

NOTICE OF EXTRAORDINARY MEETING 11 JANUARY 2022



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) Open meeting.
- 2) Prayer - We ask Almighty God to give us wisdom and courage so we can serve our community, and uphold justice and equality in Port Stephens. Amen.
- 3) Acknowledgement of Country - "Today, we are meeting on Worimi Country, we acknowledge the past, we are working towards a better tomorrow".
- 4) Apologies and applications for a leave of absence by Councillors.
- 5) Confirmation of minutes.
- 6) Disclosure of interests.
- 7) Mayoral minute(s) – if submitted.
- 8) Motions to close meeting to the public – if submitted.
- 9) Reports to Council.
- 10) General Manger's reports – if submitted.
- 11) Questions with Notice – if submitted.
- 12) Questions on Notice.
- 13) Notices of motions – 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:
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) have regard to achieving intergenerational equity, including ensuring the following:
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services.

Integrated planning and reporting principles that apply to Council

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

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

PORT STEPHENS COMMUNITY STRATEGIC PLAN

The Local Government Act requires Council to adopt a Community Strategic Plan (10+ years). The Plan includes a Delivery Program (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.

EXTRAORDINARY COUNCIL - 11 JANUARY 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 ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	

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

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

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

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

Mayor/Councillor's signature _____

Date _____

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



Declaration of Interest form

Agenda item No. _____

Report title _____

Mayor/Councillor _____ declared a

Tick the relevant response:

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

in this item. The nature of the interest is _____

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

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

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

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

Mayor/Councillor left the Council meeting at _____ pm.

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

COUNCIL REPORTS

ITEM NO. 1

**FILE NO: 21/342270
EDRMS NO: PSC2021-04023**

DEPUTY MAYOR ELECTION

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Determine the term of the Deputy Mayor.
- 2) Determine the method of voting to elect the Deputy Mayor.
- 3) General Manager or his delegate to conduct the election of the Deputy Mayor.

BACKGROUND

The purpose of this report is to elect the Deputy Mayor.

The election of the Deputy Mayor is to be held in accordance with the provisions of the Local Government Act 1993 and the Local Government (General) Regulation 2021, should Council wish to proceed with the election of Deputy Mayor. The role of Deputy Mayor is not required under the Local Government Act 1993.

The General Manager has appointed Council's Governance Section Manager as Returning Officer for the election, should Council wish to proceed.

The previous term of the Deputy Mayor was 1 year. Council may fix the Deputy Mayor term for a period not greater than the Mayoral role, which is normally 4 years. The role of Deputy Mayor is only paid an allowance in the absence of the Mayor, which is funded from the Mayoral allowance.

NOMINATIONS FOR THE OFFICE OF DEPUTY MAYOR

Nominations may be made without notice and should be made in writing by 2 or more Councillors (1 of whom may be the nominee) or the Mayor. A nomination is not valid unless the nominee has indicated consent in writing. The Returning Officer will announce the name(s) of the nominee(s) at the Council meeting at which the election is to be held. If more than 1 Councillor is nominated an election will take place.

DETERMINE METHOD OF VOTING FOR ELECTION OF DEPUTY MAYOR

- a) Preferential Ballot.
- b) Ordinary Ballot.
- c) Open Voting.

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STATEMENT FROM DEPUTY MAYORAL CANDIDATES (OPTIONAL)

A time limit of 5 minutes per candidate will apply in accordance with Council's Code of Meeting Practice.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

There is no legal requirement under the Local Government Act 1993 to elect a deputy mayor.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that in the absence of the Mayor Council would not have an elected representative to act as the Mayor.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2**FILE NO: 21/326312
EDRMS NO: A2004-0372****COUNCIL MEETINGS****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt Option 1 as shown in **(ATTACHMENT 1)** for Ordinary Council meetings for the term of this Council.
- 2) Meet on the second and fourth Tuesday of each month commencing at 5.30pm, with meetings to be held at 116 Adelaide Street, Raymond Terrace.
- 3) Not hold Ordinary Council meetings in January each year and only hold an Ordinary Council meeting on the second Tuesday in December each year.
- 4) Adopt the Order of Business as detailed in this report.
- 5) Adopt the Prayer and Acknowledgement of Country as detailed in this report.

BACKGROUND

The purpose of this report is to allow Council to set its future Council meeting cycle and adopt the Order of Business.

The Code of Meeting Practice places a strong emphasis on council meetings be effective and efficient. To this end, the previous Council term met on the 2nd and 4th Tuesday of each month commencing at 5:30pm at 116 Adelaide Street, Raymond Terrace.

The table below provides the previous meeting and inspection cycle for each month:

WEEK 1	WEEK 2	WEEK 3	WEEK 4	WEEK 5
No meetings, inspections and/or two-way conversations.	Inspections and/or two-way conversations as required. Followed by public access, if required and then the Ordinary Meeting of Council.	Inspections and/or two-way conversations as required.	Inspections and/or two-way conversations as required. Followed by public access, if required and then the Ordinary Meeting of Council.	No meetings, inspections and/or two-way conversations.

ORDER OF BUSINESS

The proposed Order of Business is below:

1. Opening meeting
2. Prayer
3. Acknowledgement of Country
4. Apologies and applications for a leave of absence by Councillors
5. Confirmation of minutes
6. Disclosures of interests
7. Mayoral minute(s), if submitted
8. Motions to close meeting to the public, if submitted
9. Reports to Council
10. General Manager reports, if submitted
11. Questions with Notice, if submitted
12. Questions on Notice
13. Notices of motions, if submitted
14. Rescission Motions, if submitted
15. Confidential matters, if submitted
16. Conclusion of the meeting

As part of the Order of Business, Council includes a prayer and the Acknowledgement of the Worimi People of Port Stephens. The prayer and the Acknowledgement of the Worimi People are as follows:

PRAYER

‘We ask Almighty God to give us wisdom and courage so we can serve our community, and uphold justice and equality in Port Stephens. Amen.’

ACKNOWLEDGEMENT OF COUNTRY

‘Today, we are meeting on Worimi Country, we acknowledge the past, we are working towards a better tomorrow.’

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

All financial implications are provided within the existing budget, based on the current meeting cycle.

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There is no legal requirement to include the prayer or traditional welcome in Council meeting proceedings.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Options 1 and 2 are provided for in the existing budget. If Council elects to move towards a different meeting cycle additional cost implications would need to be provided.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 365 of the Local Government Act 1993 requires Council to meet at least 10 times per year in different months. Based on the recommended frequency, Council would meet on 21 occasions.

Clause 3.1 of the Code of Meeting Practice (the Code) requires Council, by resolution, to set the frequency, time, date, and place of its ordinary meetings.

Clause 8.1 of the Code requires Council to fix the general order of business for its meetings of the Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of the Local Government Act 1993 if it failed to meet at least 10 times a year.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) General Manager.

OPTIONS

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

ATTACHMENTS

- 1) Council meeting cycle options. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 COUNCIL MEETING CYCLE OPTIONS.

WEEK	OPTION 1 Current meeting cycle	OPTION 2
1	No meetings or inspections	4.00 to 5.30pm 2-way conversation program
2	4.30 to 5.00pm 2-way conversation program 5.30pm Public Access, if required followed by Ordinary Council Meeting	4.00 to 5.30pm 2-way conversation program 5.30pm Public Access, if required followed by Council Committee Meeting
3	4.30 to 6.30pm 2-way conversation program Presentations and Workshops as required.	4.00 to 5.30pm 2-way conversation program 5.30pm Public Access, if required
4	4.30 to 5.00pm 2-way conversation program 5.30pm Public Access, if required followed by Ordinary Council Meeting	4.00 to 5.30pm 2-way conversation program 5.30pm Ordinary Council Meeting
5	No meetings or inspections	4.00 to 5.30pm 2-way conversation program 5.30pm presentations and workshops as required.

ITEM NO. 3**FILE NO: 21/326352
EDRMS NO: A2004-0266****MAYOR AND COUNCILLOR FEES****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Determine the fees for the Mayor and Councillors in accordance with the annual Local Government Remuneration Tribunal under the Regional Centre category fee structure.
- 2) Any subsequent fee determination by the Tribunal in future years be set at the same limit as item 1 above for the term of this Council.
- 3) The Deputy Mayor be paid an acting Mayor fee, deducted from the Mayoral allowance, in the absence of the Mayor, and the fee is only payable to the acting Mayor for periods greater than 1 week (7 calendar days) on a pro-rata basis.

BACKGROUND

The purpose of this report is to determine the fees payable to the Mayor and Councillors.

The Local Government Remuneration Tribunal reviews the annual fees paid to mayors and councillors. Each council is categorised and fees are applied to each of the categories. Port Stephens is categorised as a Regional Centre.

Over recent years, fees have been capped at 2.5% which is consistent with the NSW Wages Policy. In determining the increase the Tribunal reviews the key economic indicators, including the Consumer Price Index and Wage Price Index, and had regard to budgetary limitations imposed by the Government's policy of rate pegging.

The Tribunal does not set a fee for the position of Deputy Mayor, nor Acting Mayor. The Deputy Mayor is only paid a fee when the Mayor is absent and they are the acting Mayor. This fee is payable to the Acting Mayor for periods greater than 1 week (7 calendar days) on a pro-rata basis. The fee is required to be deducted from the Mayoral allowance.

The current range of fees payable to a council categorised as a "Regional Centre" is shown in the table below. Council has the ability to determine the fees within the range below.

	Minimum	Maximum		Minimum	Maximum
Councillor	\$14,100	\$24,810	Mayor	\$29,330	\$61,280

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A mayor receives the fee payable as a councillor with the additional fee as mayor (ie minimum \$43,430 - maximum \$86,090).

Council's past practice has been to pay the maximum fees as determined by the Tribunal.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

Section 241 of the Local Government Act 1993, requires annual fees to be paid to Mayor and Councillors in arrears. Council may set the fees anywhere between the minimum and maximum determined by the Tribunal.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if Council fails to determine a fee structure payable to the Mayor and Councillors, the amount will default to the minimum allowance for the relevant category.	Low	Adopt the recommendation.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Tribunal's report takes into account the current financial situation and the overall impact that increased costs have on Local Government and the social implications.

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

CONSULTATION

Consultation is not required for this report, other than through the Local Government Remuneration Tribunal.

OPTIONS

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

ATTACHMENTS

- 1) Local Government Remuneration Tribunal - Annual Report and Determination.
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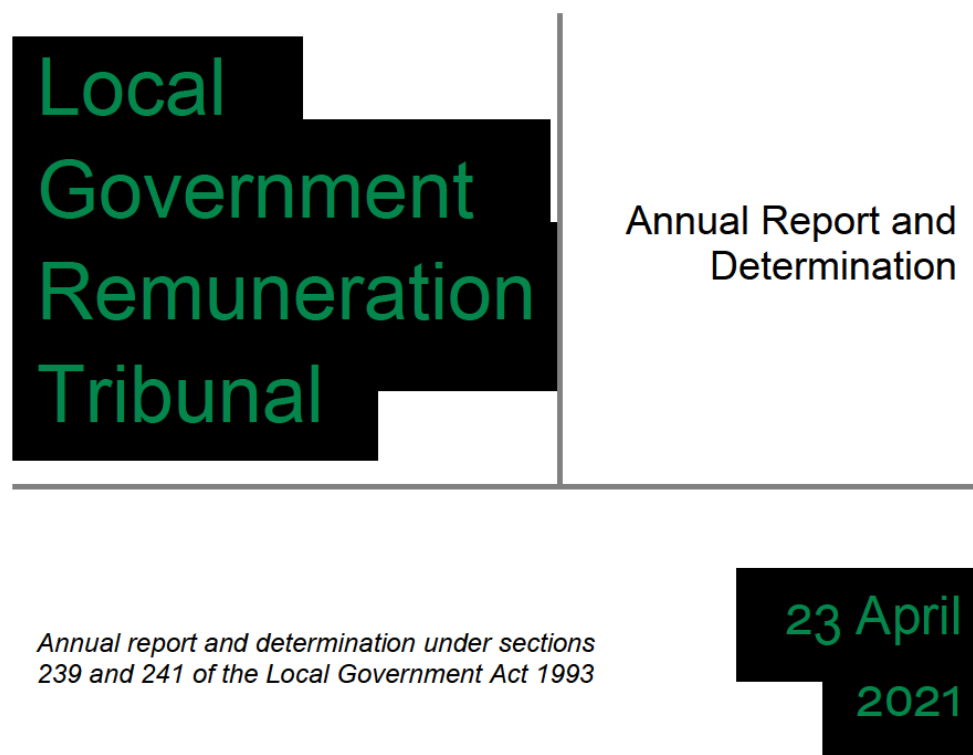
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 LOCAL GOVERNMENT REMUNERATION
TRIBUNAL - ANNUAL REPORT AND DETERMINATION.



[NSW Remuneration Tribunals website](#)

**ITEM 3 - ATTACHMENT 1 LOCAL GOVERNMENT REMUNERATION
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**ITEM 3 - ATTACHMENT 1 LOCAL GOVERNMENT REMUNERATION
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Local Government Remuneration Tribunal

Executive Summary

The *Local Government Act 1993* (the LG Act) requires the Local Government Remuneration Tribunal (the Tribunal) to report to the Minister for Local Government by 1 May each year on its determination of categories of councils and the maximum and minimum amounts of fees to be paid to mayors, councillors, and chairpersons and members of county councils.

Categories

The Tribunal found the allocation of councils into the current categories appropriate. Criteria for each category is published in Appendix 1. These categories have not changed further to the extensive review undertaken as part of the 2020 review.

Fees

The Tribunal determined a 2 per cent increase in the minimum and maximum fees applicable to each category.

ITEM 3 - ATTACHMENT 1 LOCAL GOVERNMENT REMUNERATION TRIBUNAL - ANNUAL REPORT AND DETERMINATION.**Local Government Remuneration Tribunal****Section 1 Introduction**

1. Section 239 of the LG Act provides that the Tribunal determine the categories of councils and mayoral offices and to place each council and mayoral office into one of those categories.
2. Section 241 of the LG Act provides that the Tribunal determine the maximum and minimum amount of fees to be paid to mayors and councillors of councils, as well as chairpersons and members of county councils for each of the categories determined under section 239.
3. Section 242A (1) of the LG Act, requires the Tribunal to give effect to the same policies on increases in remuneration as those of the Industrial Relations Commission.
4. However, the Tribunal can determine that a council be placed in another existing or a new category with a higher range of fees without breaching the Government's wage policy as per section 242A (3) of the LG Act.
5. The Tribunal's determinations take effect from 1 July in each year.

Section 2 2020 Determination

6. Section 239 of the LG Act requires the Tribunal to determine the categories of councils and mayoral offices at least once every 3 years.
7. The Tribunal undertook an extensive review of the categories and allocation of councils into each of those categories as part of the 2020 review.
8. Like the review undertaken in 2017, the Tribunal examined a range of statistical and demographic data and considered the submissions of councils, Local Government NSW (LGNSW) and Regional Cities NSW.
9. The Tribunal determined to retain a categorisation model which differentiates councils primarily based on their geographic location and the other factors including population, the sphere of the council's economic influence and the degree of regional servicing.
10. The categories of general purpose councils were determined as follows:

Metropolitan	Non-Metropolitan
<ul style="list-style-type: none">• Principal CBD• Major CBD• Metropolitan Large• Metropolitan Medium• Metropolitan Small	<ul style="list-style-type: none">• Major Regional City• Major Strategic Area• Regional Strategic Area• Regional Centre• Regional Rural• Rural

11. Given the impact of the bushfires and the COVID-19 pandemic on the state and federal economies and wellbeing of communities, the Tribunal determined no increase in the minimum and maximum fees applicable to each existing category.
12. The Determination was made on 10 June 2020 in accordance with the Local Government (General) Amendment (COVID-19) Regulation 2020 which extended the

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time for making of the determination to no later than 1 July 2020.

13. On 10 August 2020 the Tribunal received a direction from the Minister for Local Government, the Hon Shelley Hancock MP, to review the categorisation of Bayside Council. The Tribunal found that Bayside met the criteria to be classified as Metropolitan Large – having both a resident and non-resident working population (minimum 50,000) exceeding 200,000.
14. The Tribunal's 2020 determination was amended by the special determination on 17 August 2020 for Bayside Council be re-categorised as Metropolitan Large for remuneration purposes with effect from 1 July 2020.

