</p>	098

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**ITEM 6 - ATTACHMENT 2 REVISED PLANNING MATTERS TO BE
REPORTED TO COUNCIL POLICY.**

Policy



5	TBA	Manager Development Assessment and Compliance	<p>Review and update template to include:</p> <p>Updated title of policy to reflect inclusion of planning proposals into the policy.</p> <p>1.2, 2.2 - Inclusion of new provisions to reflect inclusion of planning proposals into the policy.</p> <p>2.1 - Clarify background and process of the policy.</p> <p>3.3 -Amendment of existing provisions to reflect inclusion of planning proposals into the policy.</p> <p>5.1 d) - Modified mechanism to report DA's and modification applications on Council land or where the works are to be undertaken on behalf of Council.</p> <p>5.1 h) - Delete 'Clause 4.6 Variation Request' and replaced with 'Request to vary a Development'.</p> <p>5.2: a), b) and c) – Added new paragraphs to clarify how Councillors will be informed with regard to planning proposals.</p> <p>6.1 - Update responsible authority to reflect inclusion of planning proposals into the policy.</p>	
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**ITEM 6 - ATTACHMENT 2 REVISED PLANNING MATTERS TO BE
REPORTED TO COUNCIL POLICY.**

Policy



			<p>7.1 Delete Sustainability Review – End to End Process.</p> <p>7.3 Delete Work Practice Note: Development Assessment Process.</p> <p>7.4 Added Rezoning Request Policy.</p> <p>7.5 Added Community Engagement Strategy.</p>	
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ITEM NO. 7

**FILE NO: 20/194684
EDRMS NO: PSC2009-02488**

POLICY REVIEW: DEBT RECOVERY AND HARDSHIP

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Debt Recovery and Hardship Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Debt Recovery and Hardship Policy on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without further report to Council.
- 3) Revoke the Debt Recovery and Hardship Policy dated 29 January 2019, Minute Number 004, should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council approval to exhibit the revised Debt Recovery and Hardship Policy.

Council would be aware that a rating hardship clause was previously discussed as a possible extension to this policy in 2018 and 2019. It was Council's clear intent that this extension for rating hardship was only being considered to offset any potential financial impacts of the Special Rate Variation (SRV) that was being considered at the time.

Council considered this policy most recently at its meeting of 14 July 2020, at which it was deferred. Following further consultation it has been considered appropriate to include the provisions of the Rate Assistance Program in the policy and monitor the outcomes. Funding can be made available, to a maximum of \$20,000 to be funded from operational savings resulting from the reduction in newspaper notices brought about by legislative changes in early 2020. The policy is now returned to Council for further consideration.

Port Stephens Council has a statutory obligation to levy rates, charges and fees and promptly collect payment under the Local Government Act 1993 while taking into consideration the NSW Government's Local Government Debt Management and Hardship Guidelines.

The key policy changes propose:

- the inclusion of the Rates Assistance Program which was initially proposed to be undertaken only on the basis of a successful SRV application
- earlier customer notification of overdue amounts
- allowing more time for customers to seek assistance before legal action is commenced
- a higher minimum debt threshold for rates before commencing legal action
- making concessions in response to customers with extenuating circumstances who incur dishonour fees or judgment debts.
- a provision for the Waste Management Coordinator to allow payment plans or a reduction in charges for ratepayers or residents that may require additional waste services as a result of medical conditions.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

Council presently raises approximately \$6000 per annum in cheque and direct debit dishonour fees. If the proposed changes are adopted that figure may reduce but may be managed within the existing budget.

The adoption of the proposed Rates Assistance Program carries a financial implication of up to \$20,000 per year. Subject to adoption of the policy amendments, Council will seek service providers by way of an Expression of Interest process. Each participating service would be given an annual limit of \$5000 that they can recommend for financial assistance so that they may administer financial help to ratepayers that meet the criteria for hardship.

An eligible ratepayer could receive a one off (in any 12 month period) \$250 discount of their land rates.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The revised policy complies with the Local Government Act 1993 and the Local Government Debt Management and Hardship Guidelines.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that increasing the debt threshold may increase the rates arrears percentage.	Low	Council's rate arrears are below 5%, which is well below the benchmark for our Council category, which is 10%.	Yes
There is a risk that income will be lost through reduced dishonour fees.	Low	The amount involved is small, however being responsive to customers under distress or hardship is consistent with our Customer First Framework.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The changes are financially sustainable and could assist in building stronger relationships between Council and its customers through being more responsive to customers under financial hardship. There are no economic or environmental implications.

CONSULTATION

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

Internal

- Executive Team for management endorsement.
- Councillors.
- Financial Revenue Unit.

External

Builds on previous consultation with local service providers in 2019 around debt management.

In accordance with local government legislation, the draft Debt Recovery and Hardship Policy will go on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Debt Recovery and Hardship Policy. [↓](#)

COUNCILLORS ROOM

- 1) Debt Recovery and Hardship Policy – Minute No. 139 – 13 November 2018.
- 2) Debt Recovery and Hardship Policy – Minute No. 004 – 29 January 2019.

TABLED DOCUMENTS

Nil.

ITEM 7 - ATTACHMENT 1 REVISED DEBT RECOVERY AND HARDSHIP
POLICY.

Policy



FILE NO: PSC2009-02488

TITLE: DEBT RECOVERY AND HARDSHIP

POLICY OWNER: FINANCIAL SERVICES SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this policy is to ensure:

- a) efficient and effective processes for collection of outstanding debts
- b) provision of a decision making framework for assessment of financial hardship applications
- c) statutory requirements are met for recovery of rates, charges, fees and other debts
- d) debts are recorded in Council's accounting system
- e) compliance with the Office of Local Government Debt Management and Hardship Guidelines.

2. CONTEXT/BACKGROUND:

2.1 This document prescribes Council procedures to recover monies that become overdue for rates, charges, fees and other debts and assistance to ratepayers and debtors experiencing financial hardship.

3. SCOPE:

3.1 This policy has been written considering the following principles:

- a) Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner to fund its operations.
- b) all people will be treated fairly and consistently
- c) all matters will be considered confidentially
- d) financial hardship will be recognised and people treated with respect and compassion in considering their circumstances

4. DEFINITIONS:

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

30 day trading account	A sundry debtor account wherein Council extends credit to the debtor to be paid in full monthly in arrears.
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Policy

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ITEM 7 - ATTACHMENT 1 REVISED DEBT RECOVERY AND HARDSHIP POLICY.

Policy



Aged pensioner	A person verified by Centrelink as receiving an aged pension and holding a pensioner concession card.
Legal action	Debt recovery action taken under the Civil Procedure Act 2005 or Local Government Act 1993.
Letter of demand	Correspondence sent to a ratepayer or debtor formally requesting payment.
Recovery action	Making contact with a ratepayer or debtor to request payment of overdue amounts.

5. POLICY STATEMENT:**5.1 Part 1 – Recovery of rates and charges****5.1.1 Rates and charges notice**

- a) a rates and charges notice will be sent in July each year payable in four instalments due on 31 August, 30 November, 28 February and 31 May
- b) an instalment notice will be sent 30 days before instalments two, three and four are due
- c) ratepayers can elect to receive rate, instalment and reminder notices by email

5.1.1.1 Overdue instalment notices

- a) an overdue instalment notice will be sent 24 **14** days after the due date for all unpaid assessments over \$25.00.

5.1.1.2 Overdue instalment notices will include:

- a) debt details
- b) a request to pay within 14 days
- c) an option of repayment arrangement
- d) a notice of referral to Council's debt collection agency if the overdue amount exceeds \$800 **\$1,200** and remains unpaid
- e) an instruction to disregard notice if complying with a repayment arrangement.

5.1.2 Recovery action – referral to debt collection agency**5.1.2.1 21 days after the issue of the overdue instalment notice, assessments will be referred to Council's debt collection agency where:**

- a) the debt balance is \$800 **\$1,200** or more

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ITEM 7 - ATTACHMENT 1 REVISED DEBT RECOVERY AND HARDSHIP POLICY.

Policy



- b) there is no repayment arrangement in place
- c) there is no undetermined request for financial assistance
- d) there has been no contact from a support service on behalf of the ratepayer.

