

# NOTICE OF ORDINARY MEETING

## 11 OCTOBER 2022



**PORT STEPHENS**  
C O U N C I L

The Mayor and Councillors attendance is respectfully requested:

Mayor: R Palmer (Chair).

Councillors: L Anderson, G Arnott, M Bailey, C Doohan, G Dunkley, P Francis, P Kafer, S Tucker, J Wells.

### 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) Acknowledgement of Country - We acknowledge the Worimi people as the original Custodians and inhabitants of Port Stephens. We acknowledge and pay respects to Worimi elders past and present. May we walk the road to tomorrow with mutual respect and admiration as we care for the beautiful land and waterways together.
- 3) Prayer - We recognise the rich cultural and religious diversity in Port Stephens and pay respect to the beliefs of all members of our community, regardless of creed or faith.
- 4) Apologies and applications for a leave of absence by Councillors.
- 5) Disclosures of interests.
- 6) Confirmation of minutes Ordinary Meeting of 27 September 2022.
- 7) Mayoral minute(s) – if submitted.
- 8) Motions to close meeting to the public - if submitted.
- 9) Reports to Council.
- 10) General Manager's reports – if submitted.
- 11) Questions with Notice – if submitted.
- 12) Questions on Notice.
- 13) Notices of Motion – if submitted.
- 14) Rescission Motions – if submitted.
- 15) Confidential matters – if submitted.
- 16) 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:
- d. performance management and reporting,
- e. asset maintenance and enhancement,
- f. funding decisions,
- g. risk management practices.
- h. 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 (4 years), Annual Operational Plan and a Resource Strategy, it also includes the Council's budget.

The Community Strategic Plan is organised into 4 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 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 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 5 minutes to address Council with no more than 2 for and 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 - 11 OCTOBER 2022**

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 <sup>1</sup>	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) <sup>2</sup> [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]	

<sup>1</sup> 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.

<sup>2</sup> 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"/>	<b>pecuniary</b> conflict of interest
<input type="checkbox"/>	<b>significant</b> non pecuniary conflict of interest
<input type="checkbox"/>	<b>less than significant</b> non- pecuniary conflict of interest

in this item. The nature of the interest is \_\_\_\_\_

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**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.)**

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**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: 22/76610  
EDRMS NO: PSC2009-02488

**POLICY REVIEW: PROPERTY INVESTMENT AND DEVELOPMENT POLICY**

REPORT OF: ZOE PATTISON - ACTING GROUP MANAGER CORPORATE  
SERVICES  
GROUP: CORPORATE SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Property Investment and Development Policy **(ATTACHMENT 1)**.
- 2) Place the revised Property Investment and Development Policy on public exhibition for a period of 28 days and should no submissions be received, adopt the revised policy without a further report to Council.
- 3) Revoke the Property Investment and Development Policy dated 13 February 2018, Minute Number 013.

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**BACKGROUND**

The purpose of this report is to seek Council's endorsement of the revised Property Investment and Development Policy (the policy) **(ATTACHMENT 1)**.

The policy has been revised to compliment the newly implemented Property Investment Strategy, and to ensure a clear and transparent framework for the leasing, development and biobanking of Council's operational land holdings is maintained.

Council owns a substantial commercial investment portfolio as well as a bank of lands identified as potential development sites. The policy seeks to ensure the portfolio continues to be managed in an effective and efficient manner, and that all property related activities fulfil legislative requirements and meet Council's financial goals and strategic objectives.

Please note that due to a substantial re-write of the policy to reflect current practices and to accord with the implementation of the Property Investment Strategy the revised policy as shown at **(ATTACHMENT 1)** is replacing the existing policy **(ATTACHMENT 2)** and does not contain any yellow highlighting or strikethroughs.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Financial Management	Manage the property portfolio in accordance with the Property Investment Strategy.

**FINANCIAL/RESOURCE IMPLICATIONS**

A robust policy and framework will ensure probity and transparency in all land dealings, that maximum returns are achieved from the commercial investment portfolio and land bank, and that there is continued contribution to Council's ongoing financial sustainability.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The revised policy will assist in managing risks associated with property transactions by providing a robust and transparent process for the ongoing management and operation of the property investment and development portfolio.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that inconsistencies in processes or management of the portfolio will lead to diminished returns.	Low	Adopt the recommendations.	Yes
There is a risk that legislative or other processes or guidelines may be overlooked in the management of the portfolio.	Low	Adopt the recommendations.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no social, economic or environmental implications.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Strategic Property team.

### Internal

- Strategic Property Coordinator
- Principal Property Planner
- Financial Services Section Manager

### External

In accordance with local government legislation the revised 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 Property Investment and Development Policy. [↓](#)
- 2) Existing Property Investment and Development Policy. [↓](#)

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM 1 - ATTACHMENT 1      REVISED PROPERTY INVESTMENT AND DEVELOPMENT POLICY.**

## Policy



**FILE NO:** PSC2009-02488

**TITLE:** PROPERTY INVESTMENT AND DEVELOPMENT POLICY

**OWNER:** CORPORATE SERVICES GROUP MANAGER

### 1. PURPOSE:

- 1.1 The purpose of this policy is to provide clear and transparent guidelines for the leasing, development and BioBanking of Council's operational land holdings.
- 1.2 Council will exercise its functions under this policy having consideration for the financial position of Council from time to time and for the needs for the differing revenue requirements of Council at the relevant time. In this regard consideration will be given to the short and long term financial position of Council as detailed in its Long Term Financial Plan.

### 2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens Council (Council) is the owner of a substantial and diverse property portfolio within and outside of the Port Stephens Local Government Area (LGA). Council's property portfolio creates substantial non-rate revenue from the leasing of commercial investment properties and the development and BioBanking of other lands in its ownership.
- 2.2 Council is well placed to have ongoing involvement in property and entrepreneurial activities to generate non-rate revenue to supplement its traditional income base. This has been emphasised in recent years with the continuation of rate pegging, decreased levels of government funding, limitations on borrowing, increased community expectations on Council's services and the COVID-19 pandemic.
- 2.3 This policy is intended to ensure the ongoing effective and efficient management of Council's commercial landholdings and to ensure all property related activities fulfil legislative requirements and community obligations.

### 3. SCOPE:

- 3.1 This policy applies to all Operational Lands held by Council, as well as any Community Lands under a Biodiversity Stewardship Agreement with the Biodiversity Conversation Trust (BCT), or identified as being appropriate for that purpose.

## Policy

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## Policy



### 4. DEFINITIONS:

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

Biodiversity Conservation Trust	A statutory not-for-profit body established under Part 10 of the Biodiversity Conservation Act 2016 to administer conservation agreements with private landholders in New South Wales.
Biodiversity Stewardship Agreement	An in-perpetuity agreement under Part 5 of the Biodiversity Conservation Act 2016 between a landowner and the Biodiversity Conservation Trust.
Community Land	All lands classified as Community under the provisions of the Local Government Act 1993, and shown on the Land Register as being Community Land.
Land Register	The register of lands under Council's care and control that is published on the Council's website from time to time in accordance with section 53 of the Local Government Act 1993.
Operational Land	All lands classified as Operational under the provisions of the Local Government Act 1993, and shown on the Land Register as being Operational Land.

### 5. STATEMENT:

- 5.1 Development of Council's Operational landholdings provides non-rate capital income and leasing of the commercial investment properties provides non-rate operational income. Both streams are used to support Council's services and add significantly to Council's ability to fund its statutory obligations under the Local Government Act 1993 and Roads Act 1993, and to meet community expectations in fulfilling its core functions.

#### 5.2 Development

- 5.2.1 Council's Operational landholdings may be identified as appropriate for development for residential, commercial or industrial purposes. Most development sites will comprise a subdivision of land for sale on the open market but at times, construction of a dwelling or other commercial or industrial facility may be deemed appropriate due to market demand or financial feasibility.

## Policy

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# ITEM 1 - ATTACHMENT 1 REVISED PROPERTY INVESTMENT AND DEVELOPMENT POLICY.

## Policy



- 5.2.2 The Property Investment Strategy (PIS) establishes a framework for the assessment of landholdings to determine which sites should be developed and for what purpose, how development of those sites should be prioritised, and how Council should be identifying and assessing sites to be acquired for future development purposes.
- 5.2.3 All development proposals are assessed in accordance with the PIS.
- 5.2.4 Formal Council approval will not be required to progress a site to planning phase, but will be obtained throughout the development assessment and land sale processes.
- 5.3 Commercial Leasing
  - 5.3.1 Sites acquired for commercial investment purposes are leased on the open market at current market value. Leases may be issued for commercial, retail or other purposes and will be issued at Council's sole discretion. Tenants who do not meet the good and complying criteria as set out in the Guideline for Commercial Leasing and Licensing may not be offered an initial lease, or if a current tenant will not be offered any subsequent leases.
  - 5.3.2 Lease terms will be determined at Council's sole discretion, having regard to legislative requirements, the use of the premises and capital investment required by the tenant.
  - 5.3.3 The commercial investment portfolio undergoes annual review in accordance with the PIS and divestment of an investment property may be recommended as part of that review. Any potential divestment is subject to a formal resolution of Council.
- 5.4 BioBanking
  - 5.4.1 Council acknowledges and supports the intent of the Biodiversity Conservation Act 2016 and may seek to establish a biodiversity stewardship site through the Biodiversity Conservation Trust (BCT) on lands with high environmental value. The stewardship arrangement will ensure the land's environmental value is conserved in perpetuity while generating biodiversity credits that can be sold to other developers or landholders to offset activities they are conducting on their lands, or to support Council's development activities.
  - 5.4.2 The sale of credits will provide an additional ad hoc revenue stream to Council from an otherwise undevelopable site. Credit sales will be at Council's sole discretion with price per credit determined by reference to previous sales of the same or similar credit types, and subject to a formal resolution of Council.

## Policy

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# ITEM 1 - ATTACHMENT 1 REVISED PROPERTY INVESTMENT AND DEVELOPMENT POLICY.



## Policy

### 5.5 Proceeds

5.5.1 Traditionally proceeds of property development projects and divestments have been held in the Property Restricted Reserve and called upon on an as needs basis. To ensure non-rate revenue is maintained proceeds will be reinvested by either funding further development projects or investing in an additional income generating assets.

5.5.2 To ensure probity and transparency in the future management of non-rate revenue generated by Council's commercial investment activities a Resilience Fund has been established. The Resilience Fund will work alongside and complement the Property Restricted Reserve with proceeds of property development projects and divestments dispersed strictly as follows:

- a) Project expenditure, including wages where appropriate, will be recouped and allocated to the Property Restricted Reserve.
- b) Capital required to fund future property development projects will be held in the Property Restricted Reserve until such time as they are called upon by Strategic Property to fund the project. Capital expenses will be costed and projected annually in consultation with the Financial Services Section Manager based on a 5-year rolling program, and will be held strictly in the Reserve to ensure funding is available when required.
- c) Net proceeds of development projects (after deduction of expenses and funds described above) will be held in the Resilience Fund.
- d) Net proceeds of sale will be held in the Restricted Property Reserve pending approval to reinvest in another income generating asset.

### 6. **RESPONSIBILITIES:**

- 6.1 The Strategic Property Coordinator is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on this policy.
- 6.2 Primarily, responsibility for complying with this policy rests with the Principal Development Planner and Property Manager.

### 7. **RELATED DOCUMENTS:**

- 7.1 Property Investment Strategy.
- 7.2 Guideline for Commercial Leasing and Licensing.
- 7.3 Guideline for Sale of Land.
- 7.4 Local Government Act 1993.
- 7.5 Retail Leases Act 1994.
- 7.6 Biodiversity Conservation Act 2016.
- 7.7 Real Property Act 1900.
- 7.8 Environmental Planning and Assessment Act 1979.
- 7.9 Regulations under each of the above Acts.

## Policy

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# ITEM 1 - ATTACHMENT 1 REVISED PROPERTY INVESTMENT AND DEVELOPMENT POLICY.

## Policy



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<b>EDRMS container No.</b>	PSC2009-02488	<b>EDRMS record No.</b>	TBA
<b>Audience</b>	Staff		
<b>Process owner</b>	Corporate Services Group Manager		
<b>Author</b>	Strategic Property Coordinator		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	TBA
<b>Adoption date</b>	13 February 2018		

### VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	13 February 2018	Property Services Section Manager	New policy created to supersede the Property Investment Policy. The new policy includes content from the previous Property Investment Policy and reflects current practices. Guidelines have been developed. Adopted by Council.	013
2	TBA	Strategic Property Coordinator	Substantial re-write of the policy to reflect current practices and to accord with the implementation of the Property Investment Strategy and the inclusion of BioBanking which necessitates replacing the existing policy dated February 2018.  Guidelines have been developed for commercial leasing and BioBanking.	TBA

## Policy

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**ITEM 1 - ATTACHMENT 2      EXISTING PROPERTY INVESTMENT AND  
DEVELOPMENT POLICY.****Policy****FILE NO:                      A2004-0853****TITLE:                        PROPERTY INVESTMENT & DEVELOPMENT POLICY****POLICY OWNER:            PROPERTY SERVICES SECTION MANAGER****PURPOSE:**

The objectives of this policy are to:

- 1) Invest in and maintain a strong property portfolio as a strategy for providing capital growth and a recurrent income source;
- 2) Acquire and maintain an optimum balance of short, medium and long term property investments ensuring achievable growth and the financial capacity to further invest and develop;
- 3) Facilitate the effective management of Council's property assets so as to complement the existing financial investment policy in providing an alternate income source;
- 4) Establish the principles of equity and transparency in Council's commercial property related activities;
- 5) Ensure that all Council's commercial property related activities occur within legislative frameworks.