Section 3 2021 Review

2021 Process

15. The Tribunal wrote to all mayors or general managers and LGNSW in February 2021 to advise of the commencement of the 2021 review and invite submissions. This correspondence advised that the Tribunal completed an extensive review of categories in 2020 and as this is only required every three years, consideration would be next be given in 2023. Submissions received requesting to be moved into a different category as part of the 2021 review would only be considered were there was a strong, evidence-based case.
16. Eighteen submissions were received – seventeen from individual councils and a submission from LGNSW. It was not possible from some submissions to ascertain if they had been council endorsed. The Tribunal also met with the President and Chief Executive of LGNSW.
17. The Tribunal discussed the submissions at length with the assessors.
18. The Tribunal acknowledged difficulties imposed by COVID19 and, on some councils the bushfires and floods.
19. Submissions from councils in regional and remote locations that raised the unique challenges experienced by mayors and councillors which included difficulties with connectivity and the travel required in sometimes very difficult circumstances were also acknowledged.
20. A summary of the matters raised in the received submissions and the Tribunal's consideration of those matters is outlined below.

Categorisation

21. Nine council submissions requested recategorisation. Four of these requests sought the creation new categories.
22. The Tribunal found that the current categories and allocation of councils to these categories remained appropriate. The Tribunal's finding had regard to the 2020 review, the current category model and criteria and the evidence put forward in the received submissions.
23. A summary of the individual council submissions that sought recategorisation is below.

Metropolitan Large Councils

24. Blacktown City Council requested the creation of a new category of Metropolitan Large – Growth Area.
25. Penrith City Council requested the creation of a new category Metropolitan Large –

ITEM 3 - ATTACHMENT 1 LOCAL GOVERNMENT REMUNERATION TRIBUNAL - ANNUAL REPORT AND DETERMINATION.**Local Government Remuneration Tribunal**

Growth Centre.

26. Liverpool City Council requested recategorisation to Major CBD.

27. The Tribunal noted that an extensive review of the current category model was completed in 2020 and would be next considered in 2023. The Tribunal noted that the criteria required for recategorisation was not yet met and that current council allocations remained appropriate.

Metropolitan Small Councils

28. The City of Canada Bay sought recategorisation to Metropolitan Medium. The Tribunal noted that the criteria required for recategorisation was not yet met.

Major Regional City Councils

29. The City of Newcastle requested review and creation of a new category of "Gateway City" with comparable characteristics to the Major CBD category and a similar fee structure. The Tribunal noted that an extensive review of the current category model was completed in 2020 and would be next considered in 2023.

Regional Centre

30. Tweed Shire Council requested recategorisation to Regional Strategic Area. The Tribunal noted that the criteria required for recategorisation was not yet met.

Rural Councils

31. Federation Council requested recategorisation into a new category of Regional.

32. Narromine Shire Council sought recategorisation but did not specify a category for consideration.

33. Yass Valley Council sought recategorisation to Regional Rural.

34. The Tribunal noted that an extensive review of the current category model was completed in 2020 and would be next considered in 2023. The Tribunal noted that the criteria required for recategorisation was not yet met and that current council allocations remained appropriate.

Fees

35. The Tribunal determined a 2.0 per cent increase in the minimum and maximum fees applicable to each category. A summary of the matters the Tribunal considered when making this determination is outlined below.

36. Submissions that addressed fees sought an increase of 2.5 per cent or greater. These submissions raised similar issues to warrant an increase which included the significant workload, responsibilities, capabilities, duties and expanding nature of mayor and councillor roles. Some submissions also suggested that an increase in remuneration may assist in improving the diversity of potential candidates.

37. The 2021-22 rate peg for NSW Councils was set at 2.0 per cent by the Independent Pricing and Regulatory Tribunal (IPART). The rate peg is the maximum percentage amount by which a council may increase its general income for the year.

38. Employees under the *Local Government (State) Award 2020* will receive a 2.0 per cent increase in rates of pay from the first full pay period to commence on or after 1 July 2021.

39. Section 242A of the LG Act provides that when determining the fees payable in each of the categories, the Tribunal is required to give effect to the same policies on increases in remuneration as the Industrial Relations Commission is required to give effect to under section 146C of the *Industrial Relations Act 1996* (IR Act), when making or

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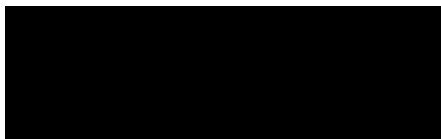
Local Government Remuneration Tribunal

varying awards or orders relating to the conditions of employment of public sector employees.

40. The current government policy on wages pursuant to section 146C(1)(a) of the IR Act is articulated in *the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* (IR Regulation 2014). The IR Regulation provides that public sector wages cannot increase by more than 2.5 per cent. As such, the Tribunal has discretion to determine an increase of up to 2.5 per cent.
41. On 31 March 2021, Premiers Memorandum M2021-09 issued the *NSW Public Sector Wages Policy 2021* reflecting the Government's decision to provide annual wage increases of up to 1.5 per cent. The IR Regulation has not been amended to reflect this position.

Conclusion

42. The Tribunal's determinations have been made with the assistance of Assessors Ms Kylie Yates and Mr Tim Hurst.
43. It is the expectation of the Tribunal that in the future all submissions have council endorsement.
44. Determination 1 outlines the allocation of councils into each of the categories as per section 239 of the LG Act.
45. Determination 2 outlines the maximum and minimum fees paid to councillors and mayors and members and chairpersons of county councils as per section 241 of the LG Act.



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Section 4 2021 Determinations

Determination No. 1 - Allocation of councils into each of the categories as per section 239 of the LG Act effective from 1 July 2021

Table 1: General Purpose Councils - Metropolitan

Principal CBD (1)	Major CBD (1)
Sydney	Parramatta
Metropolitan Large (12)	Metropolitan Medium (8)
Bayside	Campbelltown
Blacktown	Camden
Canterbury-Bankstown	Georges River
Cumberland	Hornsby
Fairfield	Ku-ring-gai
Inner West	North Sydney
Liverpool	Randwick
Northern Beaches	Willoughby
Penrith	
Ryde	
Sutherland	
The Hills	
Metropolitan Small (8)	
Burwood	
Canada Bay	
Hunters Hill	
Lane Cove	
Mosman	
Strathfield	
Waverley	
Woollahra	

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Table 2: General Purpose Councils - Non-Metropolitan

Major Regional City (2)		Major Strategic Area (1)	Regional Strategic Area (1)
Newcastle		Central Coast	Lake Macquarie
Wollongong			

Regional Centre (24)		Regional Rural (13)	
Albury	Mid-Coast	Bega	
Armidale	Orange	Broken Hill	
Ballina	Port Macquarie-Hastings	Byron	
Bathurst	Port Stephens	Eurobodalla	
Blue Mountains	Queanbeyan-Palerang	Goulburn Mulwaree	
Cessnock	Shellharbour	Griffith	
Clarence Valley	Shoalhaven	Kempsey	
Coffs Harbour	Tamworth	Kiama	
Dubbo	Tweed	Lithgow	
Hawkesbury	Wagga Wagga	Mid-Western	
Lismore	Wingecarribee	Richmond Valley Council	
Maitland	Wollondilly	Singleton	
		Snowy Monaro	

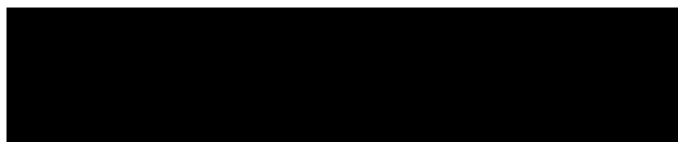
Rural (57)			
Balranald	Cootamundra-Gundagai	Junee	Oberon
Bellingen	Cowra	Kyogle	Parkes
Berrigan	Dungog	Lachlan	Snowy Valleys
Bland	Edward River	Leeton	Temora
Blayney	Federation	Liverpool Plains	Tenterfield
Bogan	Forbes	Lockhart	Upper Hunter
Bourke	Gilgandra	Moree Plains	Upper Lachlan
Brewarrina	Glen Innes Severn	Murray River	Uralla
Cabonne	Greater Hume	Murrumbidgee	Walcha
Carrathool	Gunnedah	Muswellbrook	Walgett
Central Darling	Gwydir	Nambucca	Warren
Cobar	Hay	Narrabri	Warrumbungle
Coolamon	Hilltops	Narrandera	Weddin
Coonamble	Inverell	Narromine	Wentworth

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Rural (57)	
	Yass

Table 3: County Councils

Water (4)	Other (6)
Central Tablelands	Castlereagh-Macquarie
Goldenfields Water	Central Murray
Riverina Water	Hawkesbury River
Rous	New England Tablelands
	Upper Hunter
	Upper Macquarie



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Determination No. 2 - Fees for Councillors and Mayors as per section 241 of the LG Act effective from 1 July 2021

The annual fees to be paid in each of the categories to Councillors, Mayors, Members and Chairpersons of County Councils effective on and from 1 July 2021 as per section 241 of the *Local Government Act 1993* are determined as follows:

Table 4: Fees for General Purpose and County Councils

Category		Councillor/Member Annual Fee (\$) effective 1 July 2021		Mayor/Chairperson Additional Fee* (\$) effective 1 July 2021	
		Minimum	Maximum	Minimum	Maximum
General Purpose Councils - Metropolitan	Principal CBD	28,190	41,340	172,480	226,960
	Major CBD	18,800	34,820	39,940	112,520
	Metropolitan Large	18,800	31,020	39,940	90,370
	Metropolitan Medium	14,100	26,310	29,950	69,900
	Metropolitan Small	9,370	20,690	19,970	45,110
General Purpose Councils - Non-Metropolitan	Major Regional City	18,800	32,680	39,940	101,800
	Major Strategic Area	18,800	32,680	39,940	101,800
	Regional Strategic Area	18,800	31,020	39,940	90,370
	Regional Centre	14,100	24,810	29,330	61,280
	Regional Rural	9,370	20,690	19,970	45,140
	Rural	9,370	12,400	9,980	27,060
County Councils	Water	1,860	10,340	4,000	16,990
	Other	1,860	6,180	4,000	11,280

*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).



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ITEM 3 - ATTACHMENT 1 LOCAL GOVERNMENT REMUNERATION TRIBUNAL - ANNUAL REPORT AND DETERMINATION.**Local Government Remuneration Tribunal****Appendices****Appendix 1 Criteria that apply to categories****Principal CBD**

The Council of the City of Sydney (the City of Sydney) is the principal central business district (CBD) in the Sydney Metropolitan area. The City of Sydney is home to Sydney's primary commercial office district with the largest concentration of businesses and retailers in Sydney. The City of Sydney's sphere of economic influence is the greatest of any local government area in Australia.

The CBD is also host to some of the city's most significant transport infrastructure including Central Station, Circular Quay and International Overseas Passenger Terminal. Sydney is recognised globally with its iconic harbour setting and the City of Sydney is host to the city's historical, cultural and ceremonial precincts. The City of Sydney attracts significant visitor numbers and is home to 60 per cent of metropolitan Sydney's hotels.

The role of Lord Mayor of the City of Sydney has significant prominence reflecting the CBD's importance as home to the country's major business centres and public facilities of state and national importance. The Lord Mayor's responsibilities in developing and maintaining relationships with stakeholders, including other councils, state and federal governments, community and business groups, and the media are considered greater than other mayoral roles in NSW.

Major CBD

The Council of the City of Parramatta (City of Parramatta) is the economic capital of Greater Western Sydney and the geographic and demographic centre of Greater Sydney. Parramatta is the second largest economy in NSW (after Sydney CBD) and the sixth largest in Australia.

As a secondary CBD to metropolitan Sydney the Parramatta local government area is a major provider of business and government services with a significant number of organisations relocating their head offices to Parramatta. Public administration and safety have been a growth sector for Parramatta as the State Government has promoted a policy of moving government agencies westward to support economic development beyond the Sydney CBD.

The City of Parramatta provides a broad range of regional services across the Sydney Metropolitan area with a significant transport hub and hospital and educational facilities. The City of Parramatta is home to the Westmead Health and Medical Research precinct which represents the largest concentration of hospital and health services in Australia, servicing Western Sydney and providing other specialised services for the rest of NSW.

The City of Parramatta is also home to a significant number of cultural and sporting facilities (including Sydney Olympic Park) which draw significant domestic and international visitors to the region.

ITEM 3 - ATTACHMENT 1 LOCAL GOVERNMENT REMUNERATION TRIBUNAL - ANNUAL REPORT AND DETERMINATION.**Local Government Remuneration Tribunal****Metropolitan Large**

Councils categorised as Metropolitan Large will typically have a minimum residential population of 200,000.

Councils may also be categorised as Metropolitan Large if their residential population combined with their non-resident working population exceeds 200,000. To satisfy this criteria the non-resident working population must exceed 50,000.

Other features may include:

- total operating revenue exceeding \$200M per annum
- the provision of significant regional services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- significant industrial, commercial and residential centres and development corridors
- high population growth.

Councils categorised as Metropolitan Large will have a sphere of economic influence and provide regional services considered to be greater than those of other metropolitan councils.

Metropolitan Medium

Councils categorised as Metropolitan Medium will typically have a minimum residential population of 100,000.

Councils may also be categorised as Metropolitan Medium if their residential population combined with their non-resident working population exceeds 100,000. To satisfy this criteria the non-resident working population must exceed 50,000

Other features may include:

- total operating revenue exceeding \$100M per annum
- services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- industrial, commercial and residential centres and development corridors
- high population growth.

The sphere of economic influence, the scale of council operations and the extent of regional servicing would be below that of Metropolitan Large councils.

ITEM 3 - ATTACHMENT 1 LOCAL GOVERNMENT REMUNERATION TRIBUNAL - ANNUAL REPORT AND DETERMINATION.**Local Government Remuneration Tribunal****Metropolitan Small**

Councils categorised as Metropolitan Small will typically have a residential population less than 100,000.

Other features which distinguish them from other metropolitan councils include:

- total operating revenue less than \$150M per annum.

While these councils may include some of the facilities and characteristics of both Metropolitan Large and Metropolitan Medium councils the overall sphere of economic influence, the scale of council operations and the extent of regional servicing would be below that of Metropolitan Medium councils.

Major Regional City

Newcastle City Council and Wollongong City Councils are categorised as Major Regional City. These councils:

- are metropolitan in nature with major residential, commercial and industrial areas
- typically host government departments, major tertiary education and health facilities and incorporate high density commercial and residential development
- provide a full range of higher order services and activities along with arts, culture, recreation, sporting and entertainment facilities to service the wider community and broader region
- have significant transport and freight infrastructure servicing international markets, the capital city and regional areas
- have significant natural and man-made assets to support diverse economic activity, trade and future investment
- typically contain ventures which have a broader State and national focus which impact upon the operations of the council.

Major Strategic Area

Councils categorised as Major Strategic Area will have a minimum population of 300,000.

Other features may include:

- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$250M per annum
- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Currently, only Central Coast Council meets the criteria to be categorised as a Major Strategic Area. Its population, predicted population growth, and scale of the Council's operations warrant that it be differentiated from other non-metropolitan councils. Central Coast Council is also a

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significant contributor to the regional economy associated with proximity to and connections with Sydney and the Hunter Region.

Regional Strategic Area

Councils categorised as Regional Strategic Area are differentiated from councils in the Regional Centre category on the basis of their significant population and will typically have a residential population above 200,000.

Other features may include:

- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$250M per annum
- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Currently, only Lake Macquarie Council meets the criteria to be categorised as a Regional Strategic Area. Its population and overall scale of council operations will be greater than Regional Centre councils.

Regional Centre

Councils categorised as Regional Centre will typically have a minimum residential population of 40,000.

Other features may include:

- a large city or town providing a significant proportion of the region's housing and employment
- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$100M per annum
- the highest rates of population growth in regional NSW
- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Councils in the category of Regional Centre are often considered the geographic centre of the region providing services to their immediate and wider catchment communities.

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Regional Rural

Councils categorised as Regional Rural will typically have a minimum residential population of 20,000.

Other features may include:

- a large urban population existing alongside a traditional farming sector, and are surrounded by smaller towns and villages
- health services, tertiary education services and regional airports which service a regional community
- a broad range of industries including agricultural, educational, health, professional, government and retail services
- large visitor numbers to established tourism ventures and events.

Councils in the category of Regional Rural provide a degree of regional servicing below that of a Regional Centre.

Rural

Councils categorised as Rural will typically have a residential population less than 20,000.

Other features may include:

- one or two significant townships combined with a considerable dispersed population spread over a large area and a long distance from a major regional centre
- a limited range of services, facilities and employment opportunities compared to Regional Rural councils
- local economies based on agricultural/resource industries.