5.1.3 Recovery action – debt collection agency procedures

5.1.3.1 Council's debt collection agency will issue a letter of demand in relation to each debt advising that:

- a) Council has referred the debt for collection
- b) payment is required within seven 28 days of the date of the letter
- c) if unpaid; legal action will be commenced
- d) the minimum amount in legal costs that will be added to the ratepayer's assessment if legal action is commenced.

5.1.3.2 Council will only commence legal action as a last resort. The debt will escalate to the following stages only if it remains unpaid:

- a) 24 28 days after the date of the letter a statement of liquidated claim will be prepared, filed with the court and issued for service
- b) if unpaid after the statutory period following service, judgement judgment will be obtained.
- c) further action will be commenced to recover the debt including examination notice, writ of execution and garnishee orders.

5.1.4 Arrangements to pay rates and charges

5.1.4.1 A ratepayer may enter into a weekly, fortnightly or monthly arrangement to pay rates and charges with Council or Council's debt collection agency subject to the following conditions:

- a) the overdue amount must be paid in full within 12 months
- b) normal interest charges apply, unless written off under hardship provisions of this policy at part 4
- c) Council's Finance Officer – Revenue Collection may enter into a longer term repayment arrangement if in that Officer's opinion a ratepayer's financial circumstances warrant this
- d) a ratepayer dissatisfied with a decision of the Finance Officer – Revenue Collection may have that decision reviewed by the Finance Officer - Revenue Team Leader
- e) ratepayers will be advised at the time of making a repayment arrangement that if the arrangement is dishonoured recovery action will recommence without further notice
- f) where an arrangement has been dishonoured, a new arrangement cannot be accepted until a payment is received to show good faith
- g) where legal action has commenced, arrangements must be in the form of lodgement of terms of settlement with the court or a court instalment order

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ITEM 7 - ATTACHMENT 1 REVISED DEBT RECOVERY AND HARDSHIP POLICY.

Policy



- h) extensions of time beyond 3 months without any payment will not be acceptable
- i) where a supplementary rates and charges notice is issued in the latter part of the year and where an arrangement is made for payment of the rates within 6 months of the due date, interest will be written off provided payment of one half of the amount due is made within 3 months and the balance is paid within 6 months.

5.2 Part 2 – Recovery of sundry debtor accounts

5.2.1 Sundry debtor invoices and statements

- 5.2.1.1 Sundry debtor accounts and invoices will be created when information becomes available and emailed or posted weekly. The payment due date will be 30 days after the invoice issue. A statement will be issued within seven days of month's end.
- 5.2.1.2 Hardship provisions apply to sundry debtor accounts in certain circumstances, refer to paragraphs 5.2.3 and 5.4.11 and 5.4.14.

5.2.2 Overdue sundry debtors

5.2.2.1 The following process applies to recovery of overdue sundry debtor accounts:

- a) if unpaid by the due date a second and then a third monthly statement will be forwarded as a reminder
- b) a ~~letter of demand~~ **warning letter** will be sent by Council before an overdue sundry debt is referred to Council's debt collection agency. Section 355(b) committees, sporting clubs and government agencies will not be referred to the debt collection agency.

5.2.3 Overdue sundry debtors – aged pensioners

- 5.2.3.1 If a sundry debtor account is a charge on the land ie kerb and gutter, or foot paving, and it is payable by an aged pensioner, the aged pensioner may apply to Council to have the account deferred against their estate subject to the hardship provisions of this policy and provided they have already deferred their rates against their estate.

5.2.4 Recovery action – suspension of credit facilities

- 5.2.4.1 If the account is a recurring account, eg waste tipping fees, and any part remains unpaid for more than 60 days, further credit to that debtor account may be withdrawn until the overdue amount is paid. The process of suspending credit facilities will be:
 - a) Council will make contact with the debtor to notify of the Council's intention to suspend credit facilities. Notification will include a letter when credit is suspended.

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ITEM 7 - ATTACHMENT 1 REVISED DEBT RECOVERY AND HARDSHIP POLICY.

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- b) after payment of the overdue amount or commencement of a satisfactory repayment arrangement, credit facilities may be resumed; and
- c) if payment terms are breached again Council may cancel credit facilities.

5.2.5 Recovery action – referral to debt collection agency

- 5.2.5.1 44 **21** days after issue of the letter of demand **warning letter** as described in 5.2.2.1 above, Council will refer overdue accounts to its debt collection agency.

5.2.6 Recovery action – debt collection agency procedures

- 5.2.6.1 Council's debt collection agency will issue a letter of demand in relation to each debt advising:

- a) Council has referred the debt for collection
- b) payment is required within seven **28** days of the date of the letter
- c) if unpaid, legal action will be commenced
- d) the minimum amount in legal costs that will be added to the ratepayer's **debtor's** account if legal action is commenced.

- 5.2.6.2 Council will only commence legal action as a last resort. The debt will escalate to the following stages only if it remains unpaid:

- a) 24 **28** days after the date of the letter a statement of liquidated claim will be prepared, filed with the court and issued for service
- b) after the statutory period following service, judgment will be obtained.
- c) further action will be commenced to recover the debt including **examination notice**, writ of execution and garnishee orders.

5.2.7 Arrangements to repay sundry debtor accounts

- 5.2.7.1 A debtor may enter into a weekly, fortnightly or monthly arrangement to repay accounts with Council or Council's debt collection agency subject to the following conditions:

- a) the overdue amount must be paid in full within 12 months
- b) Council's Finance Officer – Revenue **Collection** may enter into a longer term repayment arrangement if in that Officer's opinion a debtor's financial circumstances warrant this
- c) a debtor dissatisfied with a decision of the Finance Officer – Revenue **Collection** may have that decision reviewed by the Finance Officer - Revenue ~~Team Leader~~ **Specialist**
- d) debtors will be advised at the time of making a repayment arrangement that if the arrangement is dishonoured recovery action will recommence without further notice

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- e) where an arrangement has been dishonoured, a new arrangement cannot be accepted until a payment is received to show good faith
- f) where legal action has commenced, arrangements must be in the form of lodgement of terms of settlement with the court or a court instalment order
- g) extensions of time beyond three months without any payment will not be acceptable.

5.3 Part 3 – Credit control

5.3.1 Terms of payment – 30 day accounts

- 5.3.1.1 All accounts with Council will be strictly 30 days trading terms, without exceptions. Council will open credit accounts in accordance with this policy.

5.3.2 Terms of payment – credit accounts

- 5.3.2.1 No credit account will be opened unless a 30 day trading application form has been completed and returned. Council will conduct a reference check on the applicant, verifying references provided by the applicant, before a credit account is offered.

5.3.3 Terms of payment – one off usage

- 5.3.3.1 No company or individual will be extended credit for one off use of:

- a) room hire
- b) hall hire
- c) community centre bookings
- d) holiday park bookings
- e) council stores
- f) sporting field use
- g) enrolment fees
- h) tipping fees
- i) vehicle repairs
- j) sundry sales including documents, copying and plant.

- 5.3.4 Council will invoice government departments that provide a purchase order. All other one off usages must be paid for in advance or at the time of usage to avoid difficulties in locating debtors and recovering fees. Council's receipts satisfy the requirements of a tax invoice for business debtors.

- 5.3.5 Council will extend credit and allow payment plans for animal impounding fees and sustenance fees at the discretion of the Coordinator Environmental Health and Compliance to avoid hardship.

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5.3.6.1 For private works Council will provide a written quote for the proposed work to cover estimated costs for the work. For work to proceed, Council requires written authorisation from the client and proof of identity. For work valued at more than \$1,000 a 10% deposit will be required before work commences. For work valued at more than \$10,000 Council will require agreed progress payments at various stages.

5.3.7 Judgment debts and credit history

5.3.7.1 Credit reporting agencies access some court records relating to debt recovery. Specifically, they access details of all default judgments and record these on the individual's credit history, in some cases for five years. If a statement of liquidated claim is served and the debtor:

- a) makes no payment in the next 28 days
- b) doesn't pay the amount claimed, including legal costs
- c) doesn't apply for a court instalment order to pay off the amount claimed, including legal costs
- d) doesn't lodge a notice of defence with the court disputing the claim
- e) then the debtor may be liable to incur a default judgment. It is these default judgments, where a debtor has not responded to a statement of claim that may be included in an individual's credit history.