**CONTEXT/BACKGROUND:**

This policy provides guidelines for consideration in the acquisition, development and disposal of investment properties. Investment properties can be cited as those properties that provide a financial return and/or provide for future income/profit generation.

The principles of this policy provide a basis to ensure optimum financial return is achieved via appropriate identification, selection and management of Council's investment portfolio, including acquisition, development and disposal of investment properties. The principles also support the basis for recommendation upon which Council may determine to pursue acquisition, development or disposal of its investment properties.

This policy pertains only to land classified by Section 31 of the Local Government Act 1993 as 'operational'. Non-operational properties are addressed separately in Council's Acquisition & Divestment of Land Policy.

The following table provides an indicative process for the acquisition or disposal of a property under the policy:

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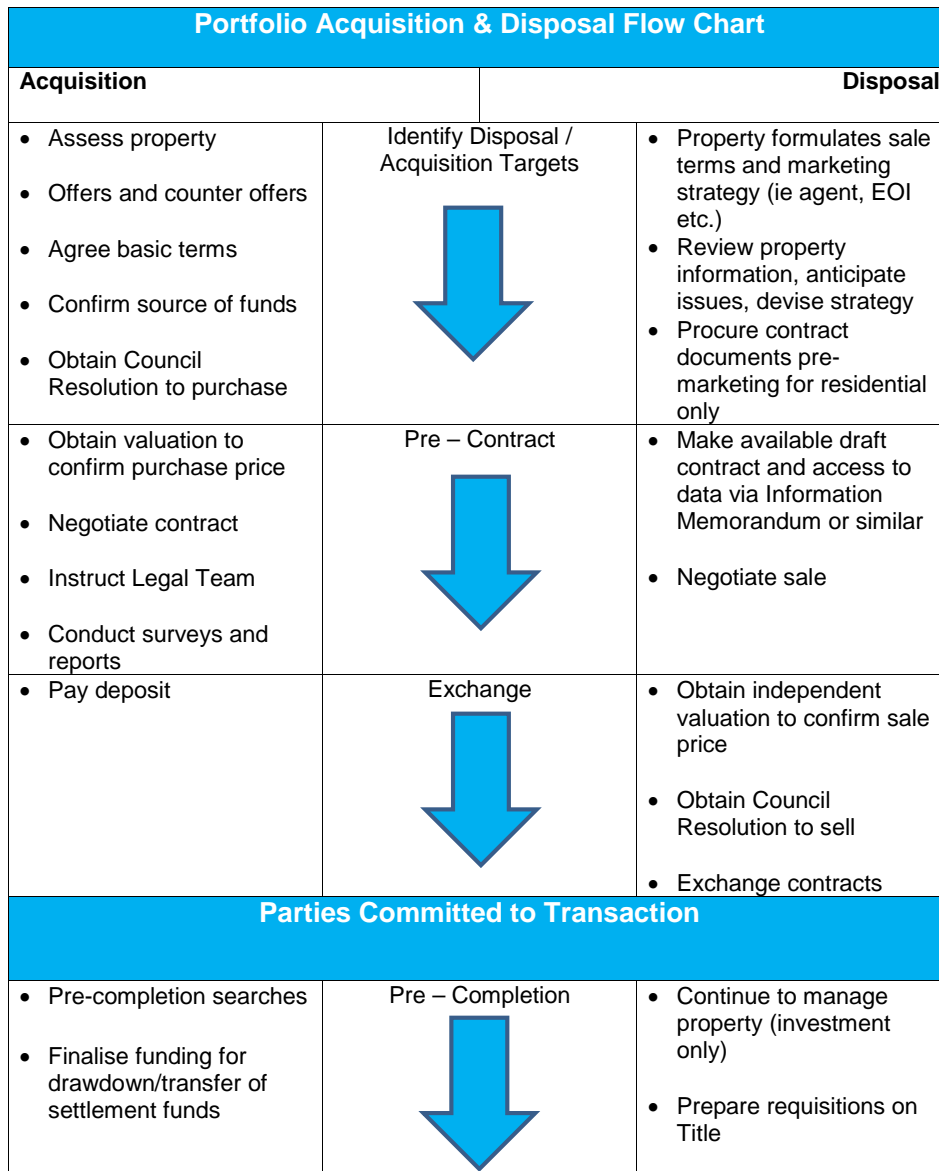
The logo for Port Stephens Council, featuring a stylized graphic of three overlapping semi-circles in yellow, blue, and green, followed by the text "PORT STEPHENS COUNCIL" in a sans-serif font.

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DEVELOPMENT POLICY.

## EXISTING PROPERTY INVESTMENT AND

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ITEM 1 - ATTACHMENT 2  
DEVELOPMENT POLICY.

## EXISTING PROPERTY INVESTMENT AND

## Policy



<ul style="list-style-type: none"> <li>• Pay settlement funds</li> <li>• Assume liability for Property</li> </ul>	<p>Completion</p>	<ul style="list-style-type: none"> <li>• Discharge borrowing liability (if applicable)</li> <li>• Produce original Title</li> </ul>
<ul style="list-style-type: none"> <li>• LPI Title registration</li> <li>• Disseminate property information</li> <li>• Portfolio management</li> </ul>	<p>Post – Completion</p>	<ul style="list-style-type: none"> <li>• Bank sale proceeds</li> </ul>

Council's investment property portfolio has, over the years, helped to achieve Council's sound financial position, a position that can be enhanced by realising further property investment and development opportunities.

The bulk of revenue derived to finance Council activities comes from:

- Annual property rates;
- User fees and charges;
- Other fees and charges (DA fees, inspection and licence fees etc.);
- Borrowings;
- Government grant monies;
- Interest on financial investments.

Ancillary, but of no less importance to the foregoing, are the income streams derived from:

- Property development and sale;
- Property development and lease;
- Rents derived from commercial properties.

Council must provide effective and efficient management of property related activities to fulfil legislative and community obligations.

Council is well placed to have greater involvement in property and entrepreneurial activities to supplement its traditional income base. This has been emphasised in recent years with the continuation of rate pegging, decreased levels of government funding,

## Policy

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**ITEM 1 - ATTACHMENT 2  
DEVELOPMENT POLICY.****EXISTING PROPERTY INVESTMENT AND**

## Policy



limitations on borrowing and increased community expectations on Council's roles and responsibilities.

**SCOPE:**

This policy applies to:

- Councillors;
- Council employees;
- Council owned businesses.

**DEFINITIONS:**

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

Investment property	This is defined as real estate held, developed or purchased by Council that is discretionary in nature and held by Council to generate current or future income streams, either through rental (offices, shops etc.) or development and sale (building lots or improved properties).
---------------------	--

**POLICY STATEMENT:****1) Principles**

- To ensure optimum financial return is realised through appropriate identification, selection and management of Council's investment portfolio including development, acquisition and disposal of assets.
- To utilise effective property management techniques and investment practices in the management of Council's assets to ensure maximum long term advantage.
- To satisfy the property investment needs of Council that assist in meeting the requirements and corporate objectives outlined within the existing financial investment policy.

**2) Policy Statement**

The overall mix and nature of investment properties will provide a balanced source of income that complement existing finances.

All future investment and development activities will provide a return on investment greater than achievable cash rates at any given time. If a decision is made to accept a return less than achievable cash rates, then the reasons for that decision must be outlined in the resolution relating to that investment and development activity.

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# ITEM 1 - ATTACHMENT 2 EXISTING PROPERTY INVESTMENT AND DEVELOPMENT POLICY.

## Policy



In respect to investment return decisions, Council will apply the following matrix in determining the appropriateness of investment and development activities:-

### Risk Determination Matrix

Level of Risk	Benchmark Above 90 Day Bank Bill Swap Rate (BBSW)
Low	< 2%
Medium	2% to 5%
High	5% to 10%
Speculative	> 10%

In determining the level of risk Council is to consider the following as a minimum:

- Council experience in the proposed type of development.
- Nature of tenancies.
- Funding sources.
- Term asset is to be held.

Council will systematically assess and review the performance of its investment portfolio and use the information derived to determine when and how to preserve or increase each property's value and usefulness, or otherwise dispose of individual properties.

Decisions in this regard will be based on analysis of cost information for individual properties and will reflect the viability of Council's commitment of financial resources to specific projects. Priority will be given to projects with a positive effect on investment returns without imposing on short term cash availability.

All property investment activities will be undertaken in accordance with Council's operational plan and will reflect Council's ongoing commitment to financial sustainability.

## Policy

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DEVELOPMENT POLICY.

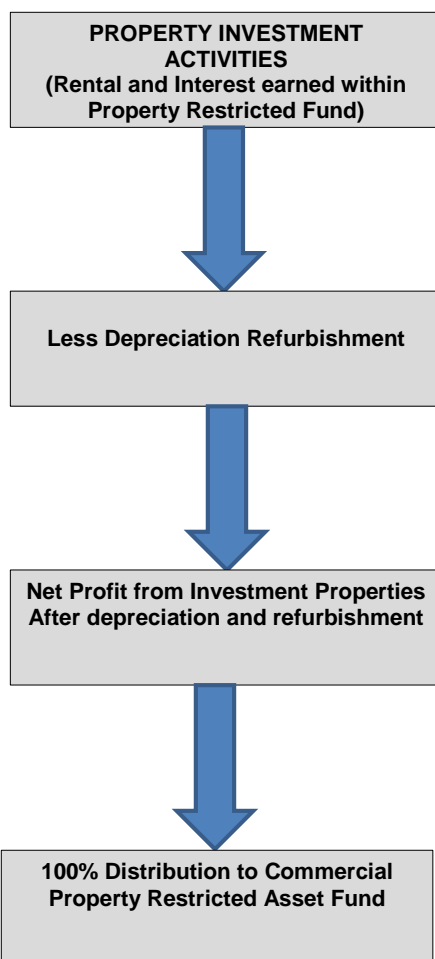
## EXISTING PROPERTY INVESTMENT AND

## Policy

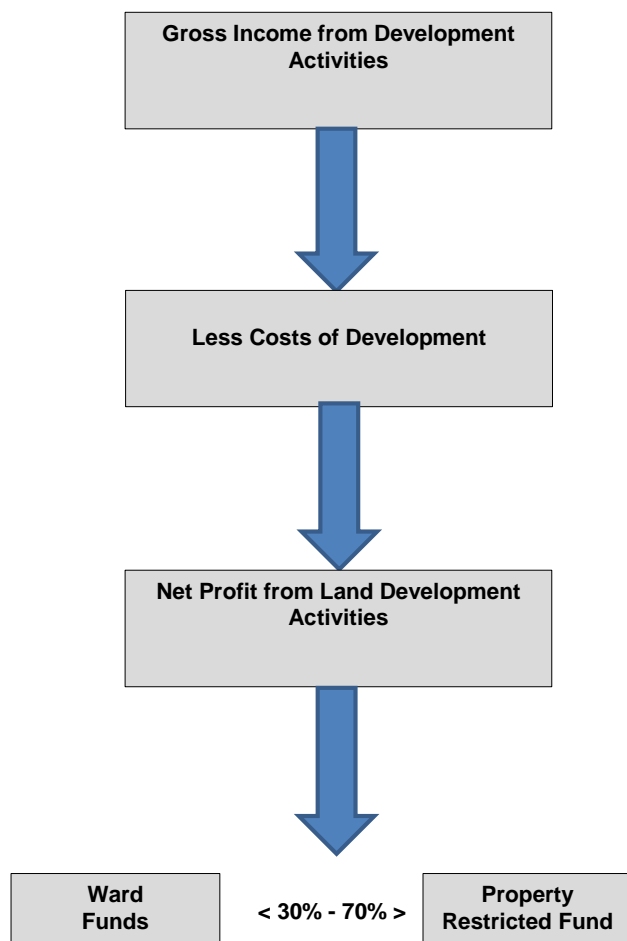


The distribution of funds received from Council's investment portfolio is to be carried out in accordance with the following:

## INVESTMENT PROPERTY



## DEVELOPMENT PROPERTY



## Policy

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**ITEM 1 - ATTACHMENT 2 EXISTING PROPERTY INVESTMENT AND DEVELOPMENT POLICY.**

## Policy



### 1) Sustainability Implications

#### Social

- Increased employment opportunities via the development and sale of commercial and industrial land.
- Improved social amenity.
- Community facilities.
- Enhancement of open space including environmental protection areas.

#### Economic

- The efficient management of the acquisition, development and disposal of investment and properties will provide an ongoing income stream which reduces the call on rate revenue and provides funds for further investment.
- Public land must be managed so as to maximise its usefulness (eg development potential) whilst at the same time minimising costs (eg maintenance).
- Council's property activities can be seen as an agent to promote economic growth.

#### Environmental

- The impact on the environment will be assessed as part of any property development decision.

### 2) Political Implications

- Council has two separate and distinct roles in its property activities, one as developer; the other as consent authority. Particular care must be exercised to ensure the two roles are clearly separated.
- The desire of Council to generate alternative forms of income stemming from increasing demands on the budget by the community and increasing financial constraints imposed by government must be balanced with Council's other obligations.
- In asset managing both public land and funds in its property role, Council is likely to be subject to increased public scrutiny.
- Change in political focus and direction can influence past and present decision making.

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# ITEM 1 - ATTACHMENT 2 EXISTING PROPERTY INVESTMENT AND DEVELOPMENT POLICY.

## Policy



### POLICY RESPONSIBILITIES:

- 1) Property Services Section Manager.
- 2) Land Acquisition & Development Manager.
- 3) Investment & Asset Manager.

### RELATED DOCUMENTS:

Council's property related activities will be managed within the legislative parameters provided by (ie including, but not necessarily limited to):

- 1) Local Government Act.
- 2) Minister for Local Government's Investment Order.
- 3) Valuation of Land Act.
- 4) Residential Tenancies Act.
- 5) Retail Leases Act.
- 6) Real Property Act.
- 7) Environmental Planning and Assessment Act.
- 8) Crown Lands Act.