County Councils - Water

County councils that provide water and/or sewerage functions with a joint approach in planning and installing large water reticulation and sewerage systems.

County Councils - Other

County councils that administer, control and eradicate declared noxious weeds as a specified Local Control Authority under the *Biosecurity Act 2015*.

ITEM NO. 4**FILE NO: 21/333300
EDRMS NO: A2004-0266****SUPERANNUATION CONTRIBUTIONS****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider optional superannuation contributions payments to elected members for the term of Council.

BACKGROUND

The purpose of this report is to enable Council to give consideration to the optional payment of superannuation contribution payments to elected members.

In May 2021, the NSW Parliament passed the Local Government Amendment Act 2021. The amendment provided a number of changes, including the option to make superannuation contribution payments to mayors and councillors. The decision to make superannuation contribution payments must be made by resolution at an open Council meeting.

Such payments would be effective from 1 July 2022, should Council resolve that way. The contribution payments would be equivalent in amount to the superannuation guarantee payments. The current superannuation contribution is 10%.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

Based on the 2021 to 2022 fees payable to the elected members, the superannuation contribution would be approximately \$31,000 in total.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		Provision would be made in the 2022 to 2023 budget.
Reserve Funds	No		

EXTRAORDINARY COUNCIL - 11 JANUARY 2022

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

LEGAL, POLICY AND RISK IMPLICATIONS

Section 254B of the Local Government Act 1993, makes provision for superannuation contribution payments to be made to mayors and councillors.

Section 254B:

- (1) A council may make a payment (a "**superannuation contribution payment**") as a contribution to a superannuation account nominated by a councillor, starting from the financial year commencing 1 July 2022.
- (2) The amount of a superannuation contribution payment is the amount the council would have been required to contribute under the Commonwealth superannuation legislation as superannuation if the councillor were an employee of the council.
- (3) A superannuation contribution payment is payable with, and at the same intervals as, the annual fee is payable to the councillor.
- (4) A council is not permitted to make a superannuation contribution payment -
 - (a) unless the council has previously passed a resolution at an open meeting to make superannuation contribution payments to its councillors, or
 - (b) if the councillor does not nominate a superannuation account for the payment before the end of the month to which the payment relates, or
 - (c) to the extent the councillor has agreed in writing to forgo or reduce the payment.
- (5) The Remuneration Tribunal may not take superannuation contribution payments into account in determining annual fees or other remuneration payable to a mayor or other councillor.
- (6) A person is not, for the purposes of any Act, taken to be an employee of a council and is not disqualified from holding civic office merely because the person is paid a superannuation contribution payment.
- (7) A superannuation contribution payment does not constitute salary for the purposes of any Act.
- (8) Sections 248A and 254A apply in relation to a superannuation contribution payment in the same way as they apply in relation to an annual fee.
- (9) In this section—

"Commonwealth superannuation legislation" means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.

"superannuation account" means an account for superannuation or retirement benefits from a scheme or fund to which the Commonwealth superannuation legislation applies.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of the Local Government Act 1993 if superannuation contribution payments were made in the absence of a Council resolution.	Low	Adopt the recommendation.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

Internal

Financial Service Section Manager.
General Manager.

External

No external consultation is required.

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: 21/352604
EDRMS NO: A2004-0284**

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

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy dated 14 May 2019, Minute No. 20 should no submissions be received.

BACKGROUND

The purpose of this report is seek Council's endorsement of the revised Payment of Expenses and Provision of Facilities to Councillors Policy (the 'policy').

The policy has been reviewed in accordance with Council's regular policy review cycle. The policy is also required to be reviewed within the first 12 months of each term of Council.

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

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

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

The 2021 to 2022 budget makes provision for the associated financial implications.

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

LEGAL, POLICY AND RISK IMPLICATIONS

Under Section 252 and 253 of the Local Government Act 1993, Council must adopt a policy concerning the payment of expenses incurred by Councillors in relation to discharging the functions of civic office.

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

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

Internal

- Executive Team.
- General Manager.

External

Following Council adoption, the policy will be placed on public exhibition for a period of 28 days to seeking public comment.

OPTIONS

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

ATTACHMENTS

- 1) Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

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

Policy



FILE NO: A2004-0284

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

POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy ('Policy') is to clearly state the facilities and support that are available to Elected Members to assist them in fulfilling their civic duties.
- 1.2 This Policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to Elected Members to help them undertake their civic duties.
- 1.3 It ensures accountability and transparency, and seeks to align Elected Members expenses and facilities with community expectations. Elected Members must not obtain private or political benefit from any expense or facility provided under this Policy.
- 1.4 The Policy has been prepared in accordance with the Local Government Act 1993 (the Act) and Local Government (General) Regulation 2005 **2021** (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.
- 1.5 The Policy sets out the maximum amounts Council will pay for specific expenses and facilities.

2. CONTEXT/BACKGROUND:

- 2.1 The provision of expenses and facilities enables the Mayor and Councillors to fulfil their civic duties as the elected representatives of Port Stephens Council.
- 2.2 The community is entitled to know the extent of expenses paid to Elected Members, as well as the facilities provided.
- 2.3 Council staff are empowered to question or refuse a request for payment from a Councillor when it does not accord with this Policy.

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- 2.4 Expenses and facilities provided by this Policy are in addition to fees paid to Elected Members. The minimum and maximum fees a council may pay Elected Members are set by the Local Government Remuneration Tribunal as per Section 241 of the Act and reviewed annually. Council must adopt its annual fees within this set range.

3. SCOPE:

Part A – Expenses

3.1 General expenses

- 3.1.1 All expenses provided under this Policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this Policy.

- 3.1.2 Expenses not explicitly addressed in this Policy will not be paid or reimbursed.

3.2 Specific expenses.

General travel arrangements and expenses

- 3.2.1 All travel by Elected Members should be undertaken using the most direct route and the most practicable and economical mode of transport. Should an Elected Member elect to travel an alternate route that is not the most economical, they will only be reimbursed the cost associated with taking the most direct and economical route.

- 3.2.2 Each Elected Member may be reimbursed or costs met by Council up to a total of \$7,000 per year, for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW.

3.3 This includes reimbursement:

- a) for public transport fares.
- b) for the use of a private vehicle or hire car.
- c) for parking costs for Council and other meetings.
- d) for tolls.
- e) by Cabcharge card or equivalent.
- f) for documented ride-share programs, such as Uber, where tax invoices can be issued.

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- 3.4 Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate contained in the Local Government (State) Award.
- 3.5 Elected Members seeking to be reimbursed for use of a private vehicle must keep a log book recording the date, distance and purpose of travel being claimed. The claim form must include such details.

Interstate, overseas and long distance intrastate travel expenses

- 3.6 In accordance with the Policy Statement, Council will scrutinise the value and need for Elected Members to undertake overseas travel. Council should avoid interstate, overseas and long distance intrastate trips unless direct and tangible benefits can be established for the Council and the local community. This includes travel to sister and friendship cities.
- 3.7 Total interstate travel (excluding the ACT), overseas and long distance intrastate travel expenses for each Elected Member will be capped at a maximum of \$2,000 per year. This amount will be set aside in Council's annual budget.
- 3.8 Elected Members seeking approval for any interstate and long distance intrastate travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.
- 3.9 Elected Members seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.
- 3.10 The case should include:
- a) objectives to be achieved in travel, including an explanation of how the travel aligns with current Council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the Elected Members civic duties;
 - b) who is to take part in the travel;
 - c) duration and itinerary of travel;
 - d) a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.

Note: for the most part, a report will be submitted to a full Council meeting by the General Manager's Office, detailing the proposed travel.

- 3.11 For interstate and long distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.

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- 3.12 For interstate journeys by air of more than three hours, the class of air travel may be premium economy.
- 3.13 For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.
- 3.14 Bookings for approved air travel are to be made through the General Manager's Office.
- 3.15 For air travel that is reimbursed or costs met by Council as Council business, Elected Members will not accrue points from the airline's frequent flyer program. This is considered a private benefit.

Travel expenses not paid by Council

- 3.16 Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

Accommodation and meals

- 3.17 In circumstances where it would introduce undue risk for a Elected Members to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the General Manager. This includes where a meeting finishes later than 10pm or starts earlier than 7am and the Elected Member lives more than 50 kilometres from the meeting location.
- 3.18 Council will meet the costs for accommodation and meals while Elected Members are undertaking prior approved travel or professional development outside the Hunter area.
- 3.19 The maximum daily limits for accommodation expenses within Australia is \$400 per Elected Member per day inclusive. This will ensure accommodation costs in a capital city are covered.
- 3.20 The daily limits for meal expenses within Australia, (breakfast, lunch and dinner) will be reimbursed in accordance with the reasonable meal allowance expense amounts as determined by the Australian Taxation Office from time to time.

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3.21 The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the General Manager, being mindful of Clause 3.19 and 3.20 above.

3.22 Elected Members will not be reimbursed or costs met by Council for alcoholic beverages.

Refreshments for council related meetings

3.23 Appropriate refreshments will be available for Council meetings, Council committee meetings, Councillor briefings, approved meetings and engagements, and official Council functions as approved by the General Manager.

3.24 As an indicative guide for the standard of refreshments to be provided at Council related meetings, the General Manager must be mindful of the reasonable meal allowance expense amounts as determined by the Australian Taxation Office from time to time.

Professional development (including conferences and seminars)

3.25 Council will set aside \$15,000 per Elected Member, per term in its budget to facilitate professional development of Elected Members through programs, training, education courses and membership of professional bodies.

3.26 In the first year of a new Council term, Council will provide a comprehensive induction program for all Elected Members which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.

3.27 Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the Elected Member's civic duties, the Elected Member actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.

3.28 Any Elected Member seeking to undertake professional development such as the Australian Institute of Company Directors or other significant programs must complete the course within the first 18 months of the term.

~~3.28~~ 3.29 Approval for professional development activities is subject to a prior written request to the General Manager outlining the:

- a) details of the proposed professional development.
- b) relevance to Council priorities and business.

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c) relevance to the exercise of the Councillor's civic duties.

~~3.29~~ **3.30** In assessing an Elected Members request for a professional development activity, the General Manager must consider the factors set out in Clause ~~3.28~~ **3.29**, as well as the cost of the professional development in relation to the Councillor's remaining budget.

~~3.30~~ **3.31** Council is committed to ensuring its Elected Members are up to date with contemporary issues facing Council and the community, and local government in NSW.

~~3.34~~ **3.32** Council will set aside a total amount of \$30,000 annually in its budget to facilitate Elected Members attendance at conferences and seminars. This allocation is for all Elected Members. The General Manager will ensure that access to expenses relating to conferences and seminars is distributed equitably.

~~3.32~~ **3.33** Approval to attend a conference or seminar is subject to approval of a full Council meeting. In assessing an Elected Member's request, the General Manager must consider the following factor prior to submitting the report to Council:

- a) relevance of the topics and presenters to current Council priorities and business and the exercise of the Elected Member's civic duties;
- b) cost of the conference or seminar in relation to the total remaining budget.

~~3.33~~ **3.34** Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved Council. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for travel, accommodation and meals not included in the conference fees will be subject to Clauses 3.2.1 and 3.18-3.22.

Awards and Ceremonies

3.35 Council will meet the costs of tickets for ceremony and award events where it is Council related.

3.36 Council will set aside \$1000 per year for the Mayor and \$500 per year for each Councillor.

Spouse and Partner Expenses

~~3.34~~ **3.37** Accompanying person means a person who has a close relationship with an Elected Member and/or provides carer support to the Elected Member.

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- ~~3.35~~ **3.38** In limited circumstances, Council will meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature, such as award ceremonies and attendance at the annual Strategic Councillor workshop. Each Councillor is entitled to a maximum of \$500 annually (not including the Local Government NSW annual conference).
- ~~3.36~~ **3.39** Costs and expenses incurred by Elected Members on behalf of their spouse, partner or accompanying person will be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function noted in ~~3.35~~ **3.38** above.
- ~~3.37~~ **3.40** In limited circumstances, Council will meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature, such as award ceremonies and attendance at the annual Strategic Councillor workshop. Each Mayor is entitled to a maximum of \$1,000 annually (not including the Local Government NSW annual conference).
- ~~3.38~~ **3.41** Council will meet limited expenses of spouse, partner or accompanying person associated with attendance at the Local Government NSW annual conference. These expenses are limited to the costs of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program will not be met by Council.
- ~~3.39~~ **3.42** Costs incurred by Elected Members on behalf of a spouse, partner or accompanying person associated with attendance at a conference (other than the Local Government NSW annual conference), seminars or training as part of the Elected Members professional development program will not be met by Council.
- ~~3.40~~ **3.43** In no circumstances will the peripheral expenses of a spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Information and communications technology (ICT) expenses

- ~~3.41~~ **3.44** Council will reimburse Elected Members for expenses associated with appropriate ICT devices up to a limit of **75% of the each invoice, to a maximum** of \$5,000 per term. This may include a combination of devices such as; mobile

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phone, a tablet and a desktop computer or laptop. Council will only reimburse Elected Members for a maximum of three devices.

~~3.42~~ **3.45** Elected Members may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as an Elected Member, within the maximum limit.

~~3.43~~ **3.46** Council will reimburse Elected Members for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business, up to 75% of the total invoice, to a maximum cost of \$200 per month. Unless an Elected Member can provide evidence that 100% of the total invoice, should be paid.

~~3.44~~ As an alternative to clause 3.43, Council will reimburse Elected Members for their communication device costs where it is part of a bundle plan. This would include landline costs and internet where costs were incurred in attending to Council business, up to 75% of the total invoice, to a maximum cost of \$100 per month. The reimbursement for a mobile phone plan will be, up to 75% of the total invoice, to a maximum cost of \$100 per Councillor per month. Unless an Elected Member can provide evidence that 100% of the total invoice should be paid.

~~3.45~~ Council will meet the cost of providing and maintaining an internet connection at the residence of an Elected Member up to 75% of the total invoice, to a maximum of \$60 per month, where not included in a bundle plan. Any internet costs incurred above this maximum will be met by the Elected Member. Unless an Elected Member can provide evidence that 100% of the total invoice should be paid

~~3.46~~ **3.47** Reimbursements will be made only for communications devices and services used for Elected Members to undertake their civic duties, such as:

- a) receiving and reading Council business papers.
- b) relevant phone calls and correspondence.
- c) diary and appointment management.

~~3.47~~ **3.48** All communication device costs incurred above this maximum will be met by the Elected Member.

~~3.48~~ **3.49** If an Elected Member does not have a telephone line or internet connection at their home, Council will meet reasonable connection costs.

Special requirement and carer expenses

~~3.49~~ **3.50** Council encourages wide participation and interest in civic office. It will seek to ensure Council premises and associated facilities are accessible,

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including provision for sight or hearing impaired Elected Members and those with other disabilities.

- ~~3.50~~ **3.51** Transportation provisions outlined in this Policy will also assist Elected Members who may be unable to drive a vehicle.
- ~~3.51~~ **3.52** In addition to the provisions above, the General Manager may authorise the provision of reasonable additional facilities and expenses in order to allow an Elected Member with a disability to perform their civic duties.
- ~~3.52~~ **3.53** Elected Members who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of ~~\$2,000~~ **\$3,500** per annum for attendance at official business, plus reasonable travel from the principal place of residence.
- ~~3.53~~ **3.54** Child care expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.
- ~~3.54~~ **3.55** In the event of caring for an adult person, Elected Members will need to provide suitable evidence to the General Manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.

Home office expenses

- ~~3.55~~ **3.56** Each Elected Member may be reimbursed up to \$300 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

Insurances and Mutual Scheme Protections

- 3.57** Elected Members will receive the benefit of insurance cover **or protection** through the NSW Local Government Mutual Schemes for:
- ~~3.56~~ **3.58** Personal Accident – Personal Accident insurance covers personal injury, which is caused by accidental external and visible means that solely and independently of any other cause results in an Elected Member's death or disablement. The cover applies anywhere in the world during and while travelling to and from Council business. ~~The capital benefit for the death of an Elected Member is \$500,000.~~ The cover does not include medical expenses.
- ~~3.57~~ **3.59** Professional Indemnity – Professional Indemnity ~~insurance~~ **protection** covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is

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subject to any **exclusions**, limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.

~~3.58~~ **3.60** Public Liability – Public Liability insurance **protection** covers Council's legal liability to pay compensation to third parties arising **out of a negligent act, error or omission resulting in personal injury, loss or death or loss of use of property** in connection with the business activities of Council. ~~Matters arising from Elected Members' performance of civic duties or exercise of their functions as Elected Members are covered~~ **Cover is** subject to any **exclusions**, limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme Policy wording.