5.3.8 If the debt has been paid in full, Council will upon request, write a letter to the debtor confirming that the debt has been repaid in full which may then be presented as proof of payment. Credit reporting agencies will not remove from an individual's credit history the existence of a default judgment because it assists users of their reports with credit risk assessment.

5.3.9 Debtors may sometimes ask for Council to consent to the filing of a notice of discontinuance or to have judgment set aside to have the default judgment removed from their credit history. The process requires a notice of motion to have judgment set aside and then a notice of discontinuance. Council will not have judgment set aside or issue a notice of discontinuance in these circumstances. A notice of discontinuance is a remedy for correcting a claim that was issued in error, before judgment is entered by the court. A debtor has no right to have a default judgment erased upon payment of the debt. The debtor had the opportunity to avoid default judgment when they were issued with the statement of claim and judgment warning letter. A default judgment is a valid court judgment.

5.3.9.1 Council does not report debts to any credit reporting agencies, and is under no obligation to assist debtors to delete factually correct court judgment history.

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5.3.10 Notwithstanding clause 5.3.9, if a debtor satisfies the Finance Officer – Revenue Collection that there were extenuating circumstances that resulted in default judgment, then Council may agree to setting aside judgment on one occasion only subject to:

- a) the judgment debt having been paid in full, and
- b) current rates being up to date, and
- c) the judgment debtor to arrange the necessary documentation for Council to sign at the judgment debtor's own cost, or
- d) the judgment debtor meeting the costs of Council's debt collection agency in preparing any necessary documentation

5.4 Part 4 – Hardship provisions:

5.4.1 Defer payment of rates and charges – aged pensioners

5.4.1.1 Aged pensioners who satisfy the eligibility criteria may make application to defer the payment of rates and charges and property related sundry debtor accounts against their estate. If granted, payment of the rates, charges, interest and property related sundry debts will be deferred until any of the following occurs:

- a) death of the ratepayer
- b) sale of the property
- c) the ratepayer ceases to occupy the property as their principal place of living and rents the property out.

5.4.2 The criteria used to determine eligibility for deferral will be:

- a) the ratepayer must be an aged pensioner as defined by Centrelink in receipt of a pensioner rate concession in relation to the property
- b) the property must be the ratepayer's principal place of living
- c) the property must be used for residential or farming purposes only
- d) the property can have no more than a single dwelling house or residential unit erected upon it
- e) the total amount of rates and charges (net of pensioner concession) payable must be more than 8% of the age pension of an individual (if the ratepayer is an individual) or 8% of the age pension of a couple (if the ratepayer is a couple) at the date of the initial application.

5.4.3 An initial application form must be completed and lodged with Council and determined by the Finance Revenue Coordinator. A ratepayer dissatisfied with a decision of the Finance Revenue Coordinator may have that decision reviewed by the Hardship Panel

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established under this policy. The Hardship Panel may approve an application for deferral if it believes the circumstances of the ratepayer warrant this even if the eligibility criteria have not been met. A letter of determination will be issued to the ratepayer. If an application is refused, the ratepayer will be provided with reasons for the refusal.

- 5.4.4 After approval, a letter will be posted out annually to the ratepayer with a copy to sign and return to continue the deferral. The purpose of the annual letter will be to confirm that the ratepayer continues to own and occupy the property, is still alive, and is aware of and agrees to the deferral. Deferral will continue once granted without the need to satisfy the 8% criteria again, provided that the ratepayer continues to own and occupy the property. Where the ratepayer ceases to occupy the rateable property and the property becomes rented a repayment timeframe for the deferred rates and charges will be negotiated by the Finance Officer – Revenue Collection. A person dissatisfied with a decision of the Finance Officer – Revenue Collection may have that decision reviewed by the Finance Officer - Revenue Team Leader **Specialist**.
- 5.4.5 Interest charges accrue in respect of deferred rates and charges at the rate determined under the Local Government Act. No deferred rates, charges or interest will be written off under this policy.
- 5.4.6 Writing off of accrued interest
 - 5.4.6.1 The Finance Officers – Revenue Collection and Finance Officer - Revenue Team Leader **Specialist** have delegated authority to write off small amounts of interest that have accrued on rates and charges where the person was unable to pay the rates and charges when they became due and payable for reasons beyond their control. The Finance Revenue Coordinator has delegated authority to write off an unspecified amount of interest.
 - 5.4.7 Ratepayers seeking to have interest written off under hardship provisions must submit the prescribed application form to be considered by the Finance Revenue Coordinator. Accrued interest on rates and charges may be written off where payment of the accrued interest would cause the person hardship. A person dissatisfied with a decision of the Finance Revenue Coordinator may have that decision reviewed by the Hardship Panel. The Hardship Panel may request the ratepayer to come to an interview if it is necessary to understand the issues causing hardship.
 - 5.4.8 Hardship resulting from a general revaluation of the Port Stephens Local Government Area
 - 5.4.8.1 In accordance with section 601 of the Local Government Act a ratepayer who suffers substantial hardship as the consequence of the making and levying of a rate on the

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most recent valuation, may apply to Council for relief. Assistance will only be available in the first year new valuations are used to calculate rates.

5.4.8.2 The criteria used to determine eligibility:

- a) rates payable must be more than 3% of the gross household income.
- b) the applicant must be an owner and occupier of the property to which the rates relate and the dwelling must be the applicant's sole or principal place of living.
- c) the ordinary rate increase must be more in percentage terms than the amount determined by Council at each revaluation. The ordinary rate increase is calculated as the ordinary rates payable for the new rating year (being the first year in which new valuations are used) minus the ordinary rates payable in the previous rating year increased by the allowed rate pegging increase for the year; (eg rates 2017 – 2018 \$1,000 minus rates 2016 – 2017 \$800 plus 1.5% rate pegging increase (\$812) = \$188) (eg rates 2020 – 2021 \$1,200 minus rates 2019 – 2020 \$1,000 plus 2.6% rate pegging increase (\$1,026) = \$174).

5.4.9 Applications must be submitted on the prescribed application form. Assistance will be calculated as follows:

- a) one half of the ordinary rate increase up to a maximum of \$200 (eg \$188 increase x 0.5 = \$94) (eg \$174 increase x 0.5 = \$87).
- b) no assistance will be given for domestic waste management charges, Hunter Catchment Contribution or other charges.
- c) the maximum amount of assistance in aggregate for all ratepayers will be \$20,000.

5.4.10 Applications will be considered in the order in which they are received by Council. No further applications will be considered once the aggregate amount of assistance has been granted. Applications will be considered by the Finance Officer - Revenue Team Leader Specialist. A ratepayer dissatisfied with a decision of the Finance Officer - Revenue Team Leader Specialist may have that decision reviewed by the Hardship Panel established under this policy. If an application is refused, the applicant will be provided with reasons for the refusal.

5.4.11 Rates Assistance Program

5.4.11.1 Council partners with local welfare and/or financial counselling services to act as a referral point for ratepayers experiencing financial hardship. Participating services are empowered to assess ratepayer's individual financial circumstances and recommend to Council that rates and charges up to \$250.00 be written off due to financial hardship. Each participating service is given an annual limit of \$5,000 that they can recommend for financial assistance. Assistance is limited to non-pensioners to assist individuals or families who are experiencing financial hardship.

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and difficulty paying rates, but are not eligible for a pensioner rate concession. Participating services are to contact Council to recommend assistance. Council will check to ensure the ratepayer is not in receipt of a pensioner rate concession and provide confirmation to the participating service. A credit will then be processed to the ratepayer's rate assessment. A record of all assistance is kept and assistance is limited to \$250 per ratepayer per annum. Assistance is provided in the order that recommendations are received by Council.

5.4.11.2 The rates assistance program is included in Council's revenue policy annually and publicly exhibited as a proposed donation for a class of individuals under section 356 of the Local Government Act 1993 and the aggregated cost included in the annual report.

5.4.12 Fees and charges

5.4.12.1 The Coordinator Environmental Health and Compliance may consider hardship matters relating to animal impounding and sustenance fees. Assistance may be provided in the form of allowing additional time to pay or waiving the fees in cases of hardship. A customer dissatisfied with a decision of the Coordinator Environmental Health and Compliance may have that decision reviewed by the Hardship Panel established under this policy. Applicants under this section will be made aware that fees and charges in relation to animal impounding increase on a daily basis and will accrue during the review period. Council will not consider hardship applications in relation to animal registration fees or the costs of microchipping or veterinarian fees and charges.