### Related Council Policies

- 1) Property Reserves Policy.
- 2) Investment Policy.
- 3) Property Investment & Development Guidelines.

### CONTROLLED DOCUMENT INFORMATION:

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<b>RM8 container No</b>	A2004-0853	<b>RM8 record No</b>	17/123768
<b>Audience</b>	Staff		
<b>Process owner</b>	Property Services Section Manager		
<b>Author</b>	Property Services Section Manager		

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# ITEM 1 - ATTACHMENT 2 EXISTING PROPERTY INVESTMENT AND DEVELOPMENT POLICY.

## Policy



<b>Review timeframe</b>	Two years	<b>Next review date</b>	13/02/2020
<b>Adoption date</b>	13/02/2018		

### VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	13/02/2018	Property Services Section Manager	<p>New policy created to supersede the Property Investment Policy.</p> <p>The new policy includes content from the previous Property Investment Policy and reflects current practices.</p> <p>Guidelines have been developed.</p> <p>Adopted by Council.</p>	013

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**ITEM NO. 2**

**FILE NO: 22/76627  
EDRMS NO: PSC2009-02488**

**POLICY REVIEW: ACQUISITION AND DIVESTMENT OF LAND**

REPORT OF: ZOE PATTISON - ACTING GROUP MANAGER CORPORATE  
SERVICES  
GROUP: CORPORATE SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the revised Acquisition and Divestment of Land Policy (**ATTACHMENT 1**).
- 2) Place the revised Acquisition and Divestment of Land Policy on public exhibition for a period of 28 days and should no submissions be received, adopt the revised policy without a further report to Council.
- 3) Revoke the Acquisition and Divestment of Land Policy dated 10 April 2018, Minute Number 079.

---

**BACKGROUND**

The purpose of this report is to seek Council's endorsement of the revised Acquisition and Divestment of Land Policy (the policy) (**ATTACHMENT 1**).

Acquisition and divestment activities are undertaken on a regular basis by Council as a means of generating non-rate revenue and achieving operational objectives and other strategic goals. The policy is required to ensure that those activities are conducted in an ethical and transparent manner, and are reinforced by consideration of probity, due diligence and analysis of risk.

The revised policy provides criteria to be considered before acquisition or divestment activities commence, and defines the process and procedures to be followed for acquisitions and divestments of land by Council.

Please note that due to a substantial re-write of the policy to reflect current practices and to accord with the implementation of the Property Investment Strategy the revised policy as shown at (**ATTACHMENT 1**) is replacing the existing policy (**ATTACHMENT 2**) and does not contain any yellow highlighting or strikethroughs.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Financial Management	Manage the property portfolio in accordance with the Property Investment Strategy.

**FINANCIAL/RESOURCE IMPLICATIONS**

Acquisition and divestment activities generate non-rate revenue for Council that is used to support its operational needs. The revised policy seeks to ensure non-rate revenue is maximised and current market value is achieved from all acquisition and divestment activities.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The acquisition and divestment of land by councils is governed by the Real Property, Conveyancing and Local Government Acts. The revised policy seeks to ensure legislative compliance and that all transactions are underpinned by considerations of probity and transparency.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that legislative provisions or guidelines are not followed.	Low	Adopt the recommendations.	Yes
There is a risk that returns are not maximised or current market value is not achieved.	Low	Adopt the recommendations.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no sustainability implications.

## **CONSULTATION**

Consultation with key stakeholders has been undertaken by the Strategic Property team.

### Internal

- Strategic Property Coordinator
- Principal Property Planner
- Property Manager
- Senior Property Officer
- Financial Services Section Manager

### External

In accordance with local government legislation the revised 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 Acquisition and Divestment of Land Policy. [↓](#)
- 2) Existing Acquisition and Divestment of Land Policy. [↓](#)

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM 2 - ATTACHMENT 1      REVISED ACQUISITION AND DIVESTMENT OF LAND POLICY.**

## Policy



**FILE NO:** PSC2009-02488

**TITLE:** ACQUISITION AND DIVESTMENT OF LAND POLICY

**OWNER:** CORPORATE SERVICES GROUP MANAGER

**1. PURPOSE:**

- 1.1 The acquisition and divestment of land is undertaken by Council to provide non-rate revenue to support Council's services.
- 1.2 The purpose of this policy is to ensure those transactions are undertaken in a transparent manner underpinned by consideration of probity, due diligence, analysis of risk and other key objectives.
- 1.3 Council will exercise its functions under this policy having consideration for the financial position of Council from time to time and for the needs for the differing revenue requirements of Council at the relevant time. In this regard consideration will be given to the short and long term financial position of Council as detailed in its Long Term Financial Plan.

**2. CONTEXT/BACKGROUND:**

- 2.1 Acquisition and divestment of land is crucial to the strategic provision of open space, attaining operational and community benefits, achieving planning outcomes, generating non-rate revenue to support Council's operational needs and achieving the intent and objectives of Council's adopted strategic plans.
- 2.2 Council may acquire lands for community, strategic or investment purposes either by agreement with the landowner or where agreement cannot be reached, by compulsory acquisition under the Land Acquisition (Just Terms Compensation) Act 1991.
- 2.3 The Property Investment Strategy (PIS) outlines a strategic agenda for the efficient and effective management of Council's landholdings and establishes a framework for assessing acquisition, development and divestment opportunities. It requires annual review of the commercial investment portfolio to be undertaken to identify risks such as ageing or underperforming assets. Assets may be considered for divestment where recommended by that review, where industry trends indicate a decline in a particular asset class, or where otherwise supported by the PIS.
- 2.4 All acquisitions and divestments are subject to a formal resolution of Council authorising the transaction.

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## ITEM 2 - ATTACHMENT 1 REVISED ACQUISITION AND DIVESTMENT OF LAND POLICY.

### Policy



#### 2.5 Proceeds

2.5.1 Traditionally proceeds of property development projects and divestments have been held in the Property Restricted Reserve and called upon on an as needs basis. To ensure non-rate revenue is maintained proceeds will be reinvested by either funding further development projects or investing in additional income generating assets.

2.5.2 To ensure probity and transparency in the future management of non-rate revenue generated by Council's commercial investment activities a Resilience Fund has been established. The Resilience Fund will work alongside and complement the Property Restricted Reserve with proceeds of property development projects and divestments dispersed strictly as follows:

- a) Project expenditure, including wages where appropriate, will be recouped and allocated to the Property Restricted Reserve.
- b) Capital required to fund future property development projects will be held in the Property Restricted Reserve until such time as they are called upon by Strategic Property to fund the project. Capital expenses will be costed and projected annually in consultation with the Financial Services Section Manager based on a 5-year rolling program, and will be held strictly in the Reserve to ensure funding is available when required.
- c) Net proceeds of development projects (after deduction of expenses and funds described above) will be held in the Resilience Fund.
- d) Net proceeds of sale will be held in the Restricted Property Reserve pending approval to reinvest in another income generating asset.

#### 3. **SCOPE:**

3.1 This policy applies to all acquisitions of land whether by agreement with the owner or by compulsory acquisition, but only to the divestment of land classified as Operational under the Local Government Act 1993.

3.2 This policy acknowledges the principles set out in Chapter 3 of the Local Government Act 1993 and Circular 19-16 from the Office of Local Government dated 6 August 2019 relating to compulsory acquisitions.

#### 4. **DEFINITIONS:**

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

Community Land

All lands classified as Community under the provisions of the Local Government Act 1993, and shown on the Land Register as being Community Land.

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## Policy



Direct negotiations	Exclusive dealings between Council and a landowner without undergoing a publicly competitive process.
Land Register	The register of lands under Council's care and control that is published on the Council's website from time to time in accordance with section 53 of the Local Government Act 1993.
Low value land	Land that is valued at less than \$100,000 or 200% of the total cost of conducting a public offering.
Off market	Where a property is not listed for sale on the open market or subject to any other publicly marketing campaign.
Operational Land	All lands classified as Operational under the provisions of the Local Government Act 1993, and shown on the Land Register as being Operational Land.
Surplus land	Land that has been identified by Council as no longer required for the use it has been held for.

### 5. STATEMENT:

#### 5.1 Acquisitions

5.1.1 Council will always seek to acquire land by agreement, either through negotiation with a listing agent where the property is listed on the open market or by direct negotiation with the landowner if the property is off market.

5.1.2 Council will engage an independent registered valuer to determine the current market value of the land for all acquisitions (excluding compulsory acquisitions). The purchase price is to be benchmarked to the independent valuation unless the size of the land or the agreed value is negligible.

#### 5.1.3 Premium

- a) In some cases there will be a justified basis for Council acquiring land at a price above the valuation in order to secure the land to achieve defined goals and objectives, or to acquire the land with a view to adding value to a larger scheme or development, or reducing risk.
- b) It is acknowledged that to achieve strategic goals there are sometimes overwhelming reasons to consider an acquisition outside of valuation range. Council can make a commercial decision to pay in excess of the valuation range due to the importance of the acquisition for the public purpose and any such decision must be made by the elected Council.

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**ITEM 2 - ATTACHMENT 1      REVISED ACQUISITION AND DIVESTMENT OF LAND POLICY.**

## Policy



5.1.4 Prior to finalisation of an acquisition, Council shall determine the classification of the land as either Operational or Community land.

### 5.2 Compulsory Acquisition

5.2.1 Where Council has negotiated with a landowner for a minimum period of six (6) months and agreement has not been reached, Council may resolve to acquire the land compulsorily under the Land Acquisition (Just Terms Compensation) Act 1991 (LAJTC Act).

5.2.2 Where compulsory acquisition is pursued compensation will be assessed by the Valuer General in accordance with the Part 3 of the LAJTC Act, unless the parties otherwise agree in writing to the amount of compensation to be paid.

5.2.3 Council will not be required to consider an offer of compensation if it is not based on valuation evidence but may, in its absolute discretion, agree to an offer if it is considered in the wider Council or public interest.

### 5.3 Divestment

5.3.1 Council may divest of land where it is supported by the PIS, or has been declared surplus to needs, or has been identified as a high risk or underperforming asset.

5.3.2 Any divestment will be subject to the criteria set out in the Guideline for Sale of Land, the PIS and a formal resolution of Council.

5.3.3 Council may refuse any application or request to purchase Council owned land where it has not been publicly advertised, conclusively determined that it is surplus to needs, or for any other reason Council deems appropriate in its sole discretion.

5.3.4 Any divestment must be benchmarked to an independent valuation unless the cost of obtaining a valuation will exceed the potential sale price. Where obtaining a valuation is cost prohibitive, the divestment may be benchmarked to a market appraisal by a licensed real estate agent.

5.3.5 Two valuations may be required where the value of the land exceeds \$5,000,000 and/or the property has not been publicly marketed for sale.

### 5.4 Easements

5.4.1 Council may agree, in its absolute discretion, to the creation of an easement over its Operational land holdings, or Community land if authorised by a Plan of Management.

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**ITEM 2 - ATTACHMENT 1      REVISED ACQUISITION AND DIVESTMENT OF LAND POLICY.**

## Policy



- 5.4.2 Any creation will be subject to the same criteria as set out in the Guideline for Sale of Land, with compensation payable at market value and a formal resolution of Council required to authorise the transaction.
- 5.4.3 Council may refuse any application or request for an easement over Council owned land where it has not been publicly advertised, conclusively determined that the land is surplus to needs, or for any other reason Council deems appropriate in its sole discretion.
- 5.5 Closed Roads
- 5.5.1 Where a person has made application to close and purchase a Council public road, on completion of the road closure process the land may be sold to the applicant by direct negotiation.
- 5.5.2 The closed road will be sold at market value as determined by an independent registered valuer appointed by the Council, and subject to a formal resolution of Council. All costs incurred by Council in transacting the closure and sale will be borne by the applicant.
- 5.5.3 Receipt or acceptance of an application to close and purchase a road does not guarantee the application will be immediately processed, or that the road will ultimately be closed or sold.
- 5.5.4 Council will prioritise processing of applications subject to the availability of resources and volume of projects at hand, and completion of the transaction will be subject to formal assessment by Council staff, concurrence of adjoining owners and all notifiable authorities, agreement on price and a formal resolution of Council.
- 5.5.5 Council may, in its absolute discretion, refuse to process an application if it has not been conclusively determined that the road is surplus to future needs, or if construction cannot be evidenced.
- 5.6 Authority
- 5.6.1 Section 377(1)(h) of the Local Government Act 1993 provides that the decision authorising land transactions cannot be delegated. A specific resolution of Council is required.
- 5.6.2 The General Manager and/or their delegate may enter into non-binding indicative offers in the form of:
- a) letter; or
  - b) Heads of Agreement; or
  - c) Memorandum of Understanding.

### Policy

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ITEM 2 - ATTACHMENT 1      REVISED ACQUISITION AND DIVESTMENT OF  
LAND POLICY.

## Policy



5.6.3 Provided that the document clearly states that the offer is not legally binding and is subject to:

- a) Adoption of a final Council resolution authorising the transaction; and
- b) Legally binding agreements on terms acceptable to both parties being entered into.

### 6. RESPONSIBILITIES:

- 6.1 The Strategic Property Coordinator is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on this policy.
- 6.2 Primarily, responsibility for complying with this policy rests with the Principal Property Planner and Senior Property Officer.

### 7. RELATED DOCUMENTS:

- 7.1 Property Investment Strategy.
- 7.2 Guideline for Sale of Land.
- 7.3 Office of Local Government Circular 19-16 dated 6 August 2019.
- 7.4 Local Government Act 1993.
- 7.5 Roads Act 1900.
- 7.6 Land Acquisition (Just Terms Compensation) Act 1991.
- 7.7 Regulations under each of the above Acts.

