

NOTICE OF ORDINARY MEETING

11 JULY 2023



The Mayor and Councillors attendance is respectfully requested:

Mayor: R Palmer (Chair).

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

SCHEDULE OF MEETINGS

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

Please Note:

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

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

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

Food and beverages are not permitted in the Council Chamber.

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BUSINESS

1) Opening meeting.

2) Acknowledgement of Country

We acknowledge the Worimi people as the original Custodians and inhabitants of Port Stephens. We acknowledge and pay respects to Worimi elders past and present. May we walk the road to tomorrow with mutual respect and admiration as we care for the beautiful land and waterways together.

3) Prayer

We recognise the rich cultural and religious diversity in Port Stephens and pay respect to the beliefs of all members of our community, regardless of creed or faith.

4) Apologies and applications for a leave of absence by Councillors.

5) Disclosures of interests.

6) Confirmation of minutes Ordinary Meeting of 27 June 2023.

7) Mayoral minute(s) – if submitted.

8) Motions to close meeting to the public – if submitted.

9) Reports to Council.

10) General Manager's reports – if submitted.

11) Questions with Notice – if submitted.

12) Questions on Notice.

13) Notices of motions – if submitted.

14) Rescission motions – if submitted.

15) Confidential matters – if submitted.

16) Conclusion of the meeting.

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the commencement of this Council term to undertake their civic duties in the best interests of the people of Port Stephens and Port Stephens Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act, to the best of their skill and judgement.

The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Meeting Practice and Code of Conduct.

PRINCIPLES FOR LOCAL GOVERNMENT

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

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

Guiding principles for Council

1) Exercise of functions generally

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

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

2) Decision-making

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

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

3) Community participation

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

Principles of sound financial management

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

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

Integrated planning and reporting principles that apply to Council

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

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

PORT STEPHENS COMMUNITY STRATEGIC PLAN

The Local Government Act requires Council to adopt a Community Strategic Plan (10+ years). The Plan includes a Delivery Program (4 years), Annual Operational Plan and a Resource Strategy, it also includes the Council's budget.

The Community Strategic Plan is organised into 4 focus areas:

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

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

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

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

BUSINESS EXCELLENCE

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

These outcomes align with the following Business Excellence principles:

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

MEETING PROCEDURES SUMMARY

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

Quorum – A quorum at Port Stephens Council is 6.

Declarations of Interest

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

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

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

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

Motions and Amendments

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

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

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

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

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

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

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

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

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

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

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

A Point of Order can be raised where:

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

Declarations of Conflict of Interest – Definitions

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

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

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

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



Form of Special Disclosure of Pecuniary Interest

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

Important information

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

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

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

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

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

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

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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.

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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: 23/115065
EDRMS NO: PSC2023-02219**

22 AND 30 HOMESTEAD STREET AND 1 DIEMARS ROAD, SALAMANDER BAY

REPORT OF: BROCK LAMONT - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the preparation of a planning proposal to amend the Land Zoning Map and Lot Size Map under the Port Stephens Local Environmental Plan 2013 at 22 Homestead Street, Salamander Bay (Part of Lot: 51 DP: 803471, Lot: 598 DP: 27382 and Lot: 599 DP: 658257) to rezone the land from RE1 Public Recreation to C2 Environmental Conservation and apply a minimum lot size of 40 hectares.
 - 2) Seek funding opportunities for the preparation of a Vegetation Management Plan and associated rehabilitation works to enable high quality Koala habitat at Part of Lot: 51 DP: 803471, Lot: 598 DP: 27382 and Lot: 599 DP: 658257.
-

BACKGROUND

At the 11 April 2023 meeting, Minute No. 010 (**ATTACHMENT 1**), Council resolved to:

- 1) Request the General Manager provide a report that investigates the following:
 - a) Preparation of a planning proposal to rezone land at 22 Homestead Street, Salamander Bay (Part of Lot: 51 DP: 803471, Lot: 598 DP: 27382 and Lot: 599 DP: 658257) from RE1 - Public Recreation to C2 Environmental Conservation.
 - b) Preparation of an Environmental Management Plan for those lots (Part of Lot: 51 DP: 803471, Lot: 598 DP: 27382 and Lot: 599 DP: 658257) to facilitate koala feed tree planting and the relocation of rehabilitated koalas from the Port Stephens Koala Hospital.

The preparation of a planning proposal to rezone land at 22 and 30 Homestead Street, Salamander Bay, and 1 Diemars Road, Salamander Bay from RE1 Public Recreation to C2 Environmental Conservation would integrate the site zoning with the land to the north and south which is currently zoned C2 Environmental Conservation.

The subject land is owned by Council. A locality map of the subject land is available at (**ATTACHMENT 2**).

The subject land is mapped to contain preferred Koala habitat in accordance with the Port Stephens Comprehensive Koala Plan of Management (CKPoM). The sites are located in an important area for the Port Stephens Koala population, forming a strategic habitat corridor between Soldiers Point and Salamander Bay. An opportunity exists for Council to protect this habitat corridor into the future through the amendment of planning controls and rezoning of the subject land to C2 Environmental Conservation.

Council's CKPoM identifies the rezoning of Koala habitat on public land as a key habitat conservation measure and lists the restoration of degraded koala habitat as a principal objective of the plan.

As the land currently has no minimum lot size, any rezoning would also apply a minimum lot size of 40 hectares to the land, which is consistent with the surrounding area. Due to the previous environmental studies that have been undertaken on-site, no further studies would be required to support a rezoning of the land.

Council is currently preparing an administrative amendment to the Port Stephens Local Environmental Plan 2013. Should the recommendation be supported, the rezoning of 22 Homestead Street, Salamander Bay could be incorporated into the administrative amendment. By incorporating the rezoning into the already planned administrative amendment, the cost would be negligible and able to be integrated into the existing project.