~~3.59~~ **3.61** Councillors' & Officers' Liability – Councillors' & Officers' Liability insurance protects Elected Members and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Elected Members for personal liabilities as a result of wrongful acts subject to any **exclusions**, limitations or conditions set out in the Policy of insurance. **Written approval must be obtained from the Mutual Scheme prior to incurring any legal defence costs.**

~~3.60~~ Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by Council's Organisation Development Section.

Legal assistance

~~3.61~~ **3.62** Elected Members may be entitled to indemnity for an enquiry, investigation or hearing commenced by an official body.

Council will not meet the legal costs:

- a) of legal proceedings initiated by an Elected Member under any circumstances;
- b) of an Elected Member seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation;
- c) for legal proceedings that do not involve an Elected Member performing their role as an Elected Member.

~~3.62~~ **3.63** Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a Council meeting prior to costs being incurred.

~~3.63~~ **3.64** ~~In the event of legal~~ **Legal** proceedings being taken against an Elected Member, arising out of or in connection with the Elected Member's performance of his or her civic duties or exercise of his or her functions as an Elected Member (with the exception of defamation proceedings); Council shall reimburse such an Elected Member, after the conclusion of the inquiry,

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investigation, hearing or proceeding for all legal expenses properly and reasonably incurred on a solicitor/client basis, PROVIDED THAT:

~~3.64 After the conclusion of the inquiry, investigation, hearing or proceeding, Council will reimburse an Elected Member for all legal expenses properly and reasonably incurred on a solicitor/client basis, PROVIDED THAT:~~

- a) The amount of such reimbursement will be reduced by the amount of any monies that may be or are recouped by the Elected Member on any basis.
- b) The Elected Member's performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper (Section 731 of the Act).
- c) The amount of such reimbursement be limited to an hourly rate being charged by Council's Hunter based Solicitors ie any portion of the expenses representing an hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

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

- a) Legal expenses incurred in relation to proceedings arising out of the performance by an Elected Member of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something, which an Elected Member has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.
- b) In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Elected Member. This may include circumstances in which a matter does not proceed to a finding. In relation to an Elected Member's conduct, a finding by an investigative or review body that an inadvertent minor technical breach has occurred may not necessarily be considered a substantially unfavourable outcome.

3.66 In the case of a code of conduct complaint made against an Elected Member, legal costs will only be made available where the matter has been referred by the General Manager to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the Elected Member.

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- 3.67 Council will not meet any Elected Members' costs of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, Council itself.
- 3.68 In the case of defamation proceedings arising from the making of a public statement, where an Elected Member is a defendant or anticipated defendant in such proceedings.
- 3.69 Indemnity or reimbursement in respect of costs of defending an action in defamation is only available in circumstances where the Elected Member was acting properly when making the statement complained of. The threshold criteria for the application of the indemnity or reimbursement will apply (see 3.70).

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

Threshold Criteria – Defamation Proceedings

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

- i. The statement was made or the act was done in relation to discharging the functions of civic office;
- ii. The Elected Member concerned was acting in good faith (Section 731 of the Act); and
- iii. The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will reimburse an Elected Member for all legal expenses, fees, liabilities or costs incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor) properly and reasonably incurred on a solicitor/client basis, PROVIDED THAT the amount of such reimbursement will be:

- a) reduced by the amount of any monies that may be or are recouped by the Elected Member on any basis; and
- b) limited to an hourly rate being charged by Council's Hunter based Solicitors ie any portion of the expenses representing an hourly charge rate higher than the

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hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

Engagement of Legal Representatives – Requisite Procedure

- 3.71 The Councillor must as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. In the case of the Mayor, the Mayor is to notify the General Manager or Public Officer.
- 3.72 This notification must:
- a) be in written form;
 - b) include all details including any correspondence from the alleged injured party concerning the possible claim; and
 - c) include the Elected Member's comments on whether the Elected Member considers that the Three Criteria are satisfied.
- 3.73 The Elected Member must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by Council or its solicitor or the insurer or its solicitor.
- 3.74 The Elected Member must at all times without undue delay keep Council fully informed of any oral or written communications made to the Elected Member by the alleged injured party or the injured party's agents or legal representative in respect of the claim.
- 3.75 The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.
- 3.76 If proceedings are threatened (and not yet commenced), the General Manager must without undue delay inform Council's appointed Solicitor and/or Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Elected Member concerned in written form of that view.
- 3.77 If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Elected Member concerned.

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- 3.78 If Council's solicitor forms the view that the Three Criteria are not satisfied, the Elected Member may request a review of that advice from an independent legal practitioner as agreed in advance between the Elected Member concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
- 3.79 If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
- a) In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to consultation with the General Manager and the Elected Member will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - b) If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Elected Member. If the Elected Member considers that such representation is appropriate then the procedures in the paragraph below must be followed. If Council's solicitors are not of the same opinion as the insurers the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
 - c) If the Elected Member considers that the legal practitioner nominated is not appropriate then the Elected Member concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
- 3.80 If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
- a) Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - b) Accounts being considered and approved by the General Manager prior to payment; and
 - c) All instructions provided to the legal representatives by the Elected Member concerned to be subject to the concurrence of the General Manager.
- 3.81 Notwithstanding the provisions of paragraph above, once proceedings have actually been commenced then the procedures set out above must be followed.
(Note: The General Manager should regularly review Council's insurance

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policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

- 3.82 This Policy will not apply to any defamation or other action brought by any Elected Member or Council employee against any Elected Member, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:
- a) The statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Office of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
 - b) The statement:
 - o is made at a meeting of Council, a briefing of Elected Members or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and
 - o is in accordance with the Local Government (General) Regulations 2005 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
 - o does not breach any other law.

Part B – Facilities

General facilities for all Elected Members

Facilities

- 3.83 Council will provide the following facilities to Councillors to assist them to effectively discharge their civic duties:
- a) a Councillor common room appropriately furnished to include telephone, photocopier, printer, desks, computer terminals, pigeon holes and appropriate refreshments (excluding alcohol).
 - b) access to shared car parking spaces while attending Council offices on official business.
 - c) personal protective equipment for use during site visits.
 - d) a name badge which may be worn at official functions, indicating that the wearer holds the office of a Councillor and/or Mayor or Deputy Mayor.

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3.84 Councillors may book meeting rooms for official business in a specified Council building at no cost. Rooms may be booked through a specified officer in the Mayor's office or other specified staff member.

3.85 The provision of facilities will be of a standard deemed by the General Manager as appropriate for the purpose.

Stationery

3.86 Council will provide the following stationery to Elected Members each year:

- a) letterhead, to be used only for correspondence associated with civic duties.
- b) business cards.
- c) up to the cost of 50 ordinary postage stamps.
- d) up to 30 Christmas or festive cards per year for Councillors and 100 for the Mayor.

Note: All postage is to be lodged at the Council Administration Building.

3.87 As per Section 3.86, postage costs will only be used to support an Elected Members civic duties. Any postage costs not used will not be carried over to the next year's allocation.

Administrative support

3.88 Council will provide administrative support to Elected Members to assist them with their civic duties only. Administrative support may be provided by staff in the Mayor's Office or by a member of Council's administrative staff as arranged by the General Manager or their delegate.

3.89 As per Section 7, Council staff are expected to assist Elected Members with civic duties only, and not assist with matters of personal or political interest, including campaigning.

Corporate Uniform

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

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Superannuation

- 3.91 Elected Members may elect to contribute all or part of their Elected Member's Allowance into an approved Superannuation Scheme. ~~by completing FORM 3.~~
- 3.92 Council will make superannuation contribution equivalent in amount to superannuation guarantee payments.

Health & Wellbeing Initiative

- 3.92 3.93 Elected Members will be able to access a Health Initiative program, which includes gym membership at local facilities. The program requires a minimum six (6) month membership with a payment to be made in advance for three (3) months – non-refundable.
- 3.93 3.94 Elected Members will investigate any taxation implications for individual Elected Members as a result of the membership.
- 3.94 3.95 Further details can be obtained through Council's Senior Executive Assistant.

Additional facilities for the Mayor

- 3.95 3.96 Council will provide to the Mayor a maintained vehicle to a similar standard of other Council vehicles, with a fuel card. The vehicle will be supplied for use on business, professional development and attendance at the Mayor's office.
- 3.96 3.97 The Mayor must keep a log book setting out the date, distance and purpose of all private travel. The log book must be submitted to Council on a monthly basis.
- 3.97 3.98 The Mayoral monthly claim for expenses will be reduced to cover the cost of any private travel recorded in the log book, calculated on a per kilometre basis by the rate set by the Local Government (State) Award.
- 3.98 3.99 A parking space at Council's offices will be reserved for the Mayor's Council-issued vehicle for use on official business, professional development and attendance at the Mayor's Office.
- 3.99 3.100 Council will provide the Mayor with a furnished office incorporating a computer configured to Council's standard operating environment, telephone and meeting space.
- 3.100 3.101 A corporate credit card only to be used for official Council business in accordance with this Policy.

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- ~~3.101~~ **3.102** In performing his or her civic duties, the Mayor will be assisted by a small number of staff providing administrative and secretarial support, as determined by the General Manager.
- ~~3.102~~ **3.103** The number of exclusive staff provided to support the Mayor and Councillors will not exceed one full time equivalent.
- ~~3.103~~ **3.104** As per Section ~~3.101~~ **3.102**, staff in the Mayor's office are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

Part C – Processes

Approval, payment and reimbursement arrangements.

- ~~3.104~~ **3.105** Expenses should only be incurred by Elected Members in accordance with the provisions of this Policy.
- ~~3.105~~ **3.106** Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- ~~3.106~~ **3.107** Up to the maximum limits specified in this Policy, approval for the following may be sought after the expense is incurred:
- a) local travel relating to the conduct of official business.
 - b) carer costs.
 - c) ICT expenditure.
- ~~3.107~~ **3.108** Final approval for payments made under this Policy will be granted by the General Manager or their delegate.

Direct payment

- ~~3.108~~ **3.109** Council may approve and directly pay expenses. Requests for direct payment must be submitted to the General Manager for assessment against this Policy using the prescribed form, with sufficient information and time to allow for the claim to be assessed and processed.
- ~~3.109~~ **3.110** Alternatively, if Council makes the arrangements then the costs will be paid by Council for official Council business.

Reimbursement

- ~~3.110~~ **3.111** All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the General Manager.

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Advance payment

- ~~3.111~~ **3.112** Council may pay a cash advance for Elected Members attending approved conferences, seminars or professional development.
- ~~3.112~~ **3.113** The maximum value of a cash advance is \$100 per day of the conference, seminar or professional development to a maximum of \$400.
- ~~3.113~~ **3.114** Requests for advance payment must be submitted to the General Manager for assessment against this Policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.
- ~~3.114~~ **3.115** Elected Members must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to council:
- a) a full reconciliation of all expenses including appropriate receipts and/or tax invoices;
 - b) reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

Notification

- ~~3.115~~ **3.116** If a claim is approved, Council will make payment directly or reimburse the Elected Member through accounts payable.
- ~~3.116~~ **3.117** If a claim is refused, Council will inform the Elected Member in writing that the claim has been refused and the reason for the refusal.

Reimbursement to council

- ~~3.117~~ **3.118** If Council has incurred an expense on behalf of a Elected Member that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this Policy:
- a) Council will invoice the Elected Member for the expense;
 - b) the Elected Member will reimburse Council for that expense within 14 days of the invoice date.
- ~~3.118~~ **3.119** If the Elected Member cannot reimburse Council within 14 days of the invoice date, they are to submit a written explanation to the General Manager. The General Manager may elect to deduct the amount from the Elected Member's allowance.

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Timeframe for reimbursement

- ~~3.119~~ **3.120** Unless otherwise specified in this Policy, Elected Member's must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

Disputes

- ~~3.120~~ **3.121** If an Elected Member disputes a determination under this Policy, the Elected Member should discuss the matter with the General Manager.
- ~~3.121~~ **3.122** If the Elected Member and the General Manager cannot resolve the dispute, the Elected Member may submit a notice of motion to a Council meeting seeking to have the dispute resolved.

Return or retention of facilities

- ~~3.122~~ **3.123** All unexpended facilities or equipment supplied under this Policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.
- ~~3.123~~ **3.124** Should a Elected Member desire to keep any equipment allocated by Council, then this Policy enables the Elected Member to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.
- ~~3.124~~ **3.125** The prices for all equipment purchased by Elected Members under Clause 3.123 will be recorded in Council's annual report.

Publication

- ~~3.125~~ **3.126** This Policy will be published on Council's website.

Reporting

- ~~3.126~~ **3.127** Council will report on the provision of expenses and facilities to Elected Members as required in the Act and Regulations.
- ~~3.127~~ **3.128** Detailed reports on the provision of expenses and facilities to Elected Members will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure incurred by Elected Members. The report will also show the total cost incurred to Council by Elected Members (including the monthly allowance) for each costing category listed.

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Auditing

- ~~3.128~~ **3.129** The operation of this Policy, including claims made under the Policy, will be included in Council's audit program and an audit undertaken at least every two years.

Breaches

- ~~3.129~~ **3.130** Suspected breaches of this Policy are to be reported to the General Manager.
- ~~3.130~~ **3.131** Alleged breaches of this Policy will be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

4. DEFINITIONS:

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

Accompanying person	Means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a Councillor.
Appropriate refreshments	Means food and beverages, excluding alcohol, provided by Council to support Councillors undertaking official business.
Act	Means the Local Government Act 1993 (NSW).
Clause	Unless stated otherwise, a reference to a clause is a reference to a clause of this Policy.
Code of Conduct	Means the Code of Conduct adopted by Council or the Model Code if none is adopted.
Council term	As defined by the Local Government Act 1993 (NSW) or the NSW Government from time to time.
Councillor	Means a person elected or appointed to civic office as a member of the governing body of council who is not suspended.
Elected Member	Means a person who is a local government Councillor or Mayor.
General Manager	Means the general manager of Council and includes their delegate or authorised representative.
Incidental personal use	Means use that is infrequent and brief and use that does not breach this Policy or the Code of Conduct.
Long distance intrastate travel	Means travel by private vehicle to other parts of NSW of more than three hours duration from the Port Stephens Council Administration building.
Mayor	Means the Mayor of Port Stephens Council.

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Maximum limit	Means the maximum limit for an expense or facility provided in the text and summarised in Schedule 1.
NSW	New South Wales.
Official business	Means functions that the Mayor or Councillors are required or invited to attend to fulfil their legislated role and responsibilities for Council or result in a direct benefit for Council and/or for the local government area, and includes: <ul style="list-style-type: none"> • meetings of Council and committees of the whole. • meetings of committees facilitated by Council. • civic receptions hosted or sponsored by Council. • meetings, functions, workshops and other events to which attendance by a Councillor has been requested or approved by Council.
Professional development	Means a seminar, conference, training course or other development opportunity relevant to the role of a Councillor or the Mayor.
Regulation	Means the Local Government (General) Regulation 2005 (NSW).
Year	Means the financial year that is the 12 month period commencing on 1 July each year.

5. Policy statement:

5.1 The objectives of this Policy are to:

- enable the reasonable and appropriate reimbursement of expenses incurred by Elected Members while undertaking their civic duties;
- enable facilities of a reasonable and appropriate standard to be provided to Elected Members to support them in undertaking their civic duties;
- ensure accountability and transparency in reimbursement of expenses and provision of facilities to Elected Members;
- ensure facilities and expenses provided to Councillors meet community expectations;
- support a diversity of representation;
- fulfil the Council's statutory responsibilities.

5.2 Council commits to the following principles:

- Proper conduct:** Elected Members and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions.
- Reasonable expenses:** Providing for Elected Members to be reimbursed or costs met by Council for expenses reasonably incurred as part of their role as Elected Members.

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- c) **Participation and access:** Enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as an Elected Member.
- d) **Equity:** There must be equitable access to expenses and facilities for all Elected Members.
- e) **Appropriate use of resources:** Providing clear direction on the appropriate use of Council resources in accordance with legal requirements and community expectations.
- f) **Accountability and transparency:** Clearly stating and reporting on the expenses and facilities provided to Elected Members.