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## ITEM 2 - ATTACHMENT 1 REVISED ACQUISITION AND DIVESTMENT OF LAND POLICY.

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<b>EDRMS container No.</b>	PSC2009-02488	<b>EDRMS record No.</b>	TBA
<b>Audience</b>	Staff		
<b>Process owner</b>	Corporate Services Group Manager		
<b>Author</b>	Strategic Property Coordinator		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	TBA
<b>Adoption date</b>	29 May 2012		

## VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	29 May 2012	Property Services Section Manager	Original Policy	110
2	14 April 2015	Land Acquisition and Development Manager	Changes to position titles and dates	079
3	23 February 2016	Land Acquisition and Development Manager	Policy has been formatted into new template. No changes required to policy – only review date.	034

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Version	Date	Author	Details	Minute No.
4	10 April 2018	Land Acquisition and Development Manager	2.2 - Background updated to reflect current legislation by removing reference to the Council Charter. 6.9.6 - Policy amended to set out process for nonbinding offers to sell being documented prior to a formal resolution being secured. 6.10 - Policy amended to specify marketing of divestment lands in certain circumstances.	079
5	TBA	Strategic Property Coordinator	Substantial re-write of the policy to reflect current practices and to accord with the implementation of the Property Investment Strategy which necessitates replacing the existing policy dated April 2018.  Guidelines have been developed for the sale of land, closure of roads and creation of easements.	TBA

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**ITEM 2 - ATTACHMENT 2      EXISTING ACQUISITION AND DIVESTMENT OF LAND POLICY.**

## Policy

**FILE NO:                      A2004-0853****TITLE:                        ACQUISITION AND DIVESTMENT OF LAND POLICY****POLICY OWNER:            PROPERTY SERVICES SECTION MANAGER****1. PURPOSE:**

- 1.1 To define the criteria which must be considered prior to the acquisition of land or the divestment of Council owned land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned land.

**2. CONTEXT/BACKGROUND:**

- 2.1 The acquisition and divestment of land by Council requires a formal process that is underpinned by probity, due diligence, analysis of risk and other key objectives. The number of land acquisitions and/or divestments undertaken by Council in any given year, although relatively low, is crucial to the strategic provision of open space, operational and community benefits, achieving planning outcomes and commercial gains from land development.
- 2.2 This policy applies to the acquisition of all land as defined in this policy. It acknowledges the principles set out in Chapter 3 of the *Local Government Act 1993* providing guidance to enable Councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous. It also acknowledges Circular 15-09 from the Office of Local Government dated 25 February 2015 relating to compulsory acquisitions.
- 2.3 This policy applies only to the divestment of Operational Land as defined under the *Local Government Act 1993* but applies to the acquisition of all land either for Community or Operational purposes.

**3. SCOPE:**

- 3.1 To define the criteria which must be considered prior to the acquisition of land or the divestment of Council owned land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned land. The objectives of this policy aim to provide Council with a framework which adopts the following principles:
- Probity
  - Statutory compliance
  - Commercial optimisation, flexibility and confidentiality

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- Transparency of process; and
- Achievement of specific strategic outcomes of Council and the community.

All decisions and actions in relation to the acquisition or divestment of land will have due regard to the following fundamental principles:

- Best value for money - achieving 'best value' may include financial, social and environmental benefits;
- Transparency - processes must be open to scrutiny, provide full information and record the reasons behind decisions;
- Accountability - demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails;
- Impartiality - address perceived or actual conflicts of interests.

#### 4. DEFINITIONS:

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

Act means the *Local Government Act 1993*.

Contract means any form of contract which legally binds the Council [or potentially binds Council] to acquire or dispose of land or any interest therein and includes formal contracts for sale and purchase and other forms of contractual arrangements including heads of agreement, in principle agreement, options to purchase etc.

Land is as defined in section 21 of the *Interpretation Act 1987*.  
As a more specific reference for the purpose of this policy, 'land' is defined as:

Land as a physical entity including:

- any building or structure on or improvement to land; or
- any stratum of land whether below or above ground; or
- a strata lot pursuant to relevant strata subdivision legislation.

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**Programmed acquisition** means when Council requires the affected land and initiates the acquisition process.

**Regulation** means the *Local Government (General) Regulation 2005* and any replacement Regulation.

### 5. POLICY STATEMENT:

5.1 The purpose of this policy is to describe the manner in which Port Stephens Council will undertake the acquisition and divestment of land assets and to provide Council with:

- a documented reference to guide its decision making process;
- a reference that will survive successive Councils;
- an endorsed framework to enable and pursue land acquisition and divestment opportunities of merit and proactively present such opportunities to Council;
- to establish delegations necessary to allow implementation functions to be addressed to meet market drivers;
- to set out the principles, framework, responsibilities and processes for Council and officers to account for and manage the acquisition and divestment of Council land assets;
- to identify, manage and mitigate the risks associated with the acquisition and divestment of land; and
- to ensure impartiality, transparency, accountability and the delivery of best value in the divestment of land ('fundamental principles').

### 6. POLICY RESPONSIBILITIES:

#### 6.1 Land Acquisition Procedure

##### 6.1.1 Fundamental Principles

6.1.2 Council will acquire land for the purpose of carrying out its functions under the Act. Any land to be acquired by Council is subject to a formal resolution of Council.

#### 6.2 Independent Valuation Benchmark and Purchaser's Premium

6.2.1 Any land acquisition is to be benchmarked to an independent valuation of land unless the size of the land or the agreed value is negligible.

6.2.2 In some cases there will be a justified basis for Council acquiring land at a price above the valuation benchmark (ie Purchaser's Premium) in order to guarantee the

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successful securing of the land to achieve defined goals and objectives of Council or to acquire the land with a view to adding value (or reducing risk) to a larger scheme or development (future or current).

- 6.2.3 Any Purchaser's Premium should be determined and quantified within the initial decision of Council and referenced to the achievement of specific goals and objectives of Council. In essence, Council can make a commercial decision to pay in excess of the valuation due to the importance of the acquisition for the public purpose.

### 6.3 Acquisition Process

- 6.3.1 Section 377(1)(h) of the *Local Government Act 1993* requires a specific resolution of Council to acquire land. This decision cannot be delegated. While the General Manager and/or their delegate may make preliminary enquiries and negotiations regarding a possible purchase and purchase price, any offer to acquire land must state that the proposed acquisition is conditional upon a resolution of Council authorising the acquisition. The General Manager and/or their delegate shall:

- Be responsible for the conduct of all negotiations;
- Have regard to an independent valuation obtained from a registered valuer;
- Seek such other professional advice as is considered necessary in the circumstances;
- Have regard to the Independent Commission Against Corruption publication Direct Negotiations so far as is appropriate in the circumstances; and
- Report the outcome of all negotiations to the Council for determination.

- 6.4 Prior to finalisation of an acquisition, Council shall determine the classification of the land as either Operational or Community.

- 6.5 Council's process of land acquisition must include the following steps:

- Identification of the land acquisition opportunity by Council and/or the responsible officer;
- In principle decision by the General Manager to commence the pre-acquisition process;
- Preparation of a comprehensive assessment of the land acquisition including:
  - required due diligence;
  - independent rental or purchase valuation;
  - assessment against the principles and objectives of Council's Integrated Planning framework;

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- identification of funding source and assessment against Council's Long Term Financial Plan; and
- a statement of goals and objectives for the proposed land to be acquired including a statement of any 'Purchaser's Premium' deemed appropriate by Council;
- Formal consideration by Council of dealing with the matter and, if required, in accordance with Section 10A of the Act be dealt with in a closed meeting;
- Formal report to Council including the land acquisition assessment and documented reasons for Council's acquisition of the land and, if supported, delegation to the General Manager to negotiate an outcome subject to the financial and risk parameters as determined by Council;
- Negotiation and, if successful, implementation of all matters necessary for the preparation, signing and sealing of contract documentation required;
- Once completed the General Manager to advise Council of the outcome (successful or otherwise).

The process is designed to ensure fairness and equity.

#### 6.6 Methods of Acquisition

6.6.1 Wherever possible Council's preferred method of acquisition is to acquire land through mutual agreement with the owner of the land. The key principles in the acquisition of land are:

- Opportunistically by responding when the desired land is offered to the market; and
- Pro-actively by initiating negotiations for the desired land.

6.6.2 Council's preferred position is not to acquire land through compulsory acquisition, however, Council has an obligation to provide services to the community and, if required, Council may consider utilising its powers under the *Local Government Act 1993* in respect of 'compulsory acquisition'.

6.6.3 Circular 15-09 from the Office of Local Government dated 25 February 2015 outlines changes to the process for acquiring privately owned land by compulsory process, to improve fairness and transparency. The new requirements apply to all acquiring authorities in NSW, including local Councils. Compliance with the requirements is mandatory. NSW Office of Finance and Services (OFS) has issued Circular No 2015-01 (of 1 January 2015) setting out the new requirements. Before making an application for approval to compulsorily acquire private land, Councils must provide the land owner with information about the compulsory acquisition process. OFS has prepared a "Land

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Acquisition Information Guide", which Councils can use for that purpose. In addition, Councils must make additional efforts to negotiate with the land owner, including making every reasonable effort to have at least one face to face meeting with the land owner and/or their representative. Councils seeking to acquire privately owned land by compulsorily process, either under the *Local Government Act 1993* or the *Roads Act 1993*, must comply with the new requirements. Councils will need to provide evidence of having complied with these requirements with their Compulsory Acquisition application form.

- 6.6.4 Compliance with the new requirements is mandatory. They should be applied to all proposals to acquire private land currently under consideration by Councils and to all future proposals for the acquisition of private land where it is deemed appropriate for additional negotiation to occur.
- 6.6.5 If the land is to be acquired for future development or strategic investment purposes, the acquisition of the land will be through negotiation between Council and the vendor on the basis of a valuation to determine a fair market value plus or minus 10% for the purposes of negotiation. The key principles of the acquisition are to be:

- Location
- Topography
- Area
- Zoning

- 6.6.6 A business case and feasibility study will be prepared to determine the viability and development potential for the land to be included in the report to Council.

#### 6.7 Compensation

- 6.7.1 Compensation will apply to land owners affected by acquisition under the following provisions:
- Owner initiated acquisitions
  - Programmed acquisitions
- 6.7.2 In determining the amount of compensation to which a person is entitled, Part 3 Division 4 of the *Land Acquisition (Just Terms Compensation) Act, 1991* requires that regard must be given to the following matters only:
- a) The market value of the land on the date of its acquisition;
  - b) Any special value of the land to the person on the date of its acquisition;
  - c) Any loss attributable to severance;
  - d) Any loss attributable to disturbance;

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- e) Solatium (ie compensation for non-financial disadvantage arising the need to relocate as a result of the acquisition); and
- f) Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

6.7.3 Land owners claiming hardship in accordance with section 24 of the *Land Acquisition (Just Terms Compensation) Act, 1991* provisions should note that Council is not required to acquire land unless it is of the opinion that the owner will suffer hardship (within the meaning of section 24 of this Act. An owner of land suffers hardship if:

- a) The owner is unable to sell the land, or is unable to sell the land at its market value, because of the designation of the land for acquisition for a public purpose; and
- b) It has become necessary for the owner to sell all or any part of the land without delay:
  - i. For pressing personal, domestic or social reasons, or
  - ii. In order to avoid the loss of (or a substantial reduction in) the owner's income.

6.7.4 However, if the owner of the land is a corporation, the corporation does not suffer hardship unless it has become necessary for the corporation to sell all or any part of the land without delay for pressing personal, domestic or social reasons of an individual who holds at least 20 per cent of the shares in the corporation, or in order to avoid the loss of (or a substantial reduction in) the income of such an individual.

## 6.8 Land Divestment Procedures

### 6.8.1 Fundamental Principles

6.8.2 All decisions and actions in relation to the divestment of land will have due regard to the following fundamental principles:

- Best Value for Money - Achieving 'best value' may include financial, social and environmental benefits;
- Transparency - processes must be open to scrutiny, provide full information, and record the reasons behind decisions;
- Accountability - demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails;

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- Impartiality - address perceived or actual conflicts of interests, ensuring fairness and equity.

### 6.9 Land Deemed to be Surplus

6.9.1 'Land' includes all real property whether vacant or improved. Land may not be sold by Council unless it is classified as 'Operational Land' under section 25 of the *Local Government Act, 1993*.

6.9.2 In order to establish whether or not land is deemed to be surplus, a process of consultation is required to be completed across relevant divisions of Council prior to reclassification in accordance with the *Local Government Act, 1993*.

### 6.10 Delegated Authority

6.10.1 Section 377 (1) (h) of the *Local Government Act 1993* requires a specific resolution of Council to dispose of land. The decision cannot be delegated.

6.10.2 The report to Council is to include reference to the manner of divestment (often contained within a confidential report) in regards to the terms of the sale and the agreed price, or range for negotiations. The sale cannot proceed outside of such parameters (without a further resolution).

6.10.3 The resolution should also provide for the General Manager to have delegated authority to negotiate any outstanding, usually minor, conditions and to be authorised to execute any documents in relation to the matter deemed appropriate by Council's legal advisors.

6.10.4 A copy of the report and resolution is to be provided to Council's legal advisors upon instruction, as authority to act and to ensure compliance with the resolution.

6.10.5 While the General Manager and/or their delegate may enter into preliminary discussions or negotiations regarding a possible sale of Council land, all pre-sale discussions/negotiations with potential purchasers must always be qualified by the statement "subject to a resolution of Council authorising the sale" if there is no current resolution of Council to dispose of the land.