5.4.12.2 The Waste Management Coordinator may allow payment plans or reduce charges for additional waste services to avoid hardship of ratepayers or residents with medical conditions that directly and significantly contribute to the generation of waste. A customer dissatisfied with a decision of the Waste Management Coordinator may have that decision reviewed by the Hardship Panel established under this policy.

5.4.12.3 Where a ratepayer or debtor has incurred cheque or direct debit dishonour fees the Finance Officer – Revenue Collection may write off the fee on one occasion per customer per financial year where the officer is satisfied that the non-payment was due to circumstances beyond the customers' control.

5.4.13 Hardship panel

5.4.13.1 A panel comprising the Finance Revenue Coordinator, Finance Officer - Revenue Team Leader Specialist and the Financial Services Section Manager will determine applications for assistance referred to it and review decisions as necessary.

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ITEM 7 - ATTACHMENT 1 REVISED DEBT RECOVERY AND HARDSHIP POLICY.**Policy****5.4.13.2 Referral of matters to hardship panel**

5.4.13.3 The General Manager or Mayor may refer any Council matter involving financial hardship of a ratepayer or resident to the Hardship Panel for consideration and advice.

5.4.14 Privacy

5.4.14.1 In accordance with the Privacy Code of Practice and Council's Privacy Management Plan, personal information collected as a consequence of this policy will only be used for the purpose of assessing eligibility under the policy and will not be used for any other purpose or disclosed to any other person unless Council is required by law to do so or authorised to do so by the person to whom that personal information relates.

5.5 Part 5 – Sale of land for unpaid rates or charges:

5.5.1 Where rates or charges for a property are overdue for more than five years the land is liable to be sold under Section 713 of the Local Government Act 1993. The process in compliance with the requirements of ss713-726 of the Local Government Act 1993 will generally be as follows:

- a) each September outstanding rate assessments will be reviewed to identify all land liable to be sold
- b) land titles will be searched and all persons with an interest in the land will be notified of Council's intention
- c) a report will be prepared for Council to consider offering the land for sale by public auction
- d) a date will be set for the public auction
- e) a real estate agent will be appointed to conduct the sale
- f) notice of the auction will be published in accordance with s715 of the Act and given to all persons with an interest in the land
- g) contracts for sale will be prepared
- h) the real estate agent will market the land
- i) reserve prices will be established
- j) all land will be offered for sale by public auction unless all overdue amounts are paid in full prior to auction
- k) on auction day a deposit of 10% in cash or bank cheque will be payable by the successful bidder
- l) if the land is not sold at auction the land may be sold by private treaty, subject to the restrictions contained in s716 of the Act
- m) all costs associated with the sale must be met from sale proceeds
- n) sale proceeds will be applied as required by the Act
- o) the land will be conveyed free of debts to the extent provided by the Act

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- p) Council will hold any surplus proceeds for persons having estates or interests in the land immediately before the sale according to their respective estates and interests
- q) Council will pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it.

5.6 Part 6 – Pensioner rate concessions:

5.6.1 The following prescribes how Council will grant concessions to pensioners:

5.6.1.1 Eligibility for pensioner concessions - In all situations where an eligible pensioner has assumed full and sole responsibility for the paying of rates, notwithstanding the nature of the ownership of the property, Council agrees to grant the full pensioner concession under Section 577 of the Act. The presentation of a Pensioner Concession Card, and completion of any prescribed form will be accepted by Council as a sufficient test to meet the hardship requirements of the Act under these circumstances.

5.6.1.2 Backdating of pensioner concessions - Where an eligible pensioner applies for a concession Council will backdate that concession for up to 2 years prior to the current year (ie a maximum total of 3 years including the current year) provided that:

- a) the pensioner was at all times eligible for the concession
- b) the pensioner provides a statutory declaration that the rateable property was their sole or principal place of living for all of the period that the concession is claimed for.

5.7 Part 7 – Social implications:

5.7.1 Council has a charter under the Local Government Act 1993 to raise funds for local purposes by imposing rates, charges and fees fairly. A policy that prescribes Council's process of collecting debts facilitates consistency and promotes fairness.

5.7.2 The hardship provisions of this policy empower Council to provide practical financial assistance to financially vulnerable ratepayers and debtors, which is consistent with Council's charter of social justice and equity.

6. POLICY RESPONSIBILITIES:

6.1 The Finance Revenue Coordinator is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

6.2 The Finance Officer - Revenue Team Leader Specialist and Finance Officer – Revenue Collection are responsible for complying with the policy.

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7. RELATED DOCUMENTS

- 7.1 Pensioner Rate Rebates.
- 7.2 Pensioner Interest Charges.
- 7.3 Waiving of Interest Charges.
- 7.4 Interest on Overdue Rates.
- 7.5 Interest Charges on Supplementary Rate Levies.

- 7.1 Local Government Act 1993 - specifically sections 564, 567, 577, 601, 712 and 713-726.
- 7.2 Code of Conduct.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No	PSC2009-02488	EDRMS record No	20/314147
Audience	Council staff and Community		
Process owner	Financial Services Section Manager		
Author	Financial Services Section Manager		
Review timeframe	2 years	Next review date	
Adoption date	28/08/2007		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
8.0	14/07/2020	Financial Services Section Manager	Increased minimum threshold for commencing rates legal action from \$800 to \$1,200. Revised the process timeframes, to provide earlier advice of unpaid instalments, and giving additional time to seek advice between the letters of demand and initiating legal action.	Deferred

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ITEM 7 - ATTACHMENT 1
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REVISED DEBT RECOVERY AND HARDSHIP

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			<p>Change the reference to Council's overdue debtor letter as a warning letter rather than a letter of demand. Correct the spelling of 'judgment'.</p> <p>Removed reference to the Council assistance program which was proposed as part of the special rate variation application. Update the s.601 financial assistance worked examples. Introduce the process of an examination notice. Introduce the discretion to set aside judgment and write off payment dishonour fees in extenuating circumstances. Remove references to revoked policies in related documents. Updated staff job titles where required.</p> <p>5.4.12.2 - Added 'The Waste Management Coordinator may allow payment plans or reduce charges for additional waste services to avoid hardship of ratepayers or residents with medical conditions that directly and significantly contribute to the generation of waste. A customer dissatisfied with a decision of the Waste Management Coordinator may have that decision reviewed by the Hardship Panel established under this policy.'</p>	
9.0		Financial Services Section Manager	Added clause 5.4.11 and updated numbering accordingly.	

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ITEM NO. 8

**FILE NO: 20/309877
EDRMS NO: PSC2009-09420**

POLICY REVIEW: ACCESS TO INFORMATION POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the submission shown at **(ATTACHMENT 1)**.
- 2) Revoke the Access to Information Policy dated 14 August 2018, Minute No. 247.
- 3) Adopt the revised Access to Information Policy shown at **(ATTACHMENT 2)**.

BACKGROUND

The purpose of this report is to provide Council with the submission received following the public exhibition of the Access to Information Policy (the policy) and to seek formal adoption of the policy.

The policy was publicly exhibited from 31 August to 28 September 2020, with 1 submission was received.

The points raised in the submission can be summarised as:

- 1) Explanation of changes needed.
- 2) Interpretation of privacy and copyright laws.
- 3) Application and process of possible consideration against disclosure.

Each of the points above have been listed in **(ATTACHMENT 1)**, with a response. There are no changes proposed to the policy as result of the public exhibition.

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

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

The revised policy is presented for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

As part of good governance, this revised Policy will assist Council in its obligations under the Government Information (Public Access) Act 2009 (the Act).

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without the appropriate policy and guidelines in place, Council would not be meeting its obligations under the Act.	Low	Adopt the recommendations.	Yes
There is a risk that non-compliance with the provision of the Privacy & Personal Information Protection Act 1998 (NSW) and the Copyright Act 1988 (Cth) would expose Council to legal action.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

Internal

- The Executive Team was consulted to seek management endorsement.

External

- The revised policy was publicly exhibited from 31 August to 28 September 2020.

OPTIONS

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

ATTACHMENTS

- 1) Submission. [↓](#)
- 2) Revised Access to Information Policy. [↓](#)

COUNCILLORS ROOM

- 1) Copy of submission.