5.3 Private or political benefit:

- a) Elected Members must not obtain private or political benefit from any expense or facility provided under this Policy.
- b) Private use of Council equipment and facilities by Elected Members may occur from time to time. For example, telephoning home to advise that a Council meeting will run later than expected.
- c) Such incidental private use does not require a compensatory payment back to Council.
- d) Elected Members should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of Council facilities does occur, Elected Members must reimburse the Council.
- e) Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign:
 - production of election material;
 - use of Council resources and equipment for campaigning;
 - use of official Council letterhead, publications, websites or services for political benefit;
 - fundraising activities of political parties or individuals, including political fundraising events.

6. POLICY RESPONSIBILITIES:

- 6.1 The General Manager is responsible for implementing and ensuring compliance.
- 6.2 The Governance Manager is responsible for implementing, ensuring compliance, monitoring, evaluating, reviewing and providing advice on the Policy.
- 6.3 Mayor and Councillors are responsible for complying with the Policy.

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7. Related documents:

- Local Government Act 1993, Sections 252 and 253.
- Local Government (General) Regulation 2005 **2021**, ~~Clauses~~ **Sections** 217 and 403.
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009.
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities.
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.
- Local Government Circular 17-17 Councillor Expenses and Facilities Policy – Better Practice Template.

7.1 Related Council policies:

- **Port Stephens Council** Code of Conduct.

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SCHEDULE 1

The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

• Clause	• Expense or facility	• Maximum amount	• Frequency
• 3.2.2	• General travel expenses	• \$7,000 per Councillor. • \$7,000 for the Mayor.	• Per year
• 3.7	• Interstate, overseas and long distance intrastate travel expenses	• \$2,000 total for all Councillors.	• Per year
• 3.20	• Meals	• As per the Port Stephens Enterprise Agreement, as adjusted.	• Per meal
• 3.19	• Accommodation	• \$400 per Councillor/Mayor.	• Per night
• 3.25	• Professional development	• \$15,000 per Councillor/Mayor.	• Per term
• 3.34 • 3.32	• Conferences and seminars	• \$30,000 total for all Councillors and Mayor.	• Per year
• 3.36	• Awards and ceremonies	• \$1000 per year for Mayor • \$500 per year for a Councillor	• Per year
• 3.35 • 3.38	• Spouse/partner expenses	• \$500 per Councillor.	• Per year
• 3.37 • 3.40	• Spouse/partner expenses	• \$1,000 for the Mayor.	• Per year
• 3.41 • 3.44	• ICT expenses	• 75% up to \$5,000 per Councillor.	• Per term
• 3.43 • 3.46	• Communication devices (mobile phone, landline phone rental & calls, facsimile)	• 75% up to \$200.	• Per month

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• Clause	• Expense or facility	• Maximum amount	• Frequency
• 3.44	• Communication devices bundle plan (landline phone rental & calls, facsimile)	• 75% up to \$100.	• Per month
• 3.44	• Communication devices bundle plan (mobile phone)	• 75% up to \$100.	• Per month
• 3.45	• Internet where not included in a bundle plan	• 75% up to \$60.	• Per month
• 3.52 • 3.53	• Carer expenses	• \$2,000 \$3,500 per Councillor.	• Per year
• 3.55 • 3.56	• Home office expenses	• \$300 per Councillor.	• Per year
• 3.83	• Access to facilities in a Councillor common room	• Provided to all Councillors.	• Not relevant
• 3.86	• Postage stamps	• 50.	• Per year
• 3.86	• Christmas or festive cards	• 30 per Councillor. • 100 for the Mayor.	• Per year
• 3.95	• Council vehicle and fuel card	• Provided to the Mayor.	• Not relevant
• 3.98 • 3.99	• Reserved parking space at Council offices	• Provided to the Mayor.	• Not relevant
• 3.99 • 3.100	• Furnished office	• Provided to the Mayor.	• Not relevant
• 3.101 • 3.102	• Number of exclusive staff supporting Mayor and Councillors	• Provided to the Mayor and Councillors.	• Not relevant
• 3.112 • 3.113	• Advance payment for conferences, seminars	• \$100 per Councillor/Mayor up to \$400.	• Per event

Additional costs incurred by an Elected Member in excess of these limits are considered a personal expense that is the responsibility of the Elected Member.

Elected Members must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

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Detailed reports on the provision of expenses and facilities to Elected Members will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by an individual Elected Member and as a total for all Elected Members.

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EDRMS container No	A2004-0284	EDRMS record No	21/32232 TBC
Audience	Mayor and Councillors		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Annually 3 year	Next review date	September 2020 30 September 2024
Adoption date	28/06/1994		

VERSION HISTORY:

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

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Version	Date	Author	Details	Minute No.
12.0	23/11/2010	Executive Officer		373
13.0	18/11/2011	Executive Officer		385
14.0	27/11/2012	Executive Officer		323
15.0	26/11/2013	Executive Officer		345
16.0	26/08/2014	Executive Officer		229
17.0	22/09/2015	Governance Manager	Transferred Policy to new corporate Policy template and updated forms. No changes to the intent or objectives of the Policy.	295
18.0	23/08/2016	Governance Manager	<p>It is proposed to amend the Policy as follows:</p> <ol style="list-style-type: none"> 1) Increase cl. 1.12.1 to increase the allowance from \$3,000 to \$4,000 per term. 2) Amend cl. 1.15.1 change name of the Local Government Pecuniary Interest Tribunal to NSW Civil and Administrative Tribunal. 3) Cl. 8 change clause references stated in clause 8. 4) Under the "Exclusion from Policy" change name of Department of Local Government to Office of Local Government. 	242

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Policy



Version	Date	Author	Details	Minute No.
18.1	13/12/2016	Governance Manager	It is proposed to amend the Policy as follows: 1) Update the context/background to reflect adopt timeframes in accordance with the Local Government Act. 2) Update cl.252 (1) page 2. 3) Remove cl253 (4) page3. 4) Update cl 217 (a1) (vii), page 5. 5) Update cl 1.3.1, page 8 6) Update cl 1.6.2 & 1.6.4, page 9. 7) Update cl 1.8.1, page 11. 8) Update cl 1.10.1, page 12. 9) Update cl 1.12.1, page 13. 10)Update cl 1.13.3, page 14. 11)Update Related documents, page 24.	368
19	26/09/2017	Governance Manager	Redrafted Policy into the Office of Local Government template Policy, with some additions.	226

Policy

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

Policy



20	14 May 2019	Governance Manager	<p>Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner to Governance Section Manager.</p> <p>3.21 – updated reference to 3.19.</p> <p>Conferences and seminars included in Professional development heading.</p> <p>3.25 – increase dollar value and timing for professional development.</p> <p>3.28 – updated reference to 3.27.</p> <p>Delete Conferences and Seminars heading.</p> <p>3.33 – updated reference to 3.18-3.22.</p> <p>3.41 – increased ICT expenses.</p> <p>3.44 – Update reference to 3.43 and maximum cost to \$100.</p> <p>3.69 – updated reference to 3.70.</p> <p>3.87 – updated reference to 3.86.</p> <p>3.103 – updated reference to 3.101.</p> <p>3.124 – updated reference to 3.123.</p> <p>7 – included reference to OLG Circular 17-17.</p> <p>Schedule 1 – updated reference numbers.</p> <p><u>Following submission</u></p> <p>Where the term ‘Councillors’ refers to the Mayor and Councillors changed to ‘Elected Members’.</p> <p>Included definition for Elected Members.</p> <p>Updated definition of Long Distance Intrastate travel.</p> <p>Updated definition of Councillor.</p> <p>Updated clause 3.2.1, 3.2.2, 3.7, 3.20, 3.21, 3.24, 3.33, 3.35,</p>	093
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Policy

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

Policy



Version	Date	Author	Details	Minute No.
			3.36, 3.37, 3.39, 3.71, 3.94, 3.127.	
20.1	#	Governance Section Manager	<p>Reviewed the policy, included updating policy template, re-numbering to each paragraph and updated the version control.</p> <p>1.4 – replace 2005 with 2021. 3.28 – new clause graph requiring completion of training within the first 18 months of the term. 3.35-3.36 – new clause for awards and ceremonies. 3.39 – update reference to clause 3.35 to 3.38. 3.41 – updated to clause 3.44 for consistency with a 75% limit. 3.44-3.45 – remove clauses with overall provision available at new clause 3.46. 3.53 – increase carer expense to \$3,500. 3.57 – include clause number. 3.56-3.59, 3.63 – update clauses to reflect current policy. 3.60 – remove clause. 3.64 – removed and added to 3.63. 3.76 – include ‘/or’ 3.92 – new provision for superannuation contribution. 3.104 – update reference to clause 3.101 to 3.102. Schedule 1 updated to reflect new clauses for 3.32, 3.37, 3.39, 3.43, 3.45, 3.99, 3.100, 3.102, 3.113 and 3.52 increase to \$3,500. 7 – updated Regulation from 2005 to 2021. 7.1 – included ‘Port Stephens Council’.</p>	

Policy

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ITEM NO. 6

**FILE NO: 21/326355
EDRMS NO: PSC2009-0965**

DELEGATIONS: MAYOR, GENERAL MANAGER AND ACTING GENERAL MANAGER

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Delegate the Functions in accordance with the Instrument of Delegation to the Mayor attached to this report as **(ATTACHMENT 1)**.
- 2) Delegate the Functions in accordance with the Instrument of Delegation to the General Manager attached to this report as **(ATTACHMENT 2)**.
- 3) Delegate the Functions of the Mayor to the Deputy Mayor with the general limitations that the Deputy Mayor may only exercise these Functions:
 - a) at the request of the Mayor; or
 - b) if the Mayor is prevented by illness, absence or otherwise from exercising these Functions; or
 - c) if there is a casual vacancy in the office of Mayor.
- 4) Appoint the three (3) Group Managers (Development Services, Facilities & Services and Corporate Services) to act in the capacity of the General Manager on a rotational basis, in the absence of the General Manager, and that such appointment ceases upon the return to work of the General Manager or other resolution of Council.
- 5) The Mayor and General Manager be authorised to establish a rotational calendar for the role of acting General Manager.
- 6) Any person acting as General Manager pursuant to this resolution has all the functions, delegations and sub-delegations given to the General Manager by the Council.

BACKGROUND

The purpose of this report is to provide the Mayor, General Manager's and acting General Manager's delegations for Council's consideration and adoption.

Council is required to review and adopt all delegations by the elected Council within twelve (12) months of the election.

The Mayor's delegations have been reviewed and are shown at **(ATTACHMENT 1)**. The General Manager's delegations have been reviewed and are shown at **(ATTACHMENT 2)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to have appropriate delegations for the roles of Mayor, General Manager and acting General Manager, in accordance with the Local Government Act 1993. Without such delegations Council is at risk of breaching the law and individuals operating outside their limits of responsibility.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the Mayor and General Manager do not hold the appropriate delegations to exercise the functions of their respective roles.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

There is no requirement for consultation for this report, as it is a legislative compliance process report.

OPTIONS

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

ATTACHMENTS

- 1) Delegation - Mayor [↓](#)
- 2) Delegation - General Manager [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

PORT STEPHENS COUNCIL

INSTRUMENT OF DELEGATION TO Mayor

On Tuesday, 11 January 2022 the Port Stephens Council ("**Council**") resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. Pursuant to section 377 of the LG Act to delegate to the Mayor authority to exercise and/or perform on behalf of the Council the Council's Functions identified in **Schedule 1** subject to any condition or limitation specified.
3. The Mayor be conferred authority to carry out the Policy Authorities listed in **Schedule 2** and undertake any administrative actions necessary to carry out those Policy Authorities.
4. These delegations and authorities are subject to, and are to be exercised in accordance with:
 - a. the requirements of the relevant Legislation;
 - b. any conditions or limitations set out in **Schedule 1**, **Schedule 2** and **Schedule 3**; and
 - c. any resolution or policy, procedure or budget adopted from time to time by the Council.
5. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.
6. In this delegation:
 - o '**Functions**' means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.
 - o '**Legislation**' means legislation enacted by the parliament of New South Wales and the parliament of the Commonwealth of Australia, including an Act, regulation made under an Act, by-law, rule or ordinance.
 - o '**LG Act**' means the *Local Government Act 1993* as amended.

Schedule 1: Delegated Functions**Local Government Act 1993**

Function Code	Function	Condition/ Limitation (if any)
LG Act 004	<p>Mayor Functions –</p> <p>Authority to exercise and/or perform the role of the mayor.</p> <p>Pursuant To –</p> <p>section 226</p>	<p>The following items are to be induced on the Instrument of Delegation to the Mayor.</p> <ol style="list-style-type: none"> 1. Authority to approve or refuse public access applications in accordance with the Council's policy and Code of Meeting Practice. 2. Authority in the cases of emergency, where it is not practical to wait for the next scheduled meeting of Council, to exercise such functions of the Council as necessary in the situation, except those functions listed under Section 377 of the Local Government Act (Act) and those regulatory functions under Chapter 7 of the Act. This delegation applies only to those functions properly held by the Council and does not extend to statutory functions of the General Manager under Section 335 of the Act. 3. To make community awards on the recommendation of the Port Stephens Community Awards Panel and after appropriate consultation with all Councillors. 4. Authority to affix the corporate seal of Port Stephens Council to all documents necessary for Port Stephens Council to enter into or be a party to any property or commercial transaction, provided that the transaction has already

		been authorised by specific resolution of Council.
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Schedule 2: Policy Authorities

Code	Policy Authority	Conditions / Limitations (if any)
N/A	N/A	N/A

Schedule 3: General Limitations

Limitation (if any)
N/A

Pursuant to a Resolution of the Council at its meeting of Tuesday, 11 January 2022,

(Insert Deputy Mayor)

Deputy Mayor

Date: Tuesday, 11 January 2022

Review date: Sunday, 1 September 2024

Delegate Acknowledgement of Delegation

I Ryan Palmer do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

Mayor of Port Stephens Council

Date:

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PORT STEPHENS COUNCIL

INSTRUMENT OF DELEGATION TO GENERAL MANAGER

On Tuesday, 11 January 2022 the Port Stephens Council ("**Council**") resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. The person who from time to time holds the position of General Manager of Council ("**General Manager**"), being at the date of this instrument Wayne Wallis, be delegated authority under section 377 of the LG Act, to exercise and/or perform on behalf of Council the Council's Functions under all Legislation in force and as amended from time to time:
 - 2.a **Subject to** any condition or limitation on a Function specified in Schedule 1; and
 - 2.b **Excluding** those Functions:
 - i. that are expressly prohibited from delegation as listed under Section 377 of the LG Act;
 - ii. which are expressly required by legislation to be exercised by a resolution of the Council.
3. The General Manager be sub-delegated authority to exercise and/or perform on behalf of Council the Functions delegated to the Council under, and in accordance with, the instrument of delegation to the Council set out in **Schedule 2, excluding** those Functions which pursuant to the terms of the delegation to the Council may not be sub-delegated.
4. The General Manager be conferred authority to carry out the Policy Authorities listed in **Schedule 3** and undertake any administrative actions necessary to carry out those Policy Authorities.
5. The General Manager be delegated any Function which is taken to be conferred or imposed on the Council pursuant to section 381(1) of the LG Act.

6. In the absence of the General Manager that a person appointed by resolution to act as General Manager assume all Functions, delegations, and sub-delegations of the General Manager for the period only of the absence of the General Manager unless otherwise resolved by the Council.
7. These delegations and authorities are subject to, and are to be exercised in accordance with:
- a.a the requirements of the relevant Legislation;
 - a.b any conditions or limitations set out in **Schedule 1** and **Schedule 3**; and
 - a.c any resolution or policy, procedure or budget adopted from time to time by the Council.
8. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.
9. In this delegation:
- o **“Functions”** means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.
 - o **“Legislation”** means legislation enacted by the parliament of New South Wales and the parliament of the Commonwealth of Australia, including an Act, regulation made under an Act, by-law, rule or ordinance.
 - o **“LG Act”** means the *Local Government Act 1993* as amended.