6.10.6 The General Manager and/or their delegate may enter into non-binding indicative offers in the form of a:

- a) Letter; or
- b) Heads of Agreement; or
- c) Memorandum of Understanding

provided that the document clearly states the offer is:

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- i. Not legally binding; and
- ii. Subject to:
  - a) Adoption of a final Council resolution authorizing the sale; and
  - b) Legally binding Contracts for Sale and Purchase of Land on terms acceptable to both parties being entered into.

### 6.11 Marketing Process

- 6.11.1 Except in exceptional circumstances such as the sale to an adjoining owner of "landlocked" land that does not have legal access to a public road, any divestment of Council land must be preceded by a commercial marketing campaign which may include one or more of the following:
  - a) Appointment of a licensed real estate agent.
  - b) Online advertising.
  - c) Advertising in print media; and
  - d) Sign boards on the land.

### 6.12 Valuation Process

- 6.12.1 At least one formal market valuation undertaken by a valuer registered to value such land is required to be commissioned prior to all land divestments.
- 6.12.2 Two valuations may be required when the value of the land is likely to exceed \$2,000,000 and/or the process of divestment is not competitive (as defined below).
- 6.12.3 An internal review of the valuation(s) is to be carried out and reported, with specific attention to the valuation rationale, method of valuation, calculations and sales evidence used. After such review, the valuation is to be considered in the setting of an asking price for sale, reserve price for auction or benchmark for negotiations, tender or expression of interest.
- 6.12.4 When two valuations have been provided, averaging is the preferred method for considering the price, when any difference in the valuation is 10% or less. Differences in valuations of more than 10% require an assessment of the reasons why they are different and more detailed justification of the price.
- 6.12.5 An updated valuation or valuation advice is required after 12 months of the date of the original valuation if the land is not sold, or at any time, there is considered to be a material movement in the value.

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6.12.6 The valuation instructions must clearly state the following:

- The purpose of the valuation being 'divestment'.
- The basis of valuation being 'market value highest and best use', unless an alternative basis is considered more appropriate in the circumstances.
- That the valuation is to be marked confidential; and
- That the valuation includes market commentary, including supply and demand details of sales evidence and adjustments, valuation rationale and methodology, a valuation range (for negotiations) and comments on marketability, most appropriate method of divestment and opportunities to add value.

6.12.7 In addition, the valuer must make a statement that there is no actual or perceived conflict of interest in undertaking the valuation.

### 6.13 Methods of Divestment

6.13.1 An open competitive process of divestment is required using one of the following methods:

- Expression of interest - used for unusual properties capable of a variety of development, difficult to determine a market value.
- Tender - least common and used predominantly in high value, limited market situations;
- Auction - the most open and public method, favoured by government but reliant on high levels of competition. Often achieves a quick sale. Can fail in poor market.
- Private Treaty - most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an independent third party to the negotiation process) and can arise after an unsuccessful auction.

6.13.2 Council may approve a non-competitive process of divestment such as direct negotiations, subject to clearly documented reasons and the employment of risk mitigation measures.

6.13.3 Risk mitigation measures for direct negotiations may include:

- Obtaining two valuations where the land may be valued at more than \$2,000,000; and consequently establishing a range for negotiation, having regard to the two valuations;
- Managing conflicts of interest with declarations of no personal or financial associations;

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- Establishing a Negotiation Protocol, describing the manner in which meetings, negotiations, decisions and progress reporting is to be managed and documented; and
- Limitation on marketing budget and exclusive agency periods.

6.13.4 In rare circumstances, land may be disposed of to achieve strategic outcomes. In such situations, 'best value' may comprise financial, environmental or social elements, with the price falling below the 'market value' range.

6.13.5 The report seeking resolution of Council should clearly state the reasons for such sale and quantify the amount below market value attributable to each element. The obligation to obtain a market valuation exists in accordance with the above, in order to provide a measure of the non-financial elements of the sale.

### 6.14 Sale to Adjoining Owners

6.14.1 In circumstances where land is not able to be sold in isolation on the open market (such as small parcels, undersized lots, former road widening, closed laneways, boundary adjustments etc) and the only potential purchasers are adjoining owners, the land must be offered in equal proportions to each adjoining owner on identical sale terms and conditions.

6.14.2 Where an adjoining owner does not wish to purchase their proportion of the land, the rejected land will be equally offered to the remaining adjoining owner.

6.14.3 The recommended method of determining the sale price is the 'Before and After' valuation method for the purchaser's land. For small portions of land, the 'piecemeal' (\$ rate per square metre) method may be more appropriate.

6.14.4 An essential condition of sale is that the purchaser is required to consolidate the subject land with their existing holding at no cost to Council.

6.14.5 The costs associated with the sale process will be borne by the prospective purchaser.

### 6.15 Sale of Roads – Roads Act, 1993

6.15.1 No road can be sold until it is formally closed in accordance with the provisions of the *Roads Act, 1993*.

6.15.2 For purchaser initiated closures and sales, the costs associated with the road closure will be borne up front by the prospective purchaser.

6.15.3 When Council initiates the road closure (in order to realise the value of surplus land), the costs will be borne by Council as development costs.

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6.15.4 The agreed purchase price and estimated costs will be reported to Council seeking resolution agreeing to make application to close the road and dispose of the land upon closure in accordance with the terms of sale.

6.15.5 In accordance with section 43 of the *Roads Act, 1993*, funds from the sale of roads are required to be set aside for acquiring Land for public roads or for carrying out work on public roads.

### 6.16 Confidentiality

6.16.1 In the majority of divestments of land, the information contained in reports to Council to sell land may confer an advantage upon a person with whom Council is, or proposes, to be conducting business. On balance, it would be contrary to the public interest for Council to deal with such matter in an open session because release of the information could prejudice Council's ability to obtain the maximum return on the land.

6.16.2 It is acknowledged therefore that reports to Council on the divestment of land will be generally deemed confidential under section 10A (2) (c) of the *Local Government Act, 1993*. This confidentiality may be lifted by Council resolution upon settlement, if considered to be in the public interest.

6.16.3 The need for confidentiality also arises for acquisitions of land by Council, as business papers for resolutions will contain an indicative budget amount for the acquisition thus providing an advantage to the potential vendor. Hence, Section 10A (2) (c) should also apply to all acquisitions by Council.

### 6.17 Distribution of Funds

6.17.1 Net profit received from sales of surplus Community Land that has been rezoned and reclassified will be entirely allocated to the Asset Rehabilitation reserve.

6.17.2 Net profit received from the sale of land from road closures, boundary adjustments, small parcels and surplus operational land will be assigned to general revenue.

6.17.3 Where land development activities on land in the operational development land bank produce a net profit, 70% will be allocated to the Property Investment restricted fund and 30% will be allocated to Ward funds. The 30% Ward funds will be spent in accordance with the integrated strategic plans.

6.17.4 Should an allocation of funds be sought contrary to the ratio stated within this policy, a Council resolution will be required to amend the ratio.

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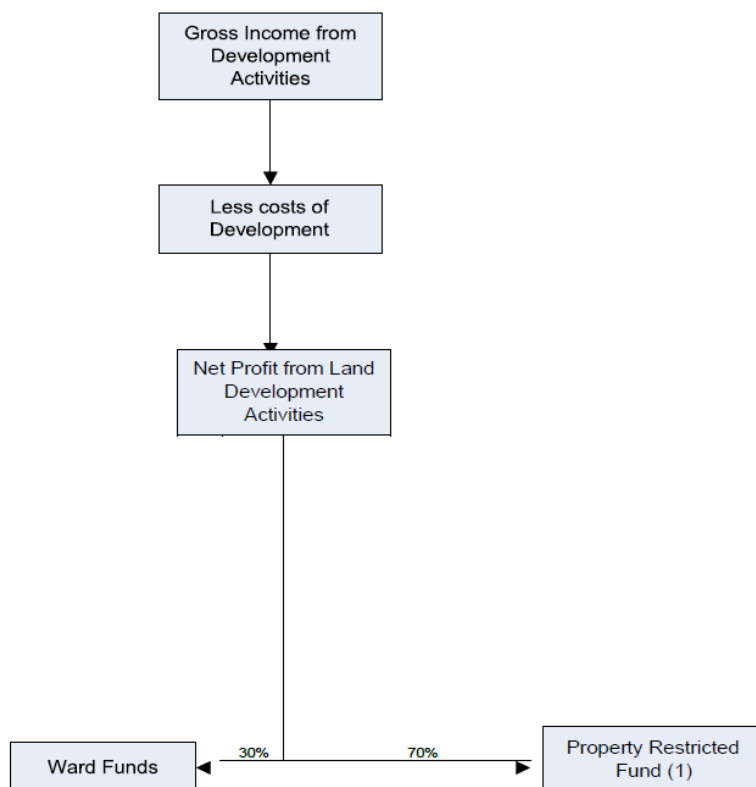


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Land Development Activities



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6.18 Environmental Implications

- 6.18.1 Environmental considerations for land that is to be reclassified or rezoned will be addressed at the time of the preparation of the Planning Proposal. The development of land will require a Development Application at which time it will be necessary to prepare a Statement of Environmental Effects, which will assess any environmental impacts.

6.19 Relevant Legislative Provisions

- 6.19.1 *The Local Government Act, 1993* vests authority in Council to sell or exchange Real Property. In respect of this policy, 'exchange' includes land acquisition and other related activities including land swaps etc.
- 6.19.2 In accordance with section 377 of the Act, any decision to dispose of land must be made by resolution of Council as the power to sell, exchange or surrender land cannot be delegated.
- 6.19.3 Section 45 of the Act prevents Council from selling, exchanging or otherwise disposing of community land other than to become or be added to a Crown Reserve or National Park.
- 6.19.4 Section 55 of the Act requires tenders to be called in certain circumstances. However, it is not necessary to call tenders for the sale of land.
- 6.19.5 In accordance with Council's Purchasing policy and Disposal policy, land acquisition and divestment activities are excluded from the provisions of the Purchasing policy.
- 6.19.6 Council's real estate activities will be managed within the legislative parameters of the:
- *Local Government Act, 1993;*
  - *Valuation of Land Act, 1916;*
  - *Conveyancing Act, 1919;*
  - *Environmental Planning and Assessment Act, 1979;*
  - *Residential Tenancies Act, 1987;*
  - *Land Acquisition (Just Terms Compensation) Act, 1991;*
  - *Roads Act, 1993;*
  - *Retail Leases Act, 1994;*
  - *Crown Lands Act, 1989;*
  - *Environment Protection and Biodiversity Conservation Act, 2000;*
  - *National Parks and Wildlife Conservation Act, 1975;*
  - *Real Property Act, 1919;*

## Policy

WARNING: 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](http://www.portstephens.nsw.gov.au)



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## ITEM 2 - ATTACHMENT 2 EXISTING ACQUISITION AND DIVESTMENT OF LAND POLICY.

### Policy



- Regulations under each of the above Acts;
- Relevant Codes, Plans and Policies referred to in Section 13 of this policy; and
- Any other legislation applicable to the policy.

#### 6.20 Contract for the Sale of Land

6.20.1 Contracts for the sale of land will usually contain standard conditions of sale. Any unusual or special conditions of sale require the approval of Council or the General Manager under delegation.

6.20.2 Council's legal representative is responsible to ensure contracts for the sale of land satisfy statutory disclosure and warranty obligations (*Conveyancing (Sale of Land) Regulation 2017*).

#### 6.21 Departure from this Procedure

6.21.1 Any provision of this procedure may be varied to meet the needs of a particular matter, by resolution of the Council. The reasons for change will be clearly articulated within the report submitted for consideration by Council in adopting such resolution and will only apply to such matter.

### 7. RELATED DOCUMENTS:

- 7.1 Property Investment Policy
- 7.2 Cash Investment Policy
- 7.3 Long Term Financial Plan
- 7.4 Financial Business Rules Management Directive
- 7.5 Local Government Act, 1993
- 7.6 Land Acquisition (Just Terms Compensation) Act, 1991
- 7.7 Land Acquisition Information Guide

### CONTROLLED DOCUMENT INFORMATION:

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<b>EDRMS container No</b>	A2004-0853	<b>EDRMS record No</b>	18/139237
<b>Audience</b>	Council Staff		
<b>Process owner</b>	Property Services Section Manager		

### Policy

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## ITEM 2 - ATTACHMENT 2 EXISTING ACQUISITION AND DIVESTMENT OF LAND POLICY.

Policy



<b>Author</b>	Land Acquisition and Development Manager		
<b>Review timeframe</b>	Two years	<b>Next review date</b>	10 April 2020
<b>Adoption date</b>	29 May 2012		

## VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	29 May 2012	Property Services Section Manager	Original policy.	110
2	14 April 2015	Land Acquisition and Development Manager	Changes to position titles and dates.	079
3	23 February 2016	Land Acquisition and Development Manager	Policy has been formatted into new template. No changes required to policy – only review date.	034
4	10 April 2018	Land Acquisition and Development Manager	<p>2.2 - Background updated to reflect current legislation by removing reference to the Council Charter.</p> <p>6.9.6 - Policy amended to set out process for non-binding offers to sell being documented prior to a formal resolution being secured.</p> <p>6.10 - Policy amended to specify marketing of divestment lands in certain circumstances.</p>	079

Policy

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**ITEM NO. 3**

**FILE NO: 22/208586  
EDRMS NO: PSC2021-00699-002**

**RECLASSIFICATION AND REZONING OF SURPLUS COUNCIL OWNED LAND**

REPORT OF: ZOE PATTISON - ACTING GROUP MANAGER CORPORATE  
SERVICES  
GROUP: CORPORATE SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Commence the land reclassification and rezoning process for the land parcels identified and detailed in this report.