TABLED DOCUMENTS

Nil.

ITEM 8 - ATTACHMENT 1 SUBMISSION.

Summary of submission to Access to Information policy

No.	Author of submission	Comment	Council response
1	Tomaree Ratepayers and Residents Association (TRRA)	1. No explanation provided regarding changes to the policy.	<p>The policy is placed on public exhibition seeking comments from the community on the entire policy – whilst any amendments are relevant, Council encourages the community to read the full policy and provide comment where appropriate. The public exhibition notice also provides the Council meeting date for reference should the community wish to explore the Council report as well.</p> <p>Council's standard policy template provides the version control, including any amendments at the end of each policy. The reader would locate this with ease when reading the policy.</p>
		2. The policy is very strict in its interpretation of some of the constraints on disclosure of information, especially in relation to privacy and copyright laws. Therefore, this interpretation means that the policy does not meet its purpose under clause 1.1.	<p>The purpose of the policy is: <i>The Access to Information Policy ensures Port Stephens Council is committed to the following principles regarding public access to documents and information:</i></p> <ul style="list-style-type: none"> • <i>Open and transparent government.</i> • <i>Consideration of the overriding public interest in relation to access requests.</i> • <i>Proactive disclosure and dissemination of information.</i> • <i>Respect for the privacy of individuals.</i> <p>The policy together with the attached guidelines does achieve its objectives within the limits of the NSW State laws and the Commonwealth laws, especially in relation to privacy and copyright laws.</p> <p>The policy is a framework to inform the community with respect to accessing information, with the legislation dictating how access can be provided. It is not intended to re-write the legislation.</p> <p>The NSW Civil & Administration Tribunal has made a number of decisions in terms of copyright, for example <u>Sandy v Kiama Municipal Council [2019] NSWCATAD 49</u>. These decisions support Council's approach to copyright law.</p> <p>Council's approach to privacy is in accordance with the guidelines issued by the NSW Information & Privacy Commission.</p>

		<p>3. The guidelines attached to the policy are a standard template issued for councils. The guidelines make it clear that Council must apply a public interest test to all formal applications, and privacy and copyright fall into the 'public interest considerations'. The submission states that privacy and copyright laws do not fall under the "conclusive presumption of an overriding public interest against disclosure" as referred to in section 6 of the attachment.</p>	<p>Section 6 of the guideline attached the policy makes reference to the "conclusive presumption of an overriding public interest against disclosure" consideration as per Schedule 1 of the GIPA Act. Section 6 also refers to Section 14 of the GIPA Act and the associated Table in relation to public interest considerations against disclosure. Section 14 provides the relevant privacy and copyright considerations.</p> <p>Section 72(2)(c) of the GIPA Act requires Council to ensure it does not infringe copyright when releasing information.</p>
		<p>4. Council's interpretation of privacy and copyright law constraints is too strict:</p> <p>a) Protection of individuals' privacy is often used as a reason for either withholding or redacting information even if consent is granted – the default should be to publish information unless confidentiality has been requested.</p> <p>b) Copyright is often used as a reason for either withholding or redacting information, removing from DA Tracker or only allowing inspection of the information even if the copyright owner has consented.</p>	<p>Council is required to comply with the NSW Privacy & Personal Information Protection Act 1998 when managing privacy matters. Council is also required to consider guidelines issued by the NSW Information and Privacy Commission.</p> <p>Council makes submissions relating to DAs available on DA Tracker in a redacted form due to privacy considerations. Council makes the submissions available in this form to meet its obligations under the GIPA Act. DAs are the large proportion of submissions received.</p> <p>Council is required to comply with the Copyright Act 1988 (Cth) and the GIPA Act 2009 when dealing with copyright material.</p> <p>Council has limited exemption under the Environment Planning & Assessment Act 1979, to display copyrighted material on its website for the notification period only.</p> <p>Council would generally permit view only access to copyrighted material, subject to third party consultation with the copyright owner/s.</p> <p>The TRRA is aware that Council has advice from the NSW Privacy Commission in terms of submissions and providing personal details. In short, the advice states that the submission authors name is for the purpose of Council determining that the submission is valid, and should have no effect on the a DA or other matter, particularly given DAs are required to be assessed on planning grounds and not on the identity of an author to a submission. Council is very aware of its privacy obligations given any breach could be a penalty of \$40,000.</p>

Policy



FILE NO: PSC2009-09420

TITLE: ACCESS TO INFORMATION POLICY

POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

1.1 The Access to Information Policy (the '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.

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

2. CONTEXT/BACKGROUND:

2.1 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.

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

2.1 The Government Information (Public Access) Act 2009 (NSW) ('GIPA Act') provides four pathways to access Council information – mandatory disclosure, proactive disclosure, informal release and formal access.

3. SCOPE:

3.1 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

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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 due to an overriding public interest against disclosure.

- 3.2 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.
- 3.3 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.
- 3.4 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.
- 3.5 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.
- 3.6 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.
- 3.7 Council also endeavours to release 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.
- 3.8 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.
- 3.9 The General Manager has authority to approve Guidelines for Information Access, which is to be available to members of the public.

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**4. 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 Government Information (Public Access) Act 2009 (NSW)
Informal release	Means a request to access information where a formal access application is not required under the GIPA Act.
Mandatory release	Means information classified as open access information, in accordance with the GIPA Act.
Open access information	Means information that is publicly available unless there is no public interest against disclosure, in accordance with the GIPA Act.
Proactive release	Means government information that Council decides to release outside other release provisions under the GIPA Act.
Public interest	Means considerations under the GIPA Act either in favour of release or against release.
Request for information	An informal request for information under section 8 of the GIPA Act.

5. POLICY STATEMENT:

- 5.1 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.
- 5.2 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.

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

6. POLICY RESPONSIBILITIES:

6.1 The Governance **Section** Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on this policy.

7. RELATED DOCUMENTS:

7.1 Government Information (Public Access) Act 2009 (NSW)

7.2 Government Information (Public Access) Regulation 2009 (NSW)

7.3 Privacy and Personal Information Protection Act 1998 (NSW)

7.4 Health Records and Information Privacy Act 2002 (NSW)

7.5 State Records Act 1998 (NSW)

7.6 Local Government Act 1993 (NSW)

7.7 Environmental Planning and Assessment Act 1979 (NSW)

7.8 Companion Animals Act 1998 (NSW)

7.9 Access to Information Guidelines for Local Government

7.10 Code of Conduct

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**CONTROLLED DOCUMENT INFORMATION:**

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EDRMS container No	PSC2009-09420	EDRMS record No	xxxxxxx
Audience	Port Stephens community and Council employees		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Two years	Next review date	August 2020 31 August 2022
Adoption date	23 August 2016		

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	23/8/2016	Governance Manager	Policy formatted into new template. Changes made to legislation references and definitions added. Also included the guidelines.	241
6.1	14/08/2018	Governance Manager	Reviewed the policy, included numbering to each paragraph and updated version control. 1.1 – inserted the word 'the policy'. 3.1 – delete 'because of' and insert 'due to'. 3.7 – delete the word 'other'. 4.0 – amended the definition of 'informal request', updated 'mandatory release', 'open access information', proactive release' and inserted 'for information' under the 'Request' definition. 7.2 – inserted new clause and re-numbered subsequent numbering 7.3 to 7.9. <u>Guidelines update</u> 1.2 – updated telephone number.	247

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7	XX	Governance Section Manager	<p>Reviewed the policy, reformatted bullet points removed italics from all legislation to align with the current style guide.</p> <p>Updated Policy owner to reflect title changes as well as in 6.1.</p> <p>1.1-replaced 'Policy' with 'policy' and deleted the bullet points with alphabetical listing.</p> <p>2.1 and 2.2- deleted.</p> <p>2.1 – new clause.</p> <p><u>Guidelines update</u></p> <p>Reviewed the guideline, reformatted bullet points removed italics from all legislation to align with the current style guide</p> <p>2.1-inserted "viewing a".</p> <p>5.1-delete 'know'.</p> <p>6.2-inserted "refusing access to information" and insert 'may', delete 'will'.</p> <p>6.4-inserted further information regarding public interests against disclosure</p> <p>8.1-delete 'on' and insert 'of'</p>	XX
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APPENDIX 1

Access to Information Guidelines for Local Government**1. Accessing Information**

- 1.1 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.
- 1.2 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 4988 0255.
- 1.3 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.
- 1.4 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

Policy



records are open or closed) for all Council's records 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

2.1 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. **viewing a** 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.