Schedule 1: Limitations

Part A – Limitations applicable to specific statutory Function (if any)	
Legislation	Limitation (if any)
N/A	N/A
Part B – General Limitations	
N/A	

Schedule 2: Instruments of Delegation to Council

Delegator	Instrument Name	Date Of Instrument
NSW Government - Planning & Infrastructure	Making of Local Environmental Plans - Authority to exercise the functions of the Minister for Planning and Infrastructure under Section 59 of the Environmental Planning and Assessment Act 1979 that are delegated to Port Stephens Council by instrument of delegation dated 14 October 2012, following receipt of a Written Authorisation to Exercise Delegation. In exercising the Minister's function under section 59, Council officers must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".	Sunday, 14 October 2012
Roads and Maritime Services (RMS)	Roads and Maritime Services delegations - Section 50 - The RMS delegates to councils constituted under the Local Government Act 1993 listed in Schedule 1 and 2 respectively ("delegates") the functions of RMS set out in Schedule 3 ("the functions") subject to the limitations set out in Schedule 4 and authorises delegates to sub-delegate the functions to the persons in Schedule 5 ("sub-delegates") subject to the limitations in Schedule 4.	Monday, 31 October 2011

Schedule 3: Policy Authorities

Code	Policy Authority	Conditions / Limitations (if any)
CP014 - Media Policy	Authority to issue media releases and to provide supporting factual information and comment in accordance with the Media Policy and associated Management Directive.	N/A
CP017 - Annual leave	Authority to approve annual leave applications for staff within his/her section.	N/A
CP018 - Sick/carer's leave	Authority to approve staff applications for sick or carer's leave within his/her section.	N/A
CP019 - Other leave	Authority to approve staff applications for other leave including but not limited to: long service leave, parental leave, bereavement/compassionate leave or career break, in accordance with any corporate processes.	N/A
CP020 - Overtime/leave in lieu	Authority to approve the allocation and payment of overtime, leave in lieu and payment of meal allowances and travelling time to staff within his/her section.	N/A
CP021 - Authorise scheduled training	Authority to approve the attendance of staff within his/her section at scheduled training courses or seminars.	N/A
CP022 - Authorised scheduled training	Authority to approve attendance of staff within his/her Group to attend unscheduled training courses or seminars.	N/A
CP023 - Unscheduled training	Authority to approve attendance of staff within his/her Section to attend unscheduled training courses or seminars.	N/A
CP024 - Examination leave	Authority to approve examination and study leave for staff within his/her area of responsibility, in accordance with any corporate processes.	N/A

CP025 - Approve timesheets	Authority to approve timesheets for staff within his/her area of responsibility.	N/A
CP026 - Approve flexi time	Authority to approve flexi time leave for staff within his/her area of responsibility.	N/A
CP028 - Rostered days off and rostering working times	Authority to approve variations to rostered day off patterns and rostered working times.	N/A
CP030 - Social Media Spokesperson	Authority to act as a social media spokesperson for the purpose of representing Council's position on matters of policy, and to provide information on Council's activities within their area or responsibility.	N/A
CP031 - Speak to the Media	Authority to act as a spokesperson for Council for the purposes of representing Council's position on matters of policy, and to provide factual background information on Council's administration and operations within their area of responsibility.	N/A
CP032 - Transfer of vote within a program maximum \$10,000	Authority to transfer a vote within a budget program up to a maximum of \$10,000.	N/A
CP033 - Write off bad debts up to \$10,000	Authority to write off bad debts to an amount of \$10,000 in any one instance.	N/A
CP033A - Write off rate or charges up to \$10,000	Authority to write off rate or charges to an amount of \$10,000 in any one instance.	N/A
CP034 - Appoint & replace Group Managers	Authority to appoint and replace Group Managers in accordance with the current structure and staff establishment numbers and after consultation with Council.	N/A
CP037 - Written and oral communications	Authority to carry out administrative actions, including written and oral communication, necessary to perform the duties and functions of the position.	N/A

CP041 - Authority to sign contracts for sale	Authority to sign contracts of sale in accordance with the Resolution of Council to buy or sell land.	N/A
CP043 - Authority to endorse cheques, bills, promissory notes and EFT	Authority to solely endorse cheques, bills, promissory notes and EFT payable to the Order of the Council in accordance with the duties and functions of the delegates position.	N/A
CP044 - Authority to enter into a contract	Authority to sign and enter into a contract on behalf of Council.	N/A
CP065 - Authority to use purchasing card	Authority to use purchasing card to pay suppliers within your area of responsibility and within the approved budget. Note: General Manager and Group Managers only.	N/A
CP069 - Authority to approve purchase orders	Authority to approve purchase orders within your area of responsibility and within the approved budget. Note: General Manager and Group Managers only.	N/A

Pursuant to a Resolution of the Council at its meeting of Tuesday, 11 January 2022,

Ryan Palmer

Mayor / Councillor

Date: Tuesday, 11 January 2022

Review date: Sunday, 1 September 2024

General Manager's acknowledgement of Delegations of Authority

I Wayne Wallis, currently employed by the Council in the position of General Manager, do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

General Manager of Port Stephens Council

Date:

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ITEM NO. 7

FILE NO: 21/326341
EDRMS NO: A2004-0370

MEMBERSHIP OF COMMITTEES AND GROUPS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominates membership to Council Committees, 355(c) committees and regional committees and groups memberships up to September 2022 **(ATTACHMENT 1)**;
- 2) Disband the following Committees/Groups:
 - a) Heritage Advisory Committee;
 - b) Floodplain Risk Management Committee; and
 - c) Port Stephens Council Depot Re-development Committee.

BACKGROUND

The purpose of this report is to review the various committees and groups Council has either established, or is involved with through the community.

In accordance with legislation, Council is required to nominate delegates and adopt the list of 355(c) Committees. Nominations are normally made on a 12 months basis, however due to the change to the date of the 2021 election; appointments will be up to September 2022 bringing the annual process back into line with the September timeframe.

As part of Council's commitment to community partnerships, it provides opportunities for the community to be involved with the management of the facilities they use. Council has established over 50 community committees, which are involved in the care and management of Council's parks, reserves, services and facilities.

These committees are allowable under Section 355 and Section 377 of the Local Government Act, which allow Council to delegate certain functions.

For a 355(c) committee, the written record of delegations is contained in the **committee constitution** as prepared and adopted by Council. Functions that cannot be delegated (under Section 377) are listed in the constitution. Any change to delegations to a 355(c) committee must be effected by resolution of Council.

The key concept is that a 355(c) committee is a Council committee. Committees include Councillor representation and a Council staff member responsible for liaison. A 355(c) committee operates as an entity of Port Stephens Council and not as a separate entity in a commercial sense. This means that these committees use

EXTRAORDINARY COUNCIL - 11 JANUARY 2022

Council's Australian Business Number (ABN) when trading goods and services and are required to report on a monthly basis as is required of Council.

Council has in excess of 50 355(c) committees with over 600 members in total.

A number of 355(c) Committees undertake work in areas such as dune stabilisation, weed eradication, litter removal, Tidy Towns program participation and providing environmental information and support to Council. These groups work under direction from Council staff to ensure these activities are performed in accordance with recognised practices.

The activities and projects undertaken by committees are often those not financially possible for Council without this volunteer assistance. Examples include:

FACILITY MANAGEMENT	MAINTENANCE & IMPROVEMENTS TO RESERVES	OTHER
Community Halls	Parks & Reserves	Advisory Committees
Sporting Ovals	Foreshore Reserves	Sports Council
Cemeteries		

Council can delegate certain functions to a committee: these are listed in the committee's schedule, which forms part of their constitution. A 355(c) committee constitution consists of a standard constitution, which is applicable to all committees and a schedule customised for each individual committee. This provides the framework of how a 355(c) committee operates and is supported by procedures, systems and reporting requirements.

Council has the same responsibilities for 355(c) committee members as they do for staff including Workplace Health & Safety (WH&S), Code of Conduct and responsibility for activities.

Regional Committees and Groups

In addition to the 355(c) Committees, the Mayor, Councillors and Council staff participate in, and are members of a number of regional committees and groups established to promote an integrated approach to delivering and managing services and addressing issues across the Local Government Area.

Committees to be dissolved

The Heritage Advisory Committee (the Committee) was established as a 355c Committee which is intended to have delegated functions of Council.

The role of the Committee was not well defined and no heritage projects were undertaken by the Committee in recent years and the Committee has not received

any requests for advice on Council projects. The low number of meetings held in past 2 years is a reflection of the limited role of the Committee.

Consultation with committee members in 2021 did not generate suggestions to improve the purpose and role of the Committee.

It is acknowledged that members of the Committee provide access to historical knowledge which is beneficial to Council let programs and projects. However, a 355c committee is not required for this as Council staff can approach community historical organisations directly and on a needs basis.

It is therefore recommended to dissolve the Heritage Advisory Committee and investigate alternative options for community members with historical knowledge to be involved in heritage and history related projects and programs which align with the place making focus of Port Stephens Council.

The Floodplain Risk Management Committee (FRMC) was established to review the Floodplain policy. The policy has now been reviewed and the FRMC is no longer required.

The Port Stephens Council Depot re-development Committee was established to explore options available for the re-development of the Council Depot at Raymond Terrace. Council has commenced the re-development process at the current site and the re-development committee is no longer required.

Note: The previous list of Committees and Groups is shown at **(ATTACHMENT 1)** with former delegates shown in *italics*.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

Financial and resource implications are provided for within the existing budget.

EXTRAORDINARY COUNCIL - 11 JANUARY 2022

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

LEGAL, POLICY AND RISK IMPLICATIONS

Council has a legal obligation under the Local Government Act 1993 to ensure it reviews and appoints 355 (c) Committees and delegates in accordance with the legislation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council could be in breach of the Local Government Act 1993, if it fails to appoint the committees/groups/organisations as listed in (ATTACHMENT 1) .	Low	Council appoint elected representatives as outlined in the report and adopt the committees/groups/organisations as listed in (ATTACHMENT 1) .	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

- 1) Council employees.
- 2) General Manager.

OPTIONS

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

ATTACHMENTS

- 1) 355c Committees and Regional Groups January 2022 to September 2022. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

**355C COMMITTEES AND REGIONAL COMMITTEES AND GROUPS
JANUARY 2022 TO SEPTEMBER 2022**

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
1	Aboriginal Strategic Committee	<p>To exchange information between the Aboriginal community and Council on issues affecting Aboriginal people.</p> <p>To promote mutual awareness and respect for the cultures of both Aboriginal and non-Aboriginal communities.</p>	Quarterly	Development Services	As resolved by Council	<p><i>Mayor Palmer</i></p> <p><u><i>Alternate</i></u> <i>Cr Smith</i></p>
2	Anna Bay Hall Committee	To assist Council in the management of Anna Bay/Birubi Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<p><i>Cr Smith</i> <i>Cr Doohan</i></p>
3	Audit Committee	<p>The Audit Committee is an advisory committee of Council comprising of two Councillor representatives and three independent external representatives.</p> <p>The objective of the Audit Committee is to enhance the corporate governance of Council through the provision of independent oversight, review and advice. The Committee will assist Council by providing independent assurance and assistance on the organisation's governance, risk, control and compliance frameworks.</p>	At least four times a year or when necessary	General Manager's Office	2 Councillors	<p><i>Cr Dunkley</i> <i>Cr Doohan</i></p> <p><u><i>Alternate</i></u> <i>Cr Jordan</i></p> <p><i>Office of Local Government guidelines preclude the Mayor from being a member of the Committee.</i></p>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
4	Corlette Hall Committee	To assist Council in the management of Corlette Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Dunkley</i>
5	Fern Bay Community Centre Committee	To assist Council in the management of Fern Bay Community Centre	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Arnott Cr Jordan Cr Le Mottee</i>
6	Hinton School of Arts Committee	To assist Council in the management of Hinton School of Arts.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Jordan</i>
7	Karuah Community Hall Committee	To assist Council in the management of Karuah Community Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Arnott Cr Jordan Cr Le Mottee Cr Doohan Cr Smith Cr Tucker Note: 6 Councillors were appointed temporarily due to the Ward boundary changes.</i>
8	Lemon Tree Passage Old School Centre Committee	To assist Council in the management of Lemon Tree Passage Old School Centre and surrounds.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Tucker Cr Smith Cr Doohan</i>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
9	Mallabula Community Centre Committee	To assist Council in the management of Mallabula Community Centre.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Tucker Cr Smith Cr Doohan</i>
10	Medowie Community Centre Committee	To assist Council in the management of Medowie Community Centre.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Doohan</i>
11	Medowie Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administering sports are accurately identified and brought to the attention of Council.	Meets every 3 months- February, May, August, November. 1st Monday of the month	Facilities & Services	As resolved by Council	<i>Cr Smith Cr Doohan</i>
12	Nelson Bay Community Hall Committee	To assist Council in the management of Nelson Bay Community Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Abbott</i>
13	Port Stephens Australia Day Committee	To co-ordinate the annual celebration of Australia Day in Port Stephens in line with recommendations from Australia Day Council.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Development Services	1 XCouncillor from each ward	<i>Cr Doohan Cr Smith Cr Abbott Cr Arnott Cr Jordan</i>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
14	Port Stephens Sister Cities Committee	To promote and have ongoing relationships between international communities providing opportunities for cultural exchange.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	General Manager's Office	Mayor and all councillors	<i>Mayor and all Councillors</i>
15	Raymond Terrace Senior Citizens Hall Management Committee	To assist Council in the management of the Raymond Terrace Senior Citizens Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Jordan Cr Le Mottee Cr Arnott</i>
16	Salt Ash Community Hall	To assist Council in the management of Salt Ash Community Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Smith Cr Doohan Cr Tucker</i>
17	Salt Ash Sports Ground Committee	To assist Council in the management, maintenance and improvements to Salt Ash Sports Ground.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Smith Cr Tucker Cr Doohan</i>
18	Seaham Park & Wetlands Committee	To assist Council in the management, maintenance and improvements to the park and wetlands.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Jordan Cr Arnott Cr Le Mottee</i>
19	Local Infrastructure Contributions Panel	To inform Council of any proposed and/or requested changes to Council's Contributions Plan and associated systems and processes.	Six monthly	Development Services	Mayor and all councillors	<i>Mayor Palmer Cr Tucker Cr Arnott Cr Dunkley Cr Doohan Cr Jordan</i>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
20	Strategic Arts Committee	To provide input into Port Stephens Council strategic policy, plans and programs relating to culture and the arts. To assist Council identify the existing and future requirements for arts and cultural facilities across Port Stephens.	Quarterly	Development Services	As resolved by Council	<i>Mayor Palmer Cr Tucker Cr Nell Cr Le Mottee</i>
21	Tanilba Foreshore Hall Committee	To assist Council in the management of Tanilba Bay Foreshore Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Tucker Cr Smith Cr Doohan</i>
22	Tilligerry Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administering sports are accurately identified and brought to the attention of Council.	Every 4 months— February, June, October 3rd Monday	Facilities & Services	As resolved by Council	<i>Mayor Palmer Cr Tucker Cr Smith Cr Doohan</i>
23	Tomaree Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administering sports are accurately identified and brought to the attention of Council.	Committee meets on the 4th Wednesday of February, May, August, November	Facilities & Services	As resolved by Council	<i>Mayor Palmer Cr Abbott Cr Dunkley Cr Nell Cr Smith</i>
24	West Ward Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administering sports are accurately identified and brought to the attention of Council.	Every 4 months— February, June, October 2nd Monday	Facilities & Services	As resolved by Council	<i>Cr Jordan Cr Le Mottee Cr Arnott</i>
25	Williamstown Hall Committee	To assist Council in the management of Williamstown Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	<i>Cr Jordan Cr Le Mottee Cr Arnott</i>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