---

**BACKGROUND**

The purpose of this report is to authorise the commencement of the reclassification and rezoning process for the following Council owned lands:

- Lot 721 DP 1033896, 101 Kindlebark Drive, Medowie
- Lot 35 and 38 DP 259487, 87A Adelaide Street, Raymond Terrace and 87B Adelaide Street, Raymond Terrace (rezoning only)
- Lot 1063 DP 826758, 20 Benjamin Lee Drive, Raymond Terrace
- Lot 3082 DP 786401, 124 Benjamin Lee Drive, Raymond Terrace
- Lot 68 DP 248229, 4 Payton Street, Raymond Terrace
- Lot 4 DP 787398, 27 Campbell Avenue, Anna Bay
- Lot 18 DP 238628, A-1 Mount Hall Road, Raymond Terrace
- Lot 4 DP 807214, 1B Jessica Close, Raymond Terrace
- Lot 7 DP 716614, 13 Lyndel Close, Soldiers Point
- Lot 17 DP805074, 154 Rocky Point Road, Fingal Bay

Following the engagement with Councillors regarding Council's financial sustainability, one of the actions undertaken was a review of surplus lands.

Surplus lands and underutilised assets can be a maintenance liability for Council. Development and/or sale of surplus sites can reduce the maintenance liability to Council as well as add to housing stock or employment generating lands in the local government area while providing additional non-rate revenue to enhance Council's long term financial sustainability.

The sites listed above are identified in **(ATTACHMENT 1)** and have been declared surplus to needs. All sites with the exception of 87A Adelaide Street, Raymond Terrace are classified Community land under the provisions of the Local Government Act 1993 and will require a Local Environmental Plan (LEP) Amendment to reclassify them from Community to Operational land.

The LEP Amendment will also seek to rezone the following properties from RE1 Public Recreation to a residential zone, consistent with adjoining properties, so that they can be developed for residential purposes:

- 87A Adelaide Street, Raymond Terrace
- 20 Benjamin Lee Drive, Raymond Terrace
- 4 Payton Street, Raymond Terrace
- 27 Campbell Avenue, Anna Bay
- 13 Lyndel Close, Soldiers Point

Reclassification and rezoning of public land occurs by amending the LEP under the Environmental Planning and Assessment Act. The process is a statutory process that can take between 12-18 months. The outcome is not guaranteed and is subject to consultation with the community and government authorities.

The reclassification and/or rezoning of Council owned land is initiated by the asset owner as the applicant, and the process is managed by Strategic Planning as the planning proposal (or local consent) authority. The Department of Planning and Environment is the determining authority for LEP Amendments in NSW.

Should the reclassification and rezoning be approved as proposed it will provide increased flexibility in the future use of the lands and will permit development and sale consistent with Council's Property Investment Strategy.

## **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Financial Management	Manage the property portfolio in accordance with the Property Investment Strategy.

## **FINANCIAL/RESOURCE IMPLICATIONS**

Council will engage a planning consultant to prepare all documentation required to support the reclassification and rezoning planning proposal.

Subject to approval, and following gazettal of the LEP Amendment, the lands will be incorporated into the development pipeline consistent with the Property Investment Strategy. This will enhance Council's long and short term projects and improve Council's financial sustainability.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		
Reserve Funds	Yes		

**ORDINARY COUNCIL - 11 OCTOBER 2022**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The proposed reclassification and rezoning is provided for by the Local Government Act 1993 and governed by the Environmental Planning and Assessment Act 1979.

Council's Strategic Planning team will manage the LEP Amendment on behalf of Strategic Property as the applicant, consistent with Council's policy and process for managing LEP Amendments.

Council's policy requires a resolution of Council authorising the reclassification process for all Council owned lands.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
Council does not reclassify the subject lands which continue to be underutilised and required to be up kept.	Medium	Adopt the recommendation.	Yes
Council will not be able to establish a sustainable development pipeline.	High	Adopt the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There have been no significant environmental implications identified with the proposal. A detailed investigation of each site is to be completed prior to lodging the reclassification and rezoning proposal.

**CONSULTATION**

Consultation with key stakeholders has been undertaken by the Strategic Property team.

### Internal

- Senior Flooding and Drainage Engineer
- Principal Drainage and Flooding Engineer
- Engineering Services Manager
- Property Planner
- Principal Property Planner
- Strategic Property Coordinator
- Communications Business Partner
- Councillors

### External

Community consultation, including a public hearing, will be undertaken on all sites as required by the Local Government Act as part of the reclassification and rezoning process.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Locality Plans. [↓](#)

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.



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



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

Locality Plan  
Lot 1 DP 1275832  
93 Dawson Road, RAYMOND TERRACE



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

**ITEM NO. 4****FILE NO: 22/248379  
EDRMS NO: PSC2017-00180****GENERAL MANAGER'S CONTRACT - AFFIXING SEAL**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Authorises the Mayor and a Councillor to sign and affix the Seal of Council to the Contract of the General Manager.

---

**BACKGROUND**

The purpose of this report is to seek a resolution of Council to affix the Seal of Council to the General Manager's Contract.

Council appointed the General Manager at its meeting on 23 August 2022 and authorised the Mayor to make the offer. The contract was executed on 26 August 2022 in accordance with Council's resolution. The Standard Contract from OLG requires affixing the Seal of Council to the executed contract.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Governance	Provide strong civic leadership and government regulations.

**FINANCIAL/RESOURCE IMPLICATIONS**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Section 400 of the Local Government (General) Regulation 2021 requires Council to pass a resolution to affix the Seal of the Council.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that without a resolution of Council to affix the Seal, Council may be in breach of the Local Government (General) Regulation 2021.	Low	Adopt the recommendation.	Yes.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

Nil.

**OPTIONS**

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

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 5**

**FILE NO: 22/255108  
EDRMS NO: PSC2021-04206**

**REQUEST FOR FINANCIAL ASSISTANCE**

REPORT OF: TIMOTHY CROSDALE - 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. Nelson Bay Junior Cricket Club – Mayoral funds - \$1000 donation towards purchase of a new cricket roller.
  - b. Nelson Bay Golf Club – Mayoral funds - \$200 donation towards prizes for Juniors Tournament.

---

**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 Palmer**

Nelson Bay Junior Cricket Club	A family friendly and inclusive club making cricket fun and teaching fundamental cricket skills.	\$1000	Donation towards purchase of a new cricket roller.
Nelson Bay Golf Club (NBGC)	NBGC has an active golf development program for cadet and junior golfers supporting their development.	\$200	Donation towards prizes for Juniors Tournament.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Thriving and safe place to live	Provide the Community Financial Assistance Program

**FINANCIAL/RESOURCE IMPLICATIONS**

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
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.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
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 undertaken 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. 6**

**FILE NO: 22/256814**  
**EDRMS NO: PSC2022-02308**

**INFORMATION PAPERS**

REPORT OF: TIMOTHY CROSDALE - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE

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**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 11 October 2022.

---

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	Quarterly Grants Review to 30 June 2022	81
2	Delegations Report	85
3	Council Resolutions	87

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# INFORMATION PAPERS



**ITEM NO. 1**

**FILE NO: 22/242652  
EDRMS NO: PSC2017-00180**

**QUARTERLY GRANTS REVIEW TO 30 JUNE 2022**

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

**BACKGROUND**

The purpose of this report is to provide Council with a quarterly update on its Grants status.

**ATTACHMENTS**

1) Quarterly Grants Statement to 30 June 2022. [↓](#)

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



**Quarterly Grants Statement**  
**For the period 1 April 2022 – 30 June 2022**

<b>Successful Grant Applications</b>				
<b>Grant</b>	<b>Section / Department</b>	<b>Project Title</b>	<b>Project Summary</b>	<b>Value</b>
Preparing Australian Communities – Local Stream	Community Services – Emergency Management	Development of Strategic Fire Management Plans for Port Stephens	The application includes the preparation of SFMPs and undertaking prescribed burns within priority public reserves.	\$100,000
Holiday Break Program - Autumn 2022	Communications – Community Development and Engagement	It's On! in Autumn Hols	This project will deliver a series of workshops and performances across the LGA during April 2022. Activities are targeted at children, young people and their families.	\$10,000
Chinese Violet LCA Case Study	Strategy and Environment – Natural Resources	Chinese Violet LCA Case Study	Funding to undertake a review of Chinese Violet ( <i>Asystasia Gangetica</i> ) management within the Hunter region.	\$15,000
Public Library Infrastructure Grants 2021-22	Community Services – Library Services	Mobile Library Refurbishment	Port Stephens Library is seeking funding to refurbish the Mobile Library in order to extend the life of the existing trailer and meet ongoing community needs and expectations.	\$68,540
Streets as Shared Spaces Fund Round 2	Assets – Community and Recreation	William Street Urban Park	Short-term improvement program at corner of William and Sturgeon Streets including the provision of public open space in the Raymond Terrace CBD and flexible community event space.	\$497,516

## ITEM 1 - ATTACHMENT 1 QUARTERLY GRANTS STATEMENT TO 30 JUNE 2022.

Cultural Tourism Accelerator Program	Strategy and Environment – Economic Development and Tourism	It's On! Love Seafood	A series of cultural and creative precinct activations across two strategic town centres in the Port Stephens LGA that further support Love Seafood Port Stephens, a month long program.	\$10,000
Local Government Recovery Grants program	Community Services – Emergency Management	Disaster Recovery	Local Government Recovery Grant to assist councils impacted by flooding March 2022	\$1,000,000
Hunter Regional Chinese Violet Strategy Support 2022-24	Strategy and Environment – Natural Resources	Hunter Regional Chinese Violet Strategy Support 2022-24	Funding to fulfil the endorsed Hunter Regional Chinese Violet Management Strategy 2019-2029.	\$45,000
Saluting Their Service Commemorative Grants Program 2021-22 (Round 3)	Assets – Community and Recreation	The redevelopment of ANZAC Park, Raymond Terrace	Construction of a new commemorative wall as well as park upgrades including relocation of existing memorial structures, installation of park furniture, access and landscaping improvements.	\$75,145
Saluting Their Service Commemorative Grants Program 2021-22 (Round 3)	Assets – Community and Recreation	Installation of an Eternal Flame at the new Medowie War Memorial (Stage 2)	The project will include the supply and installation of an eternal flame as an addition to the new war memorial in Medowie.	\$10,000
Stronger Communities Programme Round 7	Assets – Community and Recreation	Redevelopment of Anzac Park, Raymond Terrace	Upgrades will include the construction of a new commemorative wall, relocation of existing memorial structures, installation of park furniture and access improvements.	\$15,000
Environmental Restoration and Rehabilitation Grants 2021-22	Strategy and Environment – Natural Resources	Anna Bay Koala Hub - Protection and Connectivity	This proposal is targeted at maintaining the Anna Bay koala hub, which is instrumental to the local survival of this iconic threatened species.	\$148,724
Environmental Restoration and Rehabilitation Grants 2021-22	Strategy and Environment – Natural Resources	Worimi LALC Mallabula Point Restoration	This proposal is targeted at restoring and maintaining the native vegetation at Mallabula Point which contains preferred koala habitat and the endangered ecological community Swamp Sclerophyll Forest.	\$142,203
Recreational Fishing and Camping Facilities Grants Program	Assets – Community and Recreation	Little Beach Reserve Upgrade	The Little Beach Reserve upgrade will involve construction of an accessible amenities, a study of the carpark to develop a technical design and the installation of new fishing cleaning tables.	\$311,000

**ITEM 1 - ATTACHMENT 1      QUARTERLY GRANTS STATEMENT TO 30 JUNE 2022.**

Aboriginal Affairs NSW - NAIDOC Week Grants 2022	Communications – Community Development and Engagement	It's On! NAIDOC 2022	The official NAIDOC Week Flag Raising ceremony will be significantly improved with cultural activities and Aboriginal musicians performing during a free breakfast for the whole community.	\$3,000
Holiday Break Program - Winter 2022	Communications – Community Development and Engagement	Hotel Eco	Delivery of an assortment of educational drop in sessions designed to assist the community in creating and improving their own backyard ecosystem.	\$7,000
NSW Planning Portal API Grant Program	Development Assessment and Compliance	NSW Planning Portal API Grant Program	Funding for integration with the NSW Planning Portal via APIs. This will support the flow of data between the portal and council's IT systems, eliminating the need for council personnel to transfer the data manually.	\$80,000
Regional Business Event Development Fund	Strategy and Environment – Economic Development and Tourism	2024 Oyster Conference	Funding to support Port Stephens in hosting the NSW Oyster Industry Conference in September 2024.	\$24,000
2021-23 Country Passenger Transport Infrastructure Grants Scheme (CPTIGS)	Assets – Civil Projects	Bus Shelters	New bus shelters at Shoal Bay, Fingal Bay and Lemon Tree Passage Road	\$34,500
NSW Safer Roads Program 2022/23	Assets – Civil Projects	Bucketts Way, Twelve Mile Creek		\$3,380,000
NSW Safer Roads Program 2022/23	Assets – Civil Projects	Lemon Tree Passage Rd, Oyster Cove		\$1,490,000
Hunter Region Aquatic Weed Eradication Strategy	Strategy and Environment – Natural Resources	Hunter Region Aquatic Weed Eradication Strategy	Funding to develop a Hunter Region Aquatic Weed Eradication Strategy on behalf of the Hunter Regional Weeds Committee.	\$28,000
<b>Total</b>				<b>\$7,494,628</b>

Further information can be found at EDRMS 22/246733.

There were 0 unsuccessful grant applications during the period 1 April 2022 – 30 June 2022.

There have been 59 successful grant applications for the financial year 2021 – 2022 to date.

**ITEM NO. 2**

**FILE NO: 22/255104  
EDRMS NO: PSC2009-00965**

## **DELEGATIONS REPORT**

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

## **BACKGROUND**

The purpose of this report is to advise Council of each occasion the Mayor and/or General Manager have exercised their delegations, other than under section 226 and 335 of the Local Government Act 1993, which are conferred on each role.