2.2 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.

2.3 These documents are:

- 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;
- Auditor's Report;

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- 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.

3. 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.

4. Information about Development Applications

4.1 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);
- Heritage Consultant Reports;

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- 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.

5. 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
- 5.1 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 **Information** Know officers will consider all relevant legislation applicable to any request for information.
- 5.2 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.
- 5.3 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.
- 5.4 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,

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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.

6. Exemptions to Access

- 6.1 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.
- 6.2 Council will always explain to the applicant its reasons for refusing access to information when 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 may will be available under the Act.
- 6.3 In determining whether there is an overriding public interest against the disclosure of the information, Council will fully consider the Public Interest Test.
- 6.4 The GIPA Act provides an exhaustive list of public interest considerations against disclosure that may be taken into account when determining if there is an overriding public interest against releasing the information. These are the only considerations against disclosure that Council will consider in applying the public interest test.
- 6.5 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.
- 6.6 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;

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- that any information disclosed might be misinterpreted or misunderstood by any person.
- 6.7 Council will consider any submissions made by an applicant in relation to public interest considerations, as well as any factors personal to the applicant.
- 6.8 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:
- Information subject to an overriding secrecy law (26 specifically named Acts);
 - Information subject to the direction or order of a court or other body with the power to receive evidence on oath;
 - Information subject to legal professional privilege;
 - 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);
 - Documents affecting law enforcement and public safety;
 - Specific information relating to transport safety;
 - Specific reports concerning the care and protection of children;
 - Specific information relating to Aboriginal and environmental heritage.
- 6.9 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.
- 6.10 In dealing with informal requests Council will apply a similar decision making framework.

7. Accessing Information and Making an Application

7.1 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.
- requires a *formal access application*, for example because consultation with a third party is required.

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- 7.2 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.
- 7.3 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.
- 7.4 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.

8. Time Limits

- 8.1 In respect of formal applications, Council will notify applicants of the decision of 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.
- 8.2 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.

9. Rights of Review and Appeal

- 9.1 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.
- 9.1.1 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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- 9.1.2 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.
- 9.1.3 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.
- 9.2 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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ITEM NO. 9**FILE NO: 20/308281
EDRMS NO: PSC2015-01492****AUDIT COMMITTEE ANNUAL REPORT 2019 TO 2020****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Audit Committee 2019 to 2020 Annual Report as presented
(ATTACHMENT 1).
-

BACKGROUND

The purpose of this report is to present to Council the Audit Committee's Annual Report for the period 2019 to 2020.

The Audit Committee has been established in accordance with the Office of Local Government 'Best Practice Guidelines 08/64'.

The Annual Report to Council summarises the Audit Committees activities for the 2019 to 2020 period in accordance with the Audit Committee Charter, item 5.1 Reporting to Council **(ATTACHMENT 1).**

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with the activities of the Audit Committee and development of the Annual Report are covered within existing budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		

ORDINARY COUNCIL - 10 NOVEMBER 2020

Source of Funds	Yes/No	Funding (\$)	Comment
Other	No.		

LEGAL, POLICY AND RISK IMPLICATIONS

Audit Committee activities remain consistent with the Audit Committee Charter, all relative legislative requirements and the Office of Local Government Guidelines.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council is not compliant with the Audit Committee Charter and relevant legislation.	Low	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the Audit Committee will continue to add significant rigour to Council's governance framework, risk control, compliance and financial reporting and will enhance Council's reputation, operations and financial sustainability.

CONSULTATION

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

Internal

- Executive Team.
- Audit Committee officers.

External

- Audit Committee members.

OPTIONS

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

ATTACHMENTS

1) Audit Committee Annual Report 2019 to 2020. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 9 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2019 TO 2020.

PORT STEPHENS
COUNCIL

Audit Committee Annual Report 1 July 2019 to 30 June 2020

FOREWORD

This annual report provides commentary on the operations and activities of the Audit Committee (Committee) for the 2019 to 2020 financial year.

The Port Stephens Council (PSC) local government area covers 860 sq km with 220 sq km (23%) National Park, State Forest and Nature Reserves. It has a resident population of 71,118 and is estimated to rise to 80K by 2031.

PSC has 500.16 (EFT) staff and an operational budget of \$122M plus a capital works program of \$25.45M.

At its meeting held on 9 February 2010, Port Stephens Council (PSC) resolved to establish a Section 355c Audit Committee in accordance with the Office of Local Government's Best Practice Guidelines 08/64.

The charter objective of the Committee is to enhance the corporate governance of PSC through the provision of independent oversight, review and advice. The Committee assists Council by providing independent assurance and assistance on the organisation's governance, risk, control and compliance frameworks.

AUDIT COMMITTEE STRUCTURE AND MEETING ATTENDANCE

The Committee has 5 voting members. Three are independent members in accordance with the Office of Local Government's Best Practice Guidelines, and 2 Councillors represent Council on the committee with an additional Councillor appointed as an alternate delegate.

Non-voting members include the General Manager, group managers, the Financial Services Section Manager, the Governance Section Manager and Risk Management Coordinator. Representatives from Council's internal audit provider PKF and external audit provider Pitcher Partners also attend meetings as required. The Audit Office's Financial Audit Director attends meetings as appropriate.

A quorum was available for 3 of the 4 meetings held during the 2019 to 2020 period. While a quorum of members was not achieved for the 27 February 2020 meeting it was agreed that the meeting would continue on an informal basis, with the outcomes of the meeting presented to the 28 May 2020 meeting for confirmation. The meetings were held on 25 July 2019, 17 October 2019, 27 February 2020 and 28 May 2020.

A list of Audit Committee members and non-voting members for 2019 to 2020 is detailed below noting the number of meetings attended by each member.

Voting Members	Number of meetings attended
Mr Ben Niland (independent Chair).	3
Mr Frank Cordingley (independent member).	4
Mr Shaun Mahony (independent member).	4
Councillor Chris Doohan.	1
Councillor Glen Dunkley.	2
Councillor Ken Jordan (alternate delegate).	1

ITEM 9 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2019 TO 2020.



PORT STEPHENS
COUNCIL

Audit Committee Annual Report 1 July 2019 to 30 June 2020

Non-voting Members	Number of meetings attended
General Manager (or representative).	4
Corporate Services Group Manager (or representative).	4
Development Services Group Manager (or representative).	4
Facilities & Services Group Manager (or representative).	4
Financial Services Section Manager.	4
Governance Section Manager.	4
Enterprise Risk Manager	3
Internal Auditor representative.	4
External Auditor representative.	3
Financial Audit Director (Audit Office).	1

COMMITTEE'S PERFORMANCE REVIEW

The Committee continues to perform well overall against the core responsibilities contained in its charter. The Council is benefiting from a stable, skilled and experienced membership that is suitably qualified and works in a collegiate fashion.

Annual survey results are reported separately to the Committee. Completed by 11 respondents results of the 2018-2019 annual review showed that participants either agreed or strongly agreed that the Committee performed well against its core responsibilities.

SUMMARY OF RECOMMENDATIONS

The Audit Office raised 10 recommendations in its external audit management letter for 2019 – all were completed during the 2019 to 2020 period.

COMPLETED Actions	
Issue	Recommendation
IT – information and security governance.	Include cyber section in management directive.
IT – work order project.	Complete issues register.
IT – change management.	Include change management requirements in management directive.
IT – logical security.	Develop an appropriate register.
IT – asset management process.	ICT assets be identified and tracked.
Payroll – Masterfile data.	Develop a new audit trail report.
Payroll – terminating employees.	Develop a new audit trail report.
IT – Civica audit logs.	Develop audit log of access to systems.
Payroll – higher duties status removal.	Manager review.

ITEM 9 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2019 TO 2020.

PORT STEPHENS
COUNCIL

Audit Committee Annual Report 1 July 2019 to 30 June 2020

COMPLETED Actions

Rates – charges to rateability status.	Process improvement.
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There were 13 internal audit recommendations provided to the Committee as part of 5 internal audit reviews undertaken during this reporting period. All actions were identified as a 'low' risk.