REGIONAL COMMITTEES AND GROUPS

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
26	AGL Newcastle Gas Storage Facility Community Dialogue Group	The purpose of a Community Consultative Committee is to provide a forum for discussion between a proponent and representatives of the community, stakeholder groups and the local council on issues directly relating to a specific State significant project.	Quarterly – 3 March, 9 June, 8 September, 8 December	General Manager's Office	Mayor	<i>Mayor Palmer</i>
27	Birubi Point Cultural Heritage Advisory Panel	To advise Port Stephens Council on the management plan required to protect the Worimi cultural and spiritual heritage and enhance the environment of the Birubi Point Crown Reserve and Birubi Point Aboriginal Place.	Meets 3 times per year	Development Services	1 Councillor	<i>Cr Smith</i>
28	Brandy Hill Quarry Community Consultative Committee	The purpose of a Community Consultative Committee is to provide a forum for discussion between a proponent and representatives of the community, stakeholder groups and the local council on issues directly relating to a specific State significant project.	Quarterly - 16 February, 11 May, 17 August and 16 November	General Manager's Office	1 Councillor	<i>Cr Le Mottee</i>
29	Cabbage Tree Road Community Consultative Committee	The purpose of the committee is to provide an advisory forum of community representatives to meet requirements of the development consent.	Quarterly	Corporate Services	1 Councillor	<i>Corporate Services Group Manager</i>
30	Comprehensive Koala Plan of Management Implementation Committee	Responsible for overseeing the implementation of the Port Stephens Council Comprehensive Koala Plan of Management.	Meets quarterly	Development Services	1 Councillor	<i>Cr Smith</i> <i>Alternate Cr J Nell</i>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
31	Community Funding Program	To make recommendations to Council on applications received through the Grants process.	Annual	Development Services	Mayor 1 Councillor from each Ward	<i>Mayor Palmer Cr Jordan Cr Doohan Cr Abbott (1 Councillor from each Ward).</i>
32	General Manager Performance Review Panel	To conduct evaluation of the performance of the General Manager.	At least annual	Mayor's Office	Mayor Deputy Mayor 1 Councillor nominated by Council 1 Councillor nominated by the General Manager	<i>Mayor Palmer Deputy Mayor Cr Arnott (nominated by the Council) Plus a Councillor nominated at the time by the General Manager</i>
33	Holiday Parks Advisory Panel	To provide a forum to assist in the effective management and strategic direction of the Port Stephens Beachside Holiday Parks comprising of Fingal Bay Holiday Park, Shoal Bay Holiday Park, Halifax Holiday Park, Thou Walla Sunset Retreat and Port Stephens Koala Sanctuary.	Quarterly	Corporate Services	Mayor and all councillors	<i>Mayor and all Councillors</i>
34	Hunter Joint Organisation	The Hunter Joint Organisation is a collaborative body that brings together the 10 councils in the region to provide a united and local voice for our communities. As the hub for local intergovernmental collaboration, the organisation's statutory mandate includes identifying key regional strategic priorities, advocating for these priorities, and building collaborations around these priorities with other levels of government, industry and community.	Bi-monthly	General Manager's Office	Mayor	<i>Mayor Palmer</i>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
35	Local Government Community Safety & Crime Prevention Network NSW Note: <i>This is a Committee of the Port Stephens Local Area Command. Membership is by invitation from the Local Area Commander. Council's delegate is the Mayor.</i>	To provide a forum for local community members, service providers, businesses and the police to discuss issues and appropriate strategies relating to crime and community safety. **Attendees will be by invitation only, one representative will be invited by the Police from each peak body/organisation e.g. Hunter Water / Housing NSW). Council will hold two positions, one will be Community Engagement Officer, and the other will be the Mayor or his representative if unable to attend.	Meets quarterly	Development Services	Mayor	<i>Mayor Palmer</i>
36	Customer and Community Advisory Group (CCAG) Formerly Hunter Water Corporation Community Consultative Committee	This committee is an advisory committee to Hunter Water Corporation.	Meets quarterly	General Manager's Office	1 Councillor	<i>Cr Le Mottee</i> <i>Alternate</i> <i>Cr Arnott</i>
37	Hunter and Central Coast Regional Planning Panel	To consider development applications referred to the Panel under the legislation for development applications for the Port Stephens Local Government area. The Panel comprises of 3 State members and 2 Councillors. The term is for 3 years for each Panel member.	As required	Development Services	2 elected members	<i>Mayor Palmer</i> <i>Cr Le Mottee</i> <i>Alternates</i> <i>Cr Doohan</i> <i>Cr Arnott</i> <i>Civil Assets Section Manager</i> <i>Strategy & Environment Section Manager</i>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
38	Local Traffic Committee	This is an RTA-based committee which allows Council to have delegated authority to install or remove regulatory sign posting on public roads.	Meets 1 st Tuesday of the month	Facilities & Services	1 Councillor	<i>Mayor Palmer Cr Tucker</i>
39	Lower Hunter Bushfire Management Committee	The committee is a legislative requirement and is to discuss direction across local government areas and across agencies in regard to bushfire management.	Meets quarterly	Facilities & Services	2 Councillors	<i>Cr Arnott Cr Le Mottee</i>
40	Lower Hunter Community Advisory Group	The Group is managed by Hunter Local Land Services (HLLS). The purpose is to provide an opportunity the HLLS to engage with stakeholders on a range matters, including strategic direction and programs.	Meets annual	General Manager's Office	1 Councillor	<i>Cr Le Mottee</i>
41	Marine Parks Advisory Panel Ministerial Appointment	Community Consultative Committee regarding the proposed Marine Park in Port Stephens.	Meets a minimum of twice a year	Development Services	1 Councillor	<i>Cr Nell</i>
42	Medowie Planning Strategy Implementation Panel	To provide community advice to Council on the implementation of the Medowie Planning Strategy.	Meets a minimum of twice a year	Development Services	Mayor All Central Ward Councillors	<i>Mayor Palmer Cr Doohan Cr Smith Cr Tucker</i>
43	Nelson Bay Strategy Implementation Panel	To provide community advice to Council on the implementation of the Nelson Bay Planning Strategy.	Meets a minimum of twice a year	Development Services	Mayor All East Ward Councillors	<i>Mayor Palmer Cr Abbott Cr Dunkley Cr Nell</i>
44	Newcastle Airport Partnership Company No. 3 Pty Ltd	Special Purpose Vehicle for the part ownership of Newcastle Airport.	Quarterly	General Manager's Office	<i>Mayor Deputy Mayor (General Manager) (Financial Services Manager)</i>	<i>Mayor Palmer Cr Le Mottee (General Manager) (Financial Services Manager)</i>
45	Newcastle Airport Partnership Company No. 4 Pty Ltd	Special Purpose Vehicle for the part ownership of Newcastle Airport.	Quarterly	General Manager's Office	<i>Mayor Deputy Mayor (General Manager) (Financial Services Manager)</i>	<i>Mayor Palmer Cr Le Mottee (General Manager) (Financial Services Manager)</i>

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
46	Newcastle Airport Partnership	The partnership is responsible for the development and management of Newcastle Airport and related infrastructure.	Quarterly	General Manager's Office	Mayor (General Manager)	<i>Mayor Palmer (General Manager)</i>
47	Greater Newcastle Aerotropolis Partnership	The partnership is responsible for the Astra Aero Lab.	Quarterly	General Manager's Office	Mayor (General Manager)	<i>Mayor Palmer (General Manager)</i>
48	Newcastle Airport Pty Limited	To manage the operations of Newcastle Airport.	Bi-monthly	General Manager's Office	Mayor as Port Stephens Council Shareholder representative Deputy Mayor as Port Stephens Council Shareholder Representative proxy.	<i>Mayor as Port Stephens Council Shareholder representative</i> <i>Cr Le Mottee as Port Stephens Council Shareholder Representative proxy.</i> <i>Mayor as Port Stephens Council appointed Director.</i> <i>(General Manager as Port Stephens Council appointed Director.)</i>
49	Greater Newcastle Aerotropolis Pty Limited	To manage the operations of Astra Aero Lab	Bi-monthly	General Manager's Office	Mayor as Port Stephens Council Shareholder representative Deputy Mayor as Port Stephens Council Shareholder Representative proxy.	<i>Mayor as Port Stephens Council Shareholder representative</i> <i>Cr Le Mottee as Port Stephens Council Shareholder Representative proxy.</i> <i>Mayor as Port Stephens Council appointed Director.</i> <i>(General Manager as Port Stephens Council appointed Director.)</i>

**ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.**

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
50	NSW Public Libraries Association (Central East Zone)	The purpose of the Association is to champion the public library cause, strengthen the public library network, advocate effectively, foster cooperation and collaboration, build trust and support, initiate partnerships and share relevant information	Meets 3 times per year	Facilities & Services	As resolved by Council	<i>Cr Tucker</i>
51	Port Stephens Economic Development Advisory Panel	Act as a communication and advisory mechanism to Council on relevant Economic Development issues. Oversee the implementation of the Economic Development Strategy.	Quarterly	Development Services	Mayor 1 councillor from each Ward	<i>Mayor Palmer Cr Doohan Cr Dunkley Cr Arnott</i>
52	Port Stephens Floodplain Advisory Panel	To provide advice on flood/floodplain management studies/plans	As required	Facilities & Services	1 Councillor	<i>Cr P Le Mottee</i> <i>Alternate Cr Arnott</i>
53	Port Stephens/Myall Lakes Estuary and Coastal Zone Management Committee	This Committee includes representatives from Great Lakes Council and is responsible for long term planning for the estuary and the coastline.	As required	Development Services	1 Councillor	<i>Cr Nell</i> <i>Alternate Cr Le Mottee</i>
54	Property Advisory Panel	To provide a forum to address property management and development matters.	Quarterly	Corporate Services	Mayor 1 Councillor from each Ward	<i>Mayor Palmer Cr Doohan Cr Le Mottee Cr Jordan Cr Dunkley</i>
55	Raymond Terrace and Heatherbrae Strategy Implementation Panel	To provide community advice to Council on the implementation of the Raymond Terrace and Heatherbrae Strategy 2015-2031.	Meets a minimum of twice a year	Development Services	Mayor All West Ward Councillors	<i>Mayor Palmer Cr Arnott Cr Jordan Cr Le Mottee</i>

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS
JANUARY 2022 TO SEPTEMBER 2022.

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Former delegates
56	Salt Ash Sand Project Community Consultative Committee	The purpose of a Community Consultative Committee is to provide a forum for discussion between a proponent and representatives of the community, stakeholder groups and the local council on issues directly relating to a specific State significant project.	As required	General Manager's Office	1 Councillor	<i>Cr Tucker</i>
57	RFS District Liaison Committee	To review the progress of the service level agreement between Port Stephens Council and NSW Rural Fire Service in the local government area.	As set by RFS	Facilities & Services	1 Councillor	<i>Cr Arnott</i> <i><u>Alternate</u></i> <i>Mayor Palmer</i>
58	Williamstown Consultative Committee Forum	To provide a forum for the residents of Williamstown area to discuss relevant issues with Federal, State and Local Government elected members and agencies.	Annually	General Manager's Office	Mayor	<i>Mayor Palmer (General Manager)</i>
59	Worimi Conservation Lands Board of Management Ministerial Appointment	To oversee the management of the lands owned by the Aboriginal owners and leased back to the NSW Government.	Meets 4 times a year	General Manager's Office	1 Councillor and an alternate	<i>Cr Abbott</i> <i><u>Alternate</u></i> <i>Cr Smith</i>

ITEM NO. 8**FILE NO: 21/333306
EDRMS NO: PSC2018-00494****LOCAL GOVERNMENT ELECTION - COUNT BACK PROVISIONS**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Pursuant to section 291A(1)(b) of the Local Government Act 1993 (the Act) Port Stephens Council declares that casual vacancies occurring in the office of a councillor within 18 months after the last ordinary election of councillors for the Council on 4 December 2021 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act and directs the general manager to notify the NSW Electoral Commissioner of Council's decision within 7 days.

BACKGROUND

The purpose of this report is to consider the option to fill any casual vacancy by a countback of votes cast at the last election of Council, i.e. election held on 4 December 2021.

Section 291A of the Local Government Act 1993, provides for casual vacancies of civic office that occur within 18 months of the date of the last ordinary election to be filled by a countback of votes cast at the last election for that office.

To enact section 291A of the Local Government 1993, Council must resolved to fill any casual vacancy by way of the countback provisions at its first meeting following the ordinary election.

If the recommendation is not adopted, any casual vacancy would be filled through the normal by-election process.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

The financial implications are not know at this time. The cost of a by-election is estimated at over \$100,000.

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

LEGAL, POLICY AND RISK IMPLICATIONSLocal Government Act 1993 (Act)

Section 291A makes provision for a countback to be held instead of a by-election in certain circumstances.

- (1) This section applies to a casual vacancy in the office of a councillor if--
 - (a) the casual vacancy occurs within 18 months after the date of the last ordinary election of the councillors for the area, and
 - (b) the council has at its first meeting following that ordinary election of councillors, by resolution, declared that any such casual vacancy is to be filled by a countback of votes cast at the last election for that office.
- (2) This section does not apply to a casual vacancy in the office of a councillor if the councillor who vacated office was elected--
 - (a) in an election using the optional preferential voting system (including the election of a mayor elected by the electors of an area), or
Note : See section 285 (Voting system for election of councillors).
 - (b) in an election without a poll being required to be held.
Note : See section 311 (Uncontested elections).
- (3) A casual vacancy to which this section applies is to be filled by a countback election conducted in accordance with the regulations.
- (4) A countback election to fill a casual vacancy to which this section applies must be conducted--
 - (a) if the election at which the person whose departure created the casual vacancy was elected was administered by the Electoral Commissioner--by a returning officer appointed by the Electoral Commissioner, or
 - (b) if the election at which the person whose departure created the casual vacancy was elected was administered by a returning officer appointed by an electoral services provider engaged by the council--by a returning officer appointed by the electoral services provider.
- (5) If a countback election fails or the returning officer is otherwise unable to fill the casual vacancy by a countback election--
 - (a) the returning officer must notify the general manager of the council concerned, and

- (b) a by-election in accordance with this Part must be held to fill the casual vacancy.
- (5A) If an electoral services provider engaged by the council is unable to appoint a returning officer for the purposes of subsection (4)(b), a by-election in accordance with this Part must be held to fill the casual vacancy.
- (6) This section does not apply to a casual vacancy in the office of a councillor if the vacancy occurs before the day prescribed for the purposes of this section by the regulations.

Local Government (General) Regulation 2021 (Regulation)

Section 393C of the Regulation states:

- (1) A countback election referred to in section 291A of the Act is to be carried out in accordance with Schedule 9A.
- (2) For the purpose of section 291A of the Act, the prescribed day is 12 September 2020.
- (3) If a council resolves, at its first meeting following an ordinary election of councillors for the area, that a countback election is to be held to fill any casual vacancy that occurs within 18 months after the date of that ordinary election, the general manager is to notify the election manager of the ordinary election within 7 days of the resolution.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that would not be in a position to fill any casual vacancies through the countback method if the recommendation is not adopted.	Low	Consider the options available.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9**FILE NO: 21/301649
EDRMS NO: A2004-0984****CODE OF CONDUCT: ANNUAL REPORTING**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the annual reporting of Code of Conduct complaint statistics involving Mayor, Councillors and General Manager for the period of 1 September 2020 to 31 August 2021.

BACKGROUND

The purpose of this report is to provide the code of conduct complaint statistics for the reporting period 1 September 2020 to 31 August 2021, in accordance with Part 11 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (Procedures).

The statistics relate to complaints concerning the Mayor, Councillors and the General Manager.

The statistics are shown at **(ATTACHMENT 1)**.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with the code of conduct complaints are within the existing budget and staff resource allocation.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	No		

EXTRAORDINARY COUNCIL - 11 JANUARY 2022

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

LEGAL, POLICY AND RISK IMPLICATIONS

All complaints received concerning the Mayor, Councillors and the General Manager are required to be reported to Council annually in accordance with Part 11 of the Code of Conduct Procedures.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, and therefore in breach of the Local Government Act 1993, if a report is not provided to Council.	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

- 1) Code of Conduct statistics - 1 September 2020 to 31 August 2021. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 9 - ATTACHMENT 1 CODE OF CONDUCT STATISTICS - 1 SEPTEMBER 2020 TO 31 AUGUST 2021.

CODE OF CONDUCT REPORTING REQUIREMENTS FOR 1 SEPTEMBER 2020 TO 31 AUGUST 2021

Model Code of Conduct Complaints Statistics Port Stephens Council		
Number of Complaints		
1 a	The total number of complaints received in the period about councillors and the General Manager (GM) under the code of conduct	8
b	The total number of complaints finalised in the period about councillors and the GM under the code of conduct	8
Overview of Complaints and Cost		
2 a	The number of complaints finalised at the outset by alternative means by the GM or Mayor	8
b	The number of complaints referred to the Office of Local Government (OLG) under a special complaints management arrangement	0
c	The number of code of conduct complaints referred to a conduct reviewer	0
d	The number of code of conduct complaints finalised at preliminary assessment by conduct reviewer	0
e	The number of code of conduct complaints referred back to GM or Mayor for resolution after preliminary assessment by conduct reviewer	0
f	The number of finalised code of conduct complaints investigated by a conduct reviewer	0
g	The number of finalised complaints investigated where there was found to be no breach	0
h	The number of finalised complaints investigated where there was found to be a breach	0
i	The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police	0
j	The number of complaints being investigated that are not yet finalised	0
k	The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	3,220
Preliminary Assessment Statistics		
3	The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:	
a	To take no action (clause 6.13(a) of the 2018 and 2020 Procedures)	0
b	To resolve the complaint by alternative and appropriate strategies (clause 6.13(b) of the 2018 and 2020 Procedures)	0
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies (clause 6.13(c) of the 2018 and 2020 Procedures)	0
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police (clause 6.13(d) of the 2018 and 2020 Procedures)	0
e	To investigate the matter (clause 6.13(e) of the 2018 and 2020 Procedures)	0

ITEM 9 - ATTACHMENT 1 CODE OF CONDUCT STATISTICS - 1 SEPTEMBER 2020 TO 31 AUGUST 2021.