The report at **(ATTACHMENT 1)** provides details of the delegation exercised, such as the delegated authority, the date and the reason for exercising the delegation.

## **ATTACHMENTS**

1) Delegations Report. [↓](#)

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM 2 - ATTACHMENT 1      DELEGATIONS REPORT.****MAYOR AND GENERAL MANAGER DELEGATION REPORT**

<b>Date exercised</b>	<b>Delegations exercised</b>	<b>Purpose</b>	<b>Role exercising delegation</b>	<b>Reported to Council</b>
27 September 2022	Roads and Maritime Services delegations	Port Stephens Local Traffic Committee Meeting Minutes - 6 September 2022.	General Manager	11 October 2022
27 September 2022	Roads and Maritime Services delegations	Authorises the installation, display, removal or alteration of the traffic control devices for the listed items identified in the Port Stephens Local Traffic Committee report dated 6 September 2022.	General Manager	11 October 2022

**ITEM NO. 3**

**FILE NO: 22/227237  
EDRMS NO: PSC2017-00106**

## **COUNCIL RESOLUTIONS**

REPORT OF: TIMOTHY CROSDALE - ACTING 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 Council resolutions. [↓](#)
- 2) Development Services Group Council resolutions. [↓](#)
- 3) Facilities & Services Group Council resolutions. [↓](#)
- 4) General Manager's Office Council resolutions. [↓](#)

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

## ITEM 3 - ATTACHMENT 1 CORPORATE SERVICES GROUP COUNCIL RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	Corporate Services	<b>Date From:</b>	27/08/2013
	<b>Committee:</b>		<b>Date To:</b>	27/09/2022
	<b>Officer:</b>		<b>Printed: Wednesday, 28 September 2022</b>	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/05/2021	Pattison, Zoe	Car parking in Shoal Bay	30/12/2022	12/05/2021	
1						21/123694
<b>28 Sep 2022</b>						
In principle approval received from Crown Lands. Matter progressing.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	30/12/2022		
<b>28 Sep 2022</b>						
Two private owners, Hunter Water Corporation and National Parks and Wildlife Service (NPWS). Matter ongoing.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Pattison, Zoe	Newline Road, Raymond Terrace	30/06/2023		
2						20/288489
199						
<b>28 Sep 2022</b>						
Approved. Works delayed due to inclement weather conditions. Contracts to be completed following civil works.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/04/2021	Pattison, Zoe	Proposed Closure and Sale of Pathway in Boat Harbour	30/06/2023	14/04/2021	
2						21/96728
090						
<b>28 Sep 2022</b>						
Matter progressing.						

## ITEM 3 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	Development Services	<b>Date From:</b>	14/09/2021
	<b>Committee:</b>		<b>Date To:</b>	27/09/2022
	<b>Officer:</b>		<b>Printed: Wednesday, 28 September 2022</b>	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/09/2022	Drinan, Kate	Development Application 16-2021-703-1 for a Residential Flat Building at 11 to 15 Church Street, Nelson Bay	31/10/2022	14/09/2022	
5		Pearl, Steven				22/251340
<b>28 Sep 2022</b>						
A meeting was held with the Developer and staff on 27 September 2022. A further meeting between the Developer and Councillors was scheduled for 29 September 2022. An outcome of the meeting on 29 September 2022 was not known at the time of this update.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/08/2022	Lamont, Brock	Annual Awards Policy	30/12/2022	24/08/2022	
3		Pearl, Steven				22/225860
<b>28 Sep 2022</b>						
Port Stephens Annual Awards policy has been amended to reflect the resolution per its meeting on 23 August 2022, Minute No. 230. The draft is due to return to Council on 8 November 2022 for endorsement before going on Public Exhibition for a 28 day period.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/09/2022	Lamont, Brock	Draft Local Infrastructure Contributions Plan 2020 – Amendment No. 2	29/11/2022	14/09/2022	
8		Pearl, Steven				22/251340
<b>28 Sep 2022</b>						
Port Stephens Local Infrastructure Contributions Plan - Amendment No. 2 is currently on public exhibition for a 28 day period, closing 5pm Thursday 13 October 2022. On completion of the public exhibition period a report will be drafted, before returning to Council for final endorsement.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Notice of Motion 253	Ordinary Council 13/09/2022	Drinan, Kate	Anna Bay Resort Site - 74-84 Gan Gan Road, Anna Bay	31/10/2022		
		Pearl, Steven				
<b>28 Sep 2022</b>						
Compliance action will be requested to commence to improve the state of the site by requiring the property owner to:						
a. Maintain the landscaping as required by previous compliance action to ensure the Gan Gan Road frontage and along the boundary adjoining the 4wd access road is effectively landscaped to screen the development from the public domain.						
b. Remove all graffiti visible from Gan Gan Road and the 4wd access road.						

## ITEM 3 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	Development Services	<b>Date From:</b>	14/09/2021
	<b>Committee:</b>		<b>Date To:</b>	27/09/2022
	<b>Officer:</b>		<b>Printed: Wednesday, 28 September 2022</b>	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Whitfield, Hannah	Carbon Neutrality	30/10/2022	13/10/2021	
2		Pearl, Steven				21/274186
275						
<b>28 Sep 2022</b> The Natural Systems team has established baseline data and focus areas. Report has been placed on hold following Development Services Group Leadership Teams recommendations. A Project Control Group is being established to enable an organisation wide approach, and further develop a roadmap and identify funding sources. The Executive Team is being presented a brief in October 2022. Report expected to return to Council early 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/09/2021	Connell, Sarah	Port Stephens Waterway Strategy	29/12/2023	15/09/2021	
1		Pearl, Steven				21/252518
240						
<b>28 Sep 2022</b> The Strategic Planning Team has submitted grant applications for two projects under the Regional NSW – Business Case and Strategy Development Fund, with successful applications being announced in October 2022. Funding is being sought for consultants to prepare the Port Stephens Waterways Strategy. Once the grant is awarded (\$93,750) the Waterways Strategy will be drafted.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/02/2022	Gardner, Janelle	Newspaper Notices	13/12/2022	25/02/2022	
2		Pearl, Steven				22/57049
055						
<b>28 Sep 2022</b> Report on hold awaiting staff currently finalising costings for alternate distribution, communication and development.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/08/2022	Lamont, Brock	Homelessness in Port Stephens	14/12/2022	24/08/2022	
1		Pearl, Steven				22/225860
<b>28 Sep 2022</b> Letter has been sent to the Premier, noting Council's resolution per its meeting of 23 August 2022. Letters to short term accommodation owners have been drafted to be posted in October 2022. Meetings with stakeholders have commenced to discuss and further identify the key objectives. Preparation of the report has commenced, and is due to be reported back to Council on 13 December 2022.						

## ITEM 3 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	Development Services	<b>Date From:</b>	14/09/2021
	<b>Committee:</b>		<b>Date To:</b>	27/09/2022
	<b>Officer:</b>		<b>Printed:</b> Wednesday, 28 September 2022	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/06/2022	Gardner, Janelle	Communications & Engagement Strategy	22/11/2022	16/06/2022	
8		Peart, Steven				22/155619
<b>28 Sep 2022</b> Submissions received from public exhibition are currently under review and will be reported to Council on 22 November 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/09/2022	Lamont, Brock	NSW Electric Vehicle Strategy	31/03/2023	28/09/2022	
1		Peart, Steven				22/262103
<b>28 Sep 2022</b> Strategic Planning are engaging stakeholders to identify opportunities available to Council. Report expected to be presented to Council in March 2023.						

**ITEM 3 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.**



<b>Division:</b>	Facilities & Services	<b>Date From:</b>	09/02/2021
<b>Committee:</b>		<b>Date To:</b>	28/09/2022
<b>Officer:</b>		<b>Printed:</b>	Wednesday, 28 September 2022
<b>Action Sheets Report</b>			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/03/2022	Maretich, John	Identifying Potholes	30/11/2022	23/03/2022	
7 092		Kable, Gregory				22/81589
<b>28 Sep 2022</b> Report is currently in progress.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/04/2022	Maretich, John	Lakeside Leisure Centre	31/01/2023	28/04/2022	
2 114		Kable, Gregory				22/109684
<b>28 Sep 2022</b> Two way conversation with Councillors will occur in November 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Bridge, Clinton	Boomerang Park BBQs	30/11/2022	14/02/2022	
9 034		Kable, Gregory				22/45826
<b>28 Sep 2022</b> Report shall be provided to Council on the proposal to increase facilities as per this NOM.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/05/2022	Maretich, John	Review of Dog Off Lead Areas - Boat Harbour Beach	30/06/2023	27/05/2022	
4		Kable, Gregory				22/136825
<b>28 Sep 2022</b> Report was endorsed by Council at its meeting held 24 May 2022, Minute No. 133. A review will be carried out in 12 months.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/07/2022	Maretich, John	Smart Parking	31/10/2022	27/07/2022	
2		Kable, Gregory				22/199431
<b>28 Sep 2022</b> Staff compiling details to report back to Council.						

## ITEM 3 - ATTACHMENT 3 FACILITIES &amp; SERVICES GROUP COUNCIL RESOLUTIONS.



<b>Division:</b>	Facilities & Services	<b>Date From:</b>	09/02/2021
<b>Committee:</b>		<b>Date To:</b>	28/09/2022
<b>Officer:</b>		<b>Printed:</b>	Wednesday, 28 September 2022
<b>Action Sheets Report</b>			

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/09/2022	Gutsche, Tammy Kable, Gregory	Policy Review: Community Leasing, Licencing and Tenancy Policy	30/12/2022	14/09/2022	22/251340
12						
<b>28 Sep 2022</b>						
The policy is on public exhibition until 11 October 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/05/2022	Maretich, John Kable, Gregory	World Menstruation Hygiene Day	31/12/2022	27/05/2022	22/136825
1						
<b>28 Sep 2022</b>						
A report will be prepared for Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/07/2022	Newall, Charlette Kable, Gregory	Koala Signage	31/10/2022	13/07/2022	22/186061
1						
<b>28 Sep 2022</b>						
Compliance approach to continue. Assets section to liaise with signage group to reach agreement on approach to signage moving forward. Staff are currently preparing a report for Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John Kable, Gregory	Agreement with Community Association DP270468 - Lagoons Estate, Nelson Bay	30/11/2022		21/218740
4 208						
<b>28 Sep 2022</b>						
Council to enter agreement with the Community Association DP 270468 in accordance with the confidential terms as per Council report.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Newall, Charlette Kable, Gregory	Kirrang Drive, Medowie Shared Pathway	31/12/2022	13/08/2021	21/218740
8 217						
<b>28 Sep 2022</b>						
Council staff will undertake further investigations into the financial requirements and options to accelerate the Kirrang Drive, Medowie pathway. Staff will report the outcomes back to Council.						

**ITEM 3 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.**



<b>Action Sheets Report</b>	<b>Division:</b>	Facilities & Services	<b>Date From:</b>	09/02/2021
	<b>Committee:</b>		<b>Date To:</b>	28/09/2022
	<b>Officer:</b>		<b>Printed: Wednesday, 28 September 2022</b>	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/02/2021	Bridge, Clinton	MEDOWIE REGIONAL PLAYGROUND AND TOWN CENTRE	30/12/2022		
2 012		Kable, Gregory				21/33235
<b>28 Sep 2022</b>						
The regional playground will be addressed in the Medowie Place Plan. A report will be prepared for Council.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Bridge, Clinton	Raymond Terrace Seven Day Makeover	31/12/2022		
17 228		Kable, Gregory				21/218740
<b>28 Sep 2022</b>						
This will be discussed with the Councillors in the lead up to William Street, Stage 2 which funded through the Streets of Shared Spaces grant.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Medowie Library	31/12/2022	14/02/2022	
2 027		Kable, Gregory				22/45826
<b>28 Sep 2022</b>						
Investigation is still underway to determine viability as requested. Staff are currently consulting with Cr Wells.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	Foreshore Reserves and Parking on Council Land	30/11/2022	14/02/2022	
5 030		Kable, Gregory				22/45826
<b>28 Sep 2022</b>						
Report shall be provided back to Council.						

**ITEM 3 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.**



<b>Action Sheets Report</b>	<b>Division:</b>	Facilities & Services	<b>Date From:</b>	09/02/2021
	<b>Committee:</b>		<b>Date To:</b>	28/09/2022
	<b>Officer:</b>		<b>Printed: Wednesday, 28 September 2022</b>	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Gutsche, Tammy	Change to Lease Arrangements for Fingal Bay Surf Life Saving Club and Commercial Tenancies	30/11/2022	13/10/2021	
8 270		Kable, Gregory				21/274186
<b>28 Sep 2022</b> Some delays have occurred due to external legal requests. Paperwork is still in the process of preparation for official seal by the Mayor and General Manager.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 8/02/2022	Maretich, John	POLICY REVIEW - CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION POLICY	28/02/2023	14/02/2022	
6 018		Kable, Gregory				22/45826
<b>28 Sep 2022</b> This action is still under investigation. A report with requested information will be provided once the data is available.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/09/2022	Maretich, John	Policy Review: Bus Shelter Policy	27/10/2022	28/09/2022	
4		Kable, Gregory				22/262103
<b>28 Sep 2022</b> Endorsed by Council at 27 September 2022 meeting, Minute No. 262. Will now go on Public Exhibition until 25 October 2022.						