The following internal audit reviews were completed during the period, with no serious internal control weaknesses reported.

Audit Review	Risk Rating
Contractor Management	L
Payroll and Leave Management	L
Project Funds	L
Cash Handling	L
National Heavy Vehicle Accreditation Scheme	L

OPINION: RISK/CONTROL FRAMEWORK

A key role of the committee is to review and monitor the effectiveness of the key controls in place to manage and mitigate the risks encountered by Council. These matters include operational, strategic, financial and fraud control environments, as well as ensuring adequate insurance coverage and business continuity planning.

During 2019 to 2020 the committee considered the high priority risks facing the organisation and monitored risk treatment plans established by management to reduce or mitigate those risk exposures.

Material risks in 2019 to 2020 have been dominated by the influence of the COVID-19 pandemic on Council's operations and the local government area (LGA). Those material risks included:

- Natural disaster (including pandemic and bushfire) affecting the local government area.
- Injury to workers – including consideration of greater work-from-home presence and distancing implications on the workforce and operations.
- Effective management of contracts and contractors.
- Strategic and operational impacts of State and Federal government decisions (notably during pandemic period).
- Quality of data and management systems for effective decision-making.
- Relationship breakdown between Councillors and/or management.

SUMMARY OF WORK – HIGHLIGHTS

RISK MANAGEMENT

- Received and reviewed quarterly risk management reports focusing on the high priority risks facing the organisation and monitored risk treatment plans established by management to reduce or mitigate those risk exposures.

CONTROL FRAMEWORK

- Considered audit arrangements for 2019 to 2020.
- Noted Audit Office, Fraud Control Systems.
- Received and reviewed relevant policy, directives and procedures as required.

ITEM 9 - ATTACHMENT 1 AUDIT COMMITTEE ANNUAL REPORT 2019 TO 2020.



PORT STEPHENS
COUNCIL

**Audit Committee Annual Report
1 July 2019 to 30 June 2020**

EXTERNAL ACCOUNTABILITY

- Completed a review of the financial statements prior to submission to the Office of Local Government.

COMPLIANCE

- Considered corporate credit card report and compliance.
- Noted the analysis of total supplier payments for 2019 to 2020.
- Noted results of an EFT and employee bank account review.

INTERNAL AUDIT

- Reviewed and endorsed the internal audit plan.
- Reviewed internal audit actions and implementation.
- Noted results of 5 completed internal audit reviews. No serious internal control weaknesses were reported.

EXTERNAL AUDIT

- Received and noted the Annual Engagement Plan.
- Reviewed the management letter and ensured corrective action was established in a suitable action plan.

LEGAL MATTERS

- As at 30 June 2020: 4 legal matters remained before the Courts; 2 matters remained with NCAT, 1 matter set before the Local Court – Small Claims Division, and 5 court elected infringement notices are set to be heard before the Local Court.

COST OF AUDIT ACTIVITIES

- The total cost to Council for audit activities for the period is \$155,684 compared to \$134,442 for the previous 2018 to 2019 period.


BEN NILAND – CHAIR

15/10/2020.
DATE

ITEM NO. 10

**FILE NO: 20/315355
EDRMS NO: PSC2017-00178**

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral funds to the following:
 - a. Medowie Christian School - Mayoral funds - \$1000 donation towards 'Stanley' – a school program for financial literacy and business.
 - b. Tanilba Foreshore Hall Committee – Mayoral funds - \$2000 donation towards air conditioning for the Tanilba Foreshore Hall.
 - c. Shoal Bay Public School – Mayoral funds - \$1000 donation towards annual awards and presentation day.

BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by the Mayor and or Councillors as deserving of public funding. The Grants and Donations Policy gives the Mayor and Councillors a wide discretion either to grant or to refuse any requests.

Council's Grants and Donations Policy provides the community, the Mayor and Councillors with a number of options when seeking financial assistance from Council. Those options being:

- 1) Mayoral Funds
- 2) Rapid Response
- 3) Community Financial Assistance Grants – (bi-annually)
- 4) Community Capacity Building

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act 1993. This would mean that the financial assistance would need to be included in the Operational Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below:

MAYORAL FUNDS – Mayor Ryan Palmer

Medowie Christian School	Medowie Christian School is a thriving educational community, committed to creating world changers and influencers.	\$1000	Donation towards 'Stanley' – a school program for financial literacy and business.
Tanilba Foreshore Hall Committee	Tanilba Foreshore Hall is a Council owned facility run by volunteers.	\$2000	Donation towards air conditioning for the Tanilba Foreshore Hall.
Shoal Bay Public School	Shoal Bay Public School works together with parents and the community to create a happy, caring school environment.	\$1000	Donation towards annual awards and presentation day.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Partnerships	Support financially creative and active communities.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

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

The Policy interpretation required is whether the Council believes that:

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 11

FILE NO: 20/315353
EDRMS NO: PSC2017-00015

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 10 November 2020.

No:	Report Title	Page:
1	Council Resolutions	112

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 20/315810
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

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

BACKGROUND

The purpose of this report is to inform the Mayor and Councillors of the status of all matters to be dealt with arising out of the proceedings of previous meetings of the Council in accordance with the Code of Meeting Practice.

ATTACHMENTS

- 1) Corporate Services Group Report. [↓](#)
- 2) Development Services Group Report. [↓](#)
- 3) Facilities & Services Group Report. [↓](#)
- 4) General Manager's Office Report. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets Report	Printed: Monday, 2 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/03/2018	Crosdale, Timothy	COMPULSORY ACQUISITION OF AN EASEMENT FOR ACCESS OVER PART OF 6 GOVERNMENT ROAD, SHOAL BAY	28/02/2021	28/03/2018	
13 066		Crosdale, Timothy				18/66656
30 Oct 2020						
Revised Target Date changed From: 28 Feb 2021 To: 28 Feb 2021						
Reason: Awaiting Minister's approval to proceed with the compulsory acquisition.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/02/2019	Crosdale, Timothy	King Street, Raymond Terrace Easements	28/02/2021	14/02/2019	
3 031		Crosdale, Timothy				19/39843
30 Oct 2020						
Revised Target Date changed From: 28 Feb 2021 To: 28 Feb 2021						
Reason: Awaiting Minister's approval to proceed with the compulsory acquisition.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2019	Crosdale, Timothy	PROPOSED ACQUISITION OF FORMER FIRE STATION SITE - 51 WILLIAM STREET, RAYMOND TERRACE	28/02/2021	29/05/2019	
5 109		Crosdale, Timothy				19/148388
30 Oct 2020						
Revised Target Date changed From: 28 Feb 2021 To: 28 Feb 2021						
Reason: Minister's approval granted. Proposed Acquisition Notices have been issued to stakeholders.						

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets Report	Printed: Monday, 2 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/05/2019	Crosdale, Timothy	COMPULSORY ACQUISITION OF PART OF VICTORIA PARADE RESERVE NELSON BAY FOR ROAD PURPOSES	28/02/2021	29/05/2019	
6		Crosdale, Timothy				19/148388
110						
30 Oct 2020						
Revised Target Date changed From: 28 Feb 2021 To: 28 Feb 2021						
Reason: Minister's approval received and Proposed Acquisition Notices served. Anticipate Gazettal November 2020.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/07/2019	Crosdale, Timothy	GRANT OF EASEMENTS IN FAVOUR OF AGL - PUNT ROAD, TOMAGO	30/01/2021		
7		Crosdale, Timothy				19/200498
169						
30 Oct 2020						
Revised Target Date changed From: 30 Oct 2020 To: 30 Jan 2021						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2020	Crosdale, Timothy	RENEWAL OF OPTUS LEASE - 9 TARRANT ROAD, SALAMANDER BAY	31/12/2020	12/02/2020	
1		Crosdale, Timothy				20/39141
027						
30 Oct 2020						
Revised Target Date changed From: 30 Oct 2020 To: 31 Dec 2020						
Reason: Leases have been executed and are in the process of being registered.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/02/2020	Crosdale, Timothy	COMPULSORY ACQUISITION OF PART 879 SWAN BAY ROAD, SWAN BAY FOR ROAD WIDENING PURPOSE	25/02/2021	12/02/2020	

ITEM 1 - ATTACHMENT 1 CORPORATE SERVICES GROUP REPORT.