Investigation Statistics	
4	The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:
a	That the council revise its policies or procedures <input type="text" value="0"/>
b	That a person or persons undertake training or other education (clause 7.37 of the 2018 Procedures or clause 7.40 of the 2020 Procedures) <input type="text" value="0"/>
5	The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:
a	That the council revise any of its policies or procedures (clause 7.36(a) of the 2018 Procedures or clause 7.39 of the 2020 Procedures) <input type="text" value="0"/>
b	In the case of a breach by the GM, that action be taken under the GM's contract for the breach (clause 7.36(h) of the 2018 Procedures or clause 7.37(a) of the 2020 Procedures) <input type="text" value="0"/>
c	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 (clause 7.36(i) of the 2018 Procedures or clause 7.37(b) of the 2020 Procedures) <input type="text" value="0"/>
d	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 and that the matter be referred to OLG for further action (clause 7.36(j) of the 2018 Procedures or clause 7.37(c) of the 2020 Procedures) <input type="text" value="0"/>
6	Matter referred or resolved after commencement of an investigation (clause 7.20 of the 2018 or 2020 Procedures) <input type="text" value="0"/>
Categories of misconduct	
7	The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:
a	General conduct (Part 3) <input type="text" value="0"/>
b	Non-pecuniary conflict of interest (Part 5) <input type="text" value="0"/>
c	Personal benefit (Part 6) <input type="text" value="0"/>
d	Relationship between council officials (Part 7) <input type="text" value="0"/>
e	Access to information and resources (Part 8) <input type="text" value="0"/>
Outcome of determinations	
8	The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation <input type="text" value="0"/>
9	The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by OLG <input type="text" value="0"/>

ITEM NO. 10**FILE NO: 21/223037
EDRMS NO: PSC2021-04211****2021 LOCAL GOVERNMENT NSW SPECIAL CONFERENCE - 28 FEBRUARY TO 2 MARCH 2022****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate Council delegates to attend the Local Government NSW Special Conference to be on 28 February to 2 March 2022.
- 2) Nominate 4 voting delegates.

BACKGROUND

The purpose of this report is to inform Council of the LGNSW Special Conference to be held on 28 February to 2 March 2022.

Each member Council of LGNSW has a voting entitlement at the conference. The voting entitlement for Port Stephens Council is 4 delegates. Council is requested to nominate its 4 voting delegates that will attend the conference.

This conference is the annual policy-making event for NSW general-purpose councils and associate members. It is the pre-eminent event of the local government year where local elected members come together to share ideas and debate issues that shape the way local government is governed. A draft conference program is attached for Elected Members information (**ATTACHMENT 1**).

The conference is open to all Elected Members.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Governance	Provide strong civic leadership and government regulations.

FINANCIAL/RESOURCE IMPLICATIONS

The registration fee for the conference is \$979 (inc GST) per delegate.

EXTRAORDINARY COUNCIL - 11 JANUARY 2022

The costs associated with registration are covered within existing budget – subject to an Elected Member not exceeding budget limits set out in the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy. Council will also meet the reasonable cost of meals when they are not included in the conference fees.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		As per the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

As per the Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy, approval to participate in a conference or seminar is subject to approval of a full Council.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may have its reputation damaged by not participating in the national debate on key Local Government matters in NSW.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Elected Members participating in the conference to ensure the local government area has a voice in the national development of policy and initiatives.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

- 1) LGNSW Special Conference Program. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Conference Program

28 February

1.00pm – 7.00pm	Registration opens at the Grand Ballroom Foyer
1.30pm – 3.00pm	Option 1: Council involvement in new national agreement on Closing the Gap Panel members include representatives from NSW Aboriginal Land Council and Reconciliation NSW
1.30pm – 3.00pm	Option 2: Rural and Regional Health – issues and solutions Panel members include representatives from Federal Government and a Council representative
1.30pm – 3.00pm	Option 3: Investing in you – Verbal Judo for Councillors (now fully subscribed)
1.30pm – 3.00pm	Option 4: Domestic Violence – Councils are part of the solution Panel members include a representative of Domestic Violence NSW and representatives from metropolitan and regional councils

ITEM 10 - ATTACHMENT 1 LGNSW SPECIAL CONFERENCE PROGRAM.

3.00pm – 5.00pm	<p>Meet the Politicians Forum with Master of Ceremonies: President LGNSW</p> <p>Addresses from NSW Government, Opposition and cross benchers</p> <p>Presentation of the AR Bluett Awards by the Trustees</p> <p>Welcome Reception Sponsor Address by Statewide Mutual</p> <p>This session is free to members registered to attend the conference. RSVPs are required as part of the conference registration.</p>
5.00pm – 7.30pm	<p>President's Welcome Reception. Maritime Ballroom. Sponsored by Statewide Mutual.</p> <p>Registration will be available at this event.</p>

Conference Program

1 March

7.30am – 5.00pm	Registration opens Grand Ballroom Foyer
8.00am – 4.00pm	Trade exhibition opens Maritime Ballroom Delegate Lounge opens for networking
8.45am	Doors open for official conference proceedings
9.05am – 9.10am	Conference introduction by Scott Phillips, Chief Executive, LGNSW
9.10am – 9.15am	Welcome to Country on behalf of Metropolitan Local Aboriginal Land Council
9.15am – 11.00am	Address by LGNSW President Opening of the Federal and State conference, including demonstration of voting app, adoption of standing orders, business session and consideration of motions. Chaired by LGNSW President
11.00am – 11.05am	Distinguished Partner address by Active Super

ITEM 10 - ATTACHMENT 1 LGNSW SPECIAL CONFERENCE PROGRAM.

11.05am – 11.35am	Morning tea in trade exhibition hoisted by Distinguished Partner Active Super
11.35am – 1.00pm	Consideration of conference business continued, chaired by LGNSW President
1.00pm – 1.05pm	Elite sponsor address by StateCover
1.05pm – 2.15pm	Lunch in trade exhibition, sponsored by StateCover, Maritime Ballroom
1.05pm – 2.15pm	StateCover General Manager's Lunch – Heritage Atrium (exclusive to GMs)
2.15pm – 3.30pm	Consideration of conference business continued, chaired by LGNSW President
3.30pm – 4.00pm	Afternoon tea in trade exhibition Maritime Ballroom
4.00pm – 5.00pm	Consideration of conference business continued, chaired by LGNSW President
5.00pm	Conference business session closes
5.00pm – 5.30pm	Networking in trade exhibition, Maritime Ballroom

ITEM 10 - ATTACHMENT 1 LGNSW SPECIAL CONFERENCE PROGRAM.

7.00pm -10.30pm	Conference Dinner at Grand Ballroom, The Fullerton Hotel, 1 Martin Place, Sydney. Sponsored by StateCover Includes presentation of Distinguished Service Awards to elected members
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Conference Program

2 March

7.30am – 3.00pm	Registration opens Grand Ballroom Foyer
7.30am – 8.45am	<p>Australian Local Government Women's Association (ALGWA NSW) Breakfast, Wharf Room</p> <p>Guest presenter: Rosemary Kariuki, Advocate for migrant and refugee women, LOCAL HERO 2021 Australian of the Year awards.</p> <p>Facilitated by Ellen Fanning</p> <p>* Ellen Fanning and Rosemary Kariuki appear by arrangement with Saxton Speakers Bureau (https://www.saxton.com.au/)</p>
8.00am – 4.00pm	<p>Trade exhibition opens, Maritime Ballroom</p> <p>Delegate Lounge opens for networking</p>
8.45am	Doors open for conference official proceedings
9.00am	Welcome by MC, Ellen Fanning
9.05am – 9.30am	<p>Keynote address – Michael Pascoe</p> <p>* Michael Pascoe appears by arrangement with Claxton Speakers International (https://www.claxtonspeakers.com.au/)</p>

ITEM 10 - ATTACHMENT 1 LGNSW SPECIAL CONFERENCE PROGRAM.

9.30am – 9.35am	Planning sponsor address by Resilience NSW
9.35am – 10.30am	Keynote Panel: Economy and Jobs focus
10.30am – 10.35am	Distinguished Partner address by nbn
10.35am – 11.05am	Morning tea in trade exhibition, sponsored by Distinguished Partner nbn, Maritime Ballroom
11.05 – 11.20am	Address by President LGNSW, on Association Initiatives including Country Mayors MOU signing
11.20am – 11.25am	Distinguished Sponsor topic Landcom
11.25am – 12.10pm	Presentation: Climate Change Panel
12.10pm – 12.55pm	Presentation: The Housing Crisis in NSW
12.55pm – 2.05pm	Lunch in trade exhibition, with Distinguished Sponsor Landcom, Maritime Ballroom
2.05pm – 3.05pm	Final keynote address – Greig Pickhaver AM * Greig Pickhaver AM appears by arrangement with Claxton Speakers International (https://www.claxtonspeakers.com.au/)

ITEM 10 - ATTACHMENT 1 LGNSW SPECIAL CONFERENCE PROGRAM.

3.05pm - 3.15pm	Final remarks, President LGNSW
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ITEM NO. 11

FILE NO: 21/353927
EDRMS NO: PSC2017-00015

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

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

No: Report Title Page:

1	Ministerial Order - Notification of Environmental Planning and Assessment (Statement of Expectations) Order 2021.	132
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INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 21/353808
EDRMS NO: PSC2015-01647**

MINISTERIAL ORDER - NOTIFICATION OF ENVIRONMENTAL PLANNING AND ASSESSMENT (STATEMENT OF EXPECTATIONS) ORDER 2021.

REPORT OF: STEVEN PEART - GROUP MANAGER DEVELOPMENT SERVICES
GROUP: DEVELOPMENT SERVICES

BACKGROUND

The purpose of this report is to advise of the Environmental Planning and Assessment (Statement of Expectations) Order 2021 to Local Councils from Hon. Rob Stokes, Minister for Planning and Public Spaces and Minister for Transport and Roads.

The Order sets out clear expectations as to what constitutes an efficient and effective planning system and one that business and the community can have confidence in. It sets benchmarks for council performance in the areas of development assessment, planning proposals and strategic planning. A copy of this Order is attached **(ATTACHMENT 1)**.

The Government has placed similar performance expectations on the Department of Planning, Industry and Environment (the Department) and other agencies with approval roles in the planning system. There are also new requirements on industry to improve the timeliness and quality of development applications. More information about these performance expectations and recent planning system reforms is available at www.planning.nsw.gov.au/Policyand-Legislation/Planning-reforms/Planning-Reform-Action-Plan

During the last 2 years, councils and government agencies have been working hard to ensure an efficient and effective planning system is able to support the state in its economic recovery from the COVID-19 pandemic. It is the planning system that has allowed businesses to adapt and thrive, that has given people the confidence to invest in New South Wales and that has supported jobs across the economy.

The Minister has decided to outline his clear expectations for the planning system in the attached Order so that incoming councillors are aware of the importance of an efficient and effective planning system in supporting a strong economy and delivering better places. It is also important to note that for the first time incoming councillors will be provided an induction on the planning and their role in ensuring the planning system as efficiently as possible.

ATTACHMENTS

- 1) Notification of Environmental Planning and Assessment (Statement of Expectations) Order 2021. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 NOTIFICATION OF ENVIRONMENTAL PLANNING
AND ASSESSMENT (STATEMENT OF EXPECTATIONS) ORDER 2021.

**Environmental Planning and Assessment (Statement of
Expectations) Order 2021**

I, Rob Stokes, the Minister for Planning and Public Spaces, make this Order under
section 9.6(9) of the *Environmental Planning and Assessment Act 1979*.

The Hon. Rob Stokes MP
Minister for Planning and Public Spaces

Dated: 26th November, 2021.

Explanatory note

The object of this Order is to set expectation for councils in relation to their
performance of a range of planning and development functions under the
Environmental Planning and Assessment Act 1979. If a council is found not to be
meeting these expectations, the Minister can take these matters into consideration
as part of determining if it is appropriate to appoint a planning administrator or
regional panel to exercise a council's functions. It is made under section 9.6(9) of
the Act.

**ITEM 1 - ATTACHMENT 1 NOTIFICATION OF ENVIRONMENTAL PLANNING
AND ASSESSMENT (STATEMENT OF EXPECTATIONS) ORDER 2021.**

Environmental Planning and Assessment (Statement of Expectations) Order 2021

Contents

Part 1 Preliminary

- 1 Name of Order
- 2 Commencement
- 3 Definitions

Part 2 Planning and development matters

- 4 Heads of consideration
- 5 Minister's expectations

ITEM 1 - ATTACHMENT 1 NOTIFICATION OF ENVIRONMENTAL PLANNING
AND ASSESSMENT (STATEMENT OF EXPECTATIONS) ORDER 2021.

Environmental Planning and Assessment (Statement of Expectations) Order 2021

**Environmental Planning and Assessment (Statement of
Expectations) Order 2021**

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Order

This Order is the *Environmental Planning and Assessment (Statement of Expectations) Order 2021*.

2 Commencement

This Order commences on the day it is published on the NSW Planning Portal.

3 Definitions

(1) In this Order—

the Act means the *Environmental Planning and Assessment Act 1979*

Department means the Department of Planning, Industry and Environment.

Gateway determination means a determination made by the Minister (or delegate) under section 3.34 of the Act.

LEP means a local environmental plan.

LSPS means a local strategic planning statement.

Minister means the Minister for Planning and Public Spaces.

Minister's expectations means the expectations of the Minister in relation to the performance of a council in dealing with planning and development matters, as set out in clause 5 of this Order.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

(2) Words used in this Order have the same meaning as words used in the Act.

(3) Notes included in this Order do not form part of this Order.

ITEM 1 - ATTACHMENT 1 NOTIFICATION OF ENVIRONMENTAL PLANNING AND ASSESSMENT (STATEMENT OF EXPECTATIONS) ORDER 2021.

Environmental Planning and Assessment (Statement of Expectations) Order 2021

Part 2 Planning and development matters**4 Heads of consideration**

The heads of consideration to be taken into consideration in exercising the power under s.9.6(1)(b) of the Act are:

- (a) Whether or not the Council has failed to meet the Minister's expectations in relation to council performance.
- (b) The frequency and degree to which the council has performed, or failed to perform, in accordance with the Minister's expectations.
- (c) The range and type of planning and development matters in respect of which the council has performed, or failed to perform, in accordance with the Minister's expectations.
- (d) Whether or not an appointment under s.9.6(1)(b) should be made in relation to one or more of a particular class of planning and development matter, or all planning and development matters dealt with by the council.
- (e) The effect of any caretaker period preventing a council's performance in dealing with the planning and development matters (or any particular class of such matters) as set out in clause 5.
- (f) The public interest.

5 Minister's Expectations**(1) Development assessment**

A council should:

- (a) prepare assessment reports for a regionally significant development application and refer it to the relevant Regional Panel as soon as practical and no longer than 250 days from lodgement.
- (b) determine a development application for which it is the consent authority as soon as practical and no longer than 180 days from lodgement.
- (c) report a development application for which its functions as a consent authority are exercisable by the local planning panel to the panel for determination within 4 weeks of a request from the panel chair.

(2) Planning proposals

A council should:

- (a) Make a decision as to whether to support or not a proponent led planning proposal (rezoning) as soon as practical and no longer than 90 days, or
- (b) submit a proponent led planning proposal for a Gateway determination as soon as practical and no longer than 90 days after having indicated its support for the planning proposal,
- (c) publicly exhibit a planning proposal or hold a public hearing in line with the conditions of a Gateway determination,

**ITEM 1 - ATTACHMENT 1 NOTIFICATION OF ENVIRONMENTAL PLANNING
AND ASSESSMENT (STATEMENT OF EXPECTATIONS) ORDER 2021.**

Environmental Planning and Assessment (Statement of Expectations) Order 2021

- (d) consider or respond to public submissions on a draft LEP in accordance with their community participation plan,
 - (e) make a LEP, which has been delegated to the Council, in the timeframes specified in a Gateway determination.

- (3) **Strategic planning obligations**
A council should :
 - (a) prepare a LSPS for its local government area that meets the requirements for these statements under the Act,
 - (b) undertake the required review of its LSPS,
 - (c) give effect to a regional and/or district strategic plan applying to the LGA, including carry out a review of the LEP under section 3.8(3) of the Act,
 - (d) give effect to an adopted local planning strategy (such as a Local Housing Strategy), and any approval requirements issued by the Department,
 - (e) consider State Environmental Planning Policies or other strategies and policies of the Government, the Minister or the Department concerning planning and development matters.