## ITEM 3 - ATTACHMENT 4 GENERAL MANAGER'S OFFICE COUNCIL RESOLUTIONS.



<b>Action Sheets Report</b>	<b>Division:</b>	General Manager's Office	<b>Date From:</b>	13/09/2022
	<b>Committee:</b>		<b>Date To:</b>	27/09/2022
	<b>Officer:</b>		<b>Printed:</b> Wednesday, 28 September 2022	

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/09/2022	Wickham, Tony	Policy Review: Access to Information	31/10/2022	14/09/2022	
13		Crosdale, Tim				22/251340
<b>28 Sep 2022</b>						
The policy is on public exhibition until 14 October 2022.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 27/09/2022	Wickham, Tony	Code of Conduct	31/10/2022	28/09/2022	
8		Crosdale, Tim				22/262103
<b>28 Sep 2022</b>						
The Code of Conduct will be placed on public exhibition.						

# NOTICES OF MOTION



**NOTICE OF MOTION****ITEM NO. 1****FILE NO: 22/260137****EDRMS NO: PSC20221-04195****HUNTER NETBALL INFRASTRUCTURE****COUNCILLOR: GIACOMO ARNOTT**

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**THAT COUNCIL:**

- 1) Notes the incredible opportunity to partner with Hunter Netball in the delivery of a Netball Centre of Excellence in the Hunter, to deliver significant tourist revenue and encourage sporting opportunities for young people in Port Stephens.
  - 2) Writes to Hunter Netball with a letter of support for the NSW Government budget business case process being undertaken, to try and secure funding for the Centre of Excellence.
- 

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

The purpose of this background is to provide information relating to the Notice of Motion.

The Chair of Hunter Netball has recently made contact with a number of Hunter Councils seeking support and available land to create a Netball Centre of Excellence in the Hunter.

Hunter Netball has indicated that they are pursuing an option with the Newcastle University and are seeking our support to form part of their business case. The request is attached.

**FINANCIAL/RESOURCE IMPLICATIONS**

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		

**ORDINARY COUNCIL - 11 OCTOBER 2022**

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

**ATTACHMENTS**

- 1) Hunter Netball Infrastructure Update - September. [↓](#)



## Infrastructure Update

**To** Hunter Region Local Councils  
**From** Jodi Cassar – Chair Hunter Netball  
**Date** 22 September 2022  
**Topic** Hunter Netball Infrastructure Update

This memo provides Hunter Region Local Councils an update on the Hunter Netball Infrastructure opportunity.

### Hunter Netball Infrastructure Update

Earlier this year, Hunter Netball engaged many of you, to share with you the opportunity that exists to create the infrastructure needed to support the ongoing elite athlete and officials pathways for netballers across the greater Hunter Region.

Several engagements have occurred with Local Councils from across the greater Hunter Region and beyond since that time.

Through our active engagements across all levels of government, this led to Yasmin Catley – MP Legislative Council, Member for Swansea, and Shadow Minister for the Hunter, progressing a Budget Brief for consideration at the July 2022 budget on behalf of Hunter Netball.

The key opportunities remain including:

- To create a Netball Centre of Excellence in the Hunter, that is an enabler for elite netball pathways for regional athletes and officials.
- To create elite netball competitions and programs to be operated within a purpose-built indoor sport facility.
- A sustainable indoor Centre of Excellence that would create jobs growth during the design, construction and operational stages.
- Increased domestic and international tourism through the development of the facility with tourism traffic flowing through the Newcastle Airport and across the local government areas that make up the Hunter region.
- Continue to grow the depth of boys and men netball pathways in addition to the continuous growth of Australia's largest female team sport in Australia, in the lead up to the Brisbane Olympic Games.
- Viable infrastructure for the Hunter puts the Hunter in a strong position as a regional location to make a bid for the Suncorp Super Netball team franchises in the lead up to their next intake in approximately 2027.

ITEM 1 - ATTACHMENT 1 HUNTER NETBALL INFRASTRUCTURE UPDATE - SEPTEMBER.



Hunter Netball continues much work behind the scenes to position this as a viable project for the NSW Government to invest in.

We acknowledge and thank the honourable Matt Kean MP, NSW Treasurer for his time in August to discuss this opportunity and Taylor Martin, Parliamentary Secretary for the Hunter, for his time in September and his ongoing commitment to this exciting opportunity for the Hunter region.

Around these meetings with our NSW Government Members of Parliament, Hunter Netball has continued to engage with Local Government Council officials from the Mid Coast to Central Coast and out west to ensure all Local Councils are aware of the infrastructure opportunities that present for an elite Netball Centre of Excellence.

The Newcastle Airport has been actively engaged about the tourism opportunities that exist, with the creation of such a facility.

The University of Newcastle through its *Future Sporting Strategy Infrastructure and Facilities Plan* has engaged Hunter Netball to be a lead partner for the design and development of their Sporting Centre of Excellence, a dig ready opportunity that could realise benefits for both Hunter Netball and the University of Newcastle in immediate years ahead that will be sustainable for the decades to come.

This opportunity to partner with the University of Newcastle, at the Callaghan Campus would build upon the existing infrastructure known as *The Forum* to include the University of Newcastle – Sporting Centre of Excellence, this would be the new home of Netball Australia and Netball NSWs, Hunter Netball and create the sporting facilities where elite athletes from across the regional areas of NSW are proud to train.

Hunter Netball in collaboration with The University of Newcastle will submit a business case as part of the mid-year budget cycle for broader consideration of the Members of Parliament to commit the funding to this exciting opportunity.

We are seeking your ongoing support of this project and would like to request a letter of support from your Council that can be provided with our Budget Business Case, if this could be provided by **Friday 14 October 2022**, that would be appreciated.

Yours in Netball



Jodi Cassar  
Chair  
Hunter Netball

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E: [hunternetball@gmail.com](mailto:hunternetball@gmail.com)  
W: [www.hunternetball.com](http://www.hunternetball.com)

**NOTICE OF MOTION**

**ITEM NO. 2**

**FILE NO: 22/261010**

**EDRMS NO: PSC2021-04195**

**HEALTH FACILITIES**

**COUNCILLOR: LEAH ANDERSON**

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**THAT COUNCIL:**

- 1) Notes there is a shortage of health facilities in the Port Stephens LGA.
  - 2) Commences discussions with the State Government and private operators to:
    - a. Advocate for increased health services facilities.
    - b. Determine any necessary land use changes required to support development of health services facilities.
  - 3) Requests the General Manager provide a report that:
    - a. Investigates other Councils who have established health precincts to identify opportunities that can be applied to the Port Stephens LGA, including opportunities to increase the number of these facilities.
    - b. Investigates opportunities to develop health precincts in strategic centres, any necessary changes to the Port Stephens Local Environmental Plan 2013 and opportunities to include supporting infrastructure in the Local Infrastructure Contributions Plan.
    - c. Investigates the opportunity to develop a Local Health Advisory Committee and advise what is required to form a committee and report how such a committee could assist with this issue.
- 

**BACKGROUND REPORT OF: BROCK LAMONT – STRATEGY AND ENVIRONMENT SECTION MANAGER**

**BACKGROUND**

Port Stephens local government area is presently served by 1 hospital and 23 general practices. The Primary Health Network population health snapshot (2021) notes that every full-time General Practitioner in the Port Stephens LGA there is an average of 827 patients.

Tomaree Hospital, located in Nelson Bay, currently provides a 14 bed acute medical ward and a 5 bed emergency ward. Community and allied health, pathology and dental is also provided on site.

Outside of the LGA, there are additional public hospitals at Waratah (Mater Hospital), Metford (Maitland Hospital) and New Lambton (John Hunter Hospital).

Port Stephens has a median age of 47 and over 25% of the Port Stephens population is currently older than 65. This will result in increased demand for health services across the LGA.

This is generally consistent with the trend across Australia. Health and aged care are projected to be the fastest growing areas of government spending over the next 40 years. Health is predicted to increase from 19% of total government spending in 2021 to 2022, to 26% in 2060 to 2061.

**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		

**ATTACHMENTS**

Nil.

# RESCISSION MOTIONS



**NOTICE OF RESCISSION**

**ITEM NO. 1**

**FILE NO: 22/262948**

**EDRMS NO: PSC2021-04197**

**CODE OF MEETING PRACTICE**

**MAYOR:** RYAN PALMER  
**COUNCILLORS:** CHRIS DOOHAN  
MATTHEW BAILEY

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**THAT COUNCIL:**

Rescind its decision of 13 September 2022 on Item No. 3 – Code of Meeting Practice - Minute No. 240 (**ATTACHMENT 1**).

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**ATTACHMENTS**

- 1) 13 September 2022 Ordinary Council Meeting - Item No. 3 Code of Meeting Practice - Minute No. 240. [↓](#)

**ITEM 1 - ATTACHMENT 1 13 SEPTEMBER 2022 ORDINARY COUNCIL  
MEETING - ITEM NO. 3 CODE OF MEETING PRACTICE - MINUTE NO. 240.****MINUTES ORDINARY COUNCIL - 13 SEPTEMBER 2022****ITEM NO. 3****FILE NO: 22/223275  
EDRMS NO: A2004-0284****CODE OF MEETING PRACTICE****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER  
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Receives and note submissions at **(ATTACHMENT 1)**.
- 2) Revokes the Code of Meeting Practice dated 9 June 2020 (Minute No. 098).
- 3) Adopts the revised Code of Meeting Practice shown at **(ATTACHMENT 2)**.

**ORDINARY COUNCIL MEETING - 13 SEPTEMBER 2022  
MOTION**

<b>240</b>	<b>Councillor Leah Anderson Councillor Matthew Bailey</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Receives and note submissions at <b>(ATTACHMENT 1)</b>.</li><li>2) Revokes the Code of Meeting Practice dated 9 June 2020 (Minute No. 098).</li><li>3) Adopts the revised Code of Meeting Practice shown at <b>(ATTACHMENT 2)</b> with the following changes: Clause 5.18 to read, "Councillors may attend and participate in meetings of the Council by audio-visual link only when the meeting is held in accordance with 5.15 to 5.17 of the Code, and may attend and participate in Committees of the Council by audio-visual link at any time, unless it is a Committee of the Whole."</li><li>4) Adopts the amended Code without putting the change on public exhibition, as it is not considered to be substantial per section 362(2) of the Local Government Act 1993.</li></ol>
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Peter Francis, Steve Tucker and Jason Wells

Those against the Motion: Mayor Ryan Palmer.

The motion was carried.

**ITEM 1 - ATTACHMENT 1 13 SEPTEMBER 2022 ORDINARY COUNCIL MEETING - ITEM NO. 3 CODE OF MEETING PRACTICE - MINUTE NO. 240.****MINUTES ORDINARY COUNCIL - 13 SEPTEMBER 2022****BACKGROUND**

The purpose of this report is seek Council's endorsement of the revised Code of Meeting Practice (the 'Code') following the public exhibition period from 4 July 2022 to 15 August 2022.

As a result of the public exhibition, 1 submission was received. A summary of the submission is shown at **(ATTACHMENT 1)**.

The Port Stephens Council's Code of Meeting Practice is based on the revised Model Code of Meeting Practice released by the Office of Local Government on 29 October 2021.

The Code applies to meetings of the Council and Committees of Council where the membership comprises all elected members.

Please note that yellow highlighting in the attached Code indicates an amendment has been made and strikethrough text is to be deleted.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2022-2026</b>
Governance	Provide strong civic leadership and government regulations.

**FINANCIAL/RESOURCE IMPLICATIONS**

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Council is required to adopt a Code of Meeting Practice based on the model Code to ensure it meets all legislative requirements in relation to conducting a meeting of the Council and a committee meeting of Council. In addition, Council is required to review its Code of Meeting Practice within 12 months of an ordinary local government election.

**ITEM 1 - ATTACHMENT 1 13 SEPTEMBER 2022 ORDINARY COUNCIL MEETING - ITEM NO. 3 CODE OF MEETING PRACTICE - MINUTE NO. 240.****MINUTES ORDINARY COUNCIL - 13 SEPTEMBER 2022**

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council may be in breach of the Local Government Act 1993 and Local Government (General) Regulation 2021 should it not adopt a Code of Meeting Practice.	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

- Executive Team.

External

The revised Code of Meeting Practice was publicly exhibited from 4 July to 15 August 2022.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Submission.
- 2) Revised Code of Meeting Practice. (Provided under separate cover)

**COUNCILLORS ROOM**

Nil.

**MINUTES ORDINARY COUNCIL - 13 SEPTEMBER 2022**

**TABLED DOCUMENTS**

Nil.

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No.	Author of submission	Comment	Council response
1	Tomaree Ratepayers & Residents Association (TRRA)	a) The submission supports changes to clauses 3.3 and 3.7, allowing an extra 4 days for the Councillors and the community to consider the agenda	Noted.
		b) The submissions raises the support for the past practice of holding alternate meetings as committee of the whole meetings and a full Council meeting respectively (a practice before 2012). It is considered that this would allow Councillors and the community greater opportunity to consider and seek feedback on matters.	<ul style="list-style-type: none"> <li>Section 365 of the Local Government Act 1993 requires Council to meet at least 10 times per year.</li> <li>Council currently meets 21 times per year, on 2 occasions per month.</li> <li>The model suggested in the submission would see a combination of 4 meetings per month (Committee of Council meetings and Ordinary Council meetings), with 21 Committee meetings and 21 Council meetings to consider the recommendations of the Committee meetings.</li> </ul>
		c) The submission supports the provision of clauses 4.25 and 4.26 to webcast Public Access sessions, with the consent of the speaker/s – noting clauses 4.26 addresses circumstances where a person does not wish have be included in the webcast.	Noted.
		d) The submission supports the inclusion of clauses 11.6 and 20.23 to record the voting outcome on each item, noting the recent trial appears to have gone well and will bring additional transparency and accountability.	Noted.
		e) The submission acknowledges the change in practice for the Councillors to remain seated when addressing the Chairperson and believes this to be a sensible and practical change, and also improves the audio in the Council Chamber with Councillors having better access to the microphone system.	Noted.
		f) The submission notes an inadvertent error at clause 4.21 where 4.19 should read 4.20.	The reference has been amended.