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets Report	Printed: Monday, 2 November 2020	

2	Crosdale, Timothy	20/39141
028		
30 Oct 2020		
Revised Target Date changed From: 25 Feb 2021 To: 25 Feb 2021		
Reason: Awaiting Minister's approval to proceed with the compulsory acquisition.		

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Crosdale, Timothy	Newline Road, Raymond Terrace	6/12/2020	23/09/2020	
2		Crosdale, Timothy				20/288489
199						
30 Oct 2020						
Revised Target Date changed From: 6 Nov 2020 To: 06 Dec 2020						
Reason: Contracts are being prepared.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/10/2020	Hazell, Tim	POLICY REVIEW: PRICING POLICY	30/11/2020	28/10/2020	
5		Crosdale, Timothy				20/319652
222						
30 Oct 2020						
Revised Target Date changed From: 10 Nov 2020 To: 30 Nov 2020						
Reason: Policy serving public exhibition period.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/10/2020	Pattison, Zoe	POLICY REVIEW: PUBLIC ACCESS TO RECORDS AFTER 30 YEARS	30/11/2020	28/10/2020	
6		Crosdale, Timothy				20/319652
223						
30 Oct 2020						
Revised Target Date changed From: 10 Nov 2020 To: 30 Nov 2020						
Reason: Policy serving public exhibition period.						



Outstanding	Division: Corporate Services	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets	Printed: Monday, 2 November 2020	
Report		

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/10/2020	Crosdale, Timothy	Purchase of Property	10/11/2020	28/10/2020	
1		Crosdale, Timothy				20/319652
2 November 2020						
Property purchased at auction. Awaiting execution of contracts to finalise purchase.						

ITEM 1 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP REPORT.



Outstanding	Division: Development Services	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets Report	Printed: Monday, 2 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/08/2020	Drinan, Kate	DEVELOPMENT APPLICATION 16-2019-679-1 FOR DEMOLITION OF EXISTING STRUCTURE AND CONSTRUCTION OF SHOPTOP HOUSING AND DETACHED DWELLING AT 26 KING STREET, RAYMOND TERRACE	28/02/2021	26/08/2020	
1		Peart, Steven				20/265439
151						
30 Oct 2020						
Council resolved to defer this item. A further report will be reported to Council once feedback from the applicant has been received.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/09/2020	Gardner, Janelle	Planning Proposal for 17 Fairlands Road and 2 Ferodale Road, Medowie	30/11/2020	09/09/2020	
1		Peart, Steven				20/277432
170						
30 Oct 2020						
Council resolved to defer this item. A further report will be reported to Council In November 2020.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/10/2020	Gardner, Janelle	5G SMALL CELL TECHNOLOGY ROLLOUT WITHIN PORT STEPHENS	30/11/2020	14/10/2020	
1		Peart, Steven				20/304775
214						
30 Oct 2020						
It was resolved that Council prepare a report on the 5G Small Cell 'low impact' technology rollout within Port Stephens. The report will be presented to Council once the relevant studies have been undertaken.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets Report	Printed: Monday, 2 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Maretich, John	Solar Infrastructure	8/12/2020	11/12/2019	
6 264		Kable, Gregory				19/388450
29 Oct 2020						
External consultant has undertaken a review of Council's facilities to determine where the energy consumption could be reduced. Methods to reduce energy consumption includes light replacement and also the expansion of solar panels to change where we gain energy from. The external consultant has presented a draft report that does show the potential to reduce our carbon footprint and reduce energy consumption expenditures. The draft report requires further work to check the assumptions used. There are also a number of options to fund the project that also need some investigation. Another company has presented another option to create a solar farm in Williamtown. This is a very conceptual idea at this stage.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/12/2019	Gutsche, Tammy	GREEN WASTE DROP OFF - SALAMANDER BAY	26/03/2021	11/12/2019	
7 265		Kable, Gregory				19/388450
29 Oct 2020						
Feasibility report will be prepared with the Waste Management Strategy.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/02/2020	Lamont, Brock	Indoor Sports Facility	30/06/2021	26/02/2020	
4 042		Kable, Gregory				20/50488
30 Oct 2020						
Current discussions with the Department of Education about co-sharing a single facility has become not viable. Will commence engagement with Sports Council to determine the indoor sporting needs of this community.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/06/2020	Stewart, Adam	Naming of Pathway, Gan Gan Road, Anna Bay	2/03/2021	10/06/2020	
1		Kable, Gregory				20/164033

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets Report	Printed: Monday, 2 November 2020	

101
29 Oct 2020
The specifications and request for quote have been prepared. These documents will be released to Contractors in September. Final designs and proposals will be presented in November 2020.

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Lamont, Brock	REVIEW OF THE OFF LEASH DOG AREAS AND TIMES AT ANNA BAY / BIRUBI POINT, FISHERMANS BAY AND BOAT HARBOUR	2/03/2021	15/07/2020	
1 138		Kable, Gregory				20/192934
29 Oct 2020						
Consultation proposed to be November 2020 with report to Council early in the new year.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/07/2020	Stewart, Adam	Tomaree Headland	31/12/2020	15/07/2020	
2 139		Kable, Gregory				20/192934
29 Oct 2020						
Preliminary work involves consultation with land owners and agencies. Report will be provided.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/08/2020	Burton , Paul	King Park Sports Complex Masterplan	31/12/2020	26/08/2020	
7 157		Kable, Gregory				20/265439
29 Oct 2020						
Public Exhibition ended on 24 September 2020. Submissions will be collated and a report will be prepared for Council in November 2020.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES GROUP REPORT.



Outstanding	Division: Facilities & Services	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets Report	Printed: Monday, 2 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/10/2020	Gutsche, Tammy	Policy Review: Waste Management and Resource Recovery	30/11/2020	14/10/2020	
5 209		Kable, Gregory				20/304775
29 Oct 2020						
Policy is currently out on public exhibition until 10 November 2020.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/10/2020	Maretich, John	Policy Review: Information & Direction Signs in Road Reserves	30/11/2020	14/10/2020	
6 210		Kable, Gregory				20/304775
29 Oct 2020						
Policy is currently out on public exhibition until 10 November 2020.						

ITEM 1 - ATTACHMENT 4 GENERAL MANAGER'S OFFICE REPORT.



Outstanding	Division: General Manager's Office	Date From: 26/09/2017
	Committee:	Date To: 27/10/2020
	Officer:	
Action Sheets Report	Printed: Monday, 2 November 2020	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 25/08/2020	Wickham, Tony	POLICY REVIEW: ACCESS TO INFORMATION	10/11/2020	26/08/2020	
11 163		Wallis, Wayne				20/265439
2 Oct 2020 Revised Target Date changed From: 28 Sep 2020 To: 10 Nov 2020 Reason: The public exhibition period for this policy closed on 28 September 2020. 1 submission was received which will be reported back to Council on 10 November 2020.						

NOTICES OF MOTION

NOTICE OF MOTION**ITEM NO. 1****FILE NO: 20/307943****EDRMS NO: PSC2017-00019****DINGHY POLICY AMENDMENT****COUNCILLOR: JOHN NELL**

THAT COUNCIL:

- 1) Considers amending the Foreshore Dinghy Storage Policy to allow kayaks to be registered and stored on Council managed foreshore reserves.
-

BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER**BACKGROUND**

The purpose of this report is to provide context of what vessels are allowed under the current Foreshore Dinghy Storage Policy.

The objective of the current Council adopted policy is to allow boat owners to store their dinghies on the foreshore as a way to access their moored vessels. The policy was initiated due to the high number of dinghies and other water vessels being stored on foreshore reserves. The high volume of vessels being stored was limiting the ability for the residents of Port Stephens and visitors to access and enjoy the beaches and waterways.

At the time of adopting the current policy, it was decided that vessels, other than a dinghy, would not be allowed. Limiting the types of vessels would reduce clutter on the foreshore. Other vessels included kayaks, canoes, stand-up paddleboards and catamarans.

To include kayaks would require a review of the existing policy.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within existing staff resources.
Reserve Funds	No		

ORDINARY COUNCIL - 10 NOVEMBER 2020

Source of Funds	Yes/No	Funding (\$)	Comment
Developer Contributions (S7.11)	No		
External Grants	No		
Other	No		

ATTACHMENTS

Nil.