Further to the above, the development and implementation of a Vegetation Management Plan (VMP) would facilitate the long-term restoration and management of the site to improve the Koala habitat. The following table is provided to outline the estimated costs for the preparation of a VMP and the associated rehabilitation and long-term management of the site. Final costs for bushland rehabilitation services would need to be determined through Council's procurement processes and would be subject to change.

Deliverables		Estimated Costs
Vegetation Management Plan (VMP)	<ul style="list-style-type: none">• Site assessment and program objectives• Identification and mapping of management zones• Detailed management actions (including weed control and rehabilitation of Koala habitat)• Performance criteria• Program of works (implementation timing)• Monitoring actions• Consultant costs	\$ 30,000 (incl. GST)

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Deliverables		Estimated Costs
Rehabilitation works	<ul style="list-style-type: none"> • Site preparation works • Purchase of plants and materials • Weed management labour works • Planting labour works 	\$120,000 (incl. GST)
Total one-off costs		\$150,000 (incl. GST)
Maintenance	<ul style="list-style-type: none"> • Annual monitoring and assessment • Annual maintenance 	\$ 60,000 (incl. GST) per annum
Total ongoing costs		\$60,000 (incl. GST) per annum

As a funding source has not been identified for the above works, the recommendation supports the rezoning component of the resolution and commits to seeking funding support for the VMP actions, including grant opportunities.

As noted in the previous report, the site is subject to a number of environmental constraints, including preferred koala habitat, endangered ecological communities and flooding, which make the subject land challenging to develop for any significant urban development.

A cleared portion exists on the 22 Homestead Street, Salamander Bay site which could provide some opportunity for a modest development outcome. The existing RE1 Public Recreation zoning of the site has the potential for a greater range of development outcomes than the proposed C2 Environmental Conservation zoning.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Ecosystem function	Develop and deliver a program for Council to implement environmental strategies and policies

FINANCIAL/RESOURCE IMPLICATIONS

The rezoning of the subject land can be integrated into an existing program of works at negligible cost. There is no funding source identified for the development, implementation and ongoing maintenance of VMP works.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The rezoning process only is within the existing budget.

ORDINARY COUNCIL - 11 JULY 2023

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

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that not proceeding with the rezoning of the subject site reduces Council's efforts to protect and improve Koala habitat across Port Stephens.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The conservation and restoration of known Koala habitat positively contributes to the protection of the Port Stephens Koala population and many other threatened species. Proceeding with the recommendation safeguards and integrates an important habitat corridor for faunal movement and flora restoration.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Strategy and Environment Section in preparing the report.

Internal

- Natural Systems
- Strategic Planning
- Strategic Property
- Community Assets.

External

- Department of Planning and Environment.

OPTIONS

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

ATTACHMENTS

- 1) Minute No. 010, 11 April 2023. [↓](#)
- 2) Locality Plan. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023**NOTICE OF MOTION****ITEM NO. 5****FILE NO: 23/82315****EDRMS NO: PSC2021-04195****22 HOMESTEAD STREET, SALAMANDER BAY****COUNCILLOR: LEAH ANDERSON**

THAT COUNCIL:

- 1) Requests the General Manager provide a report that investigates the following:
 - a) Preparation of a planning proposal to rezone land at 22 Homestead Street, Salamander Bay (Part of Lot: 51 DP: 803471, Lot: 598 DP: 27382 and Lot: 599 DP: 658257) from RE1 - Public Recreation to C2 Environmental Conservation.
 - b) Preparation of an Environmental Management Plan for those lots (Part of Lot: 51 DP: 803471, Lot: 598 DP: 27382 and Lot: 599 DP: 658257) to facilitate koala feed tree planting and the relocation of rehabilitated koalas from the Port Stephens Koala Hospital.
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**ORDINARY COUNCIL MEETING - 11 APRIL 2023
MOTION**

010	Councillor Leah Anderson Councillor Glen Dunkley It was resolved that Council requests the General Manager provide a report that investigates the following: <ol style="list-style-type: none">a) Preparation of a planning proposal to rezone land at 22 Homestead Street, Salamander Bay (Part of Lot: 51 DP: 803471, Lot: 598 DP: 27382 and Lot: 599 DP: 658257) from RE1 - Public Recreation to C2 Environmental Conservation.b) Preparation of an Environmental Management Plan for those lots (Part of Lot: 51 DP: 803471, Lot: 598 DP: 27382 and Lot: 599 DP: 658257) to facilitate koala feed tree planting and the relocation of rehabilitated koalas from the Port Stephens Koala Hospital.
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Councillor Peter Kafer left the meeting at 7:30pm.
Councillor Peter Francis left the meeting at 7:30pm.
Councillor Peter Francis returned to the meeting at 7:32pm.
Councillor Peter Kafer returned to the meeting at 7:34pm.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023

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

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

**ORDINARY COUNCIL MEETING - 11 APRIL 2023
MOTION**

011	Councillor Glen Dunkley Councillor Matthew Bailey It was resolved that Item 1 be dealt with following Notice of Motion No. 5.
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Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Glen Dunkley, Peter Francis, Peter Kafer, Steve Tucker and Jason Wells.

Those against the Motion: Nil.

The motion was carried.

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

The preparation of a planning proposal to rezone land at 22 and 30 Homestead Street, Salamander Bay and 1 Diemars Road, Salamander Bay from RE1 Public Recreation to C2 Environmental Conservation would integrate the site zoning with the land to the north and south which is currently zoned C2 Environmental Conservation.

The site is subject to a number of environmental constraints, including preferred koala habitat, endangered ecological communities and flooding, which make the subject land challenging to develop for any significant urban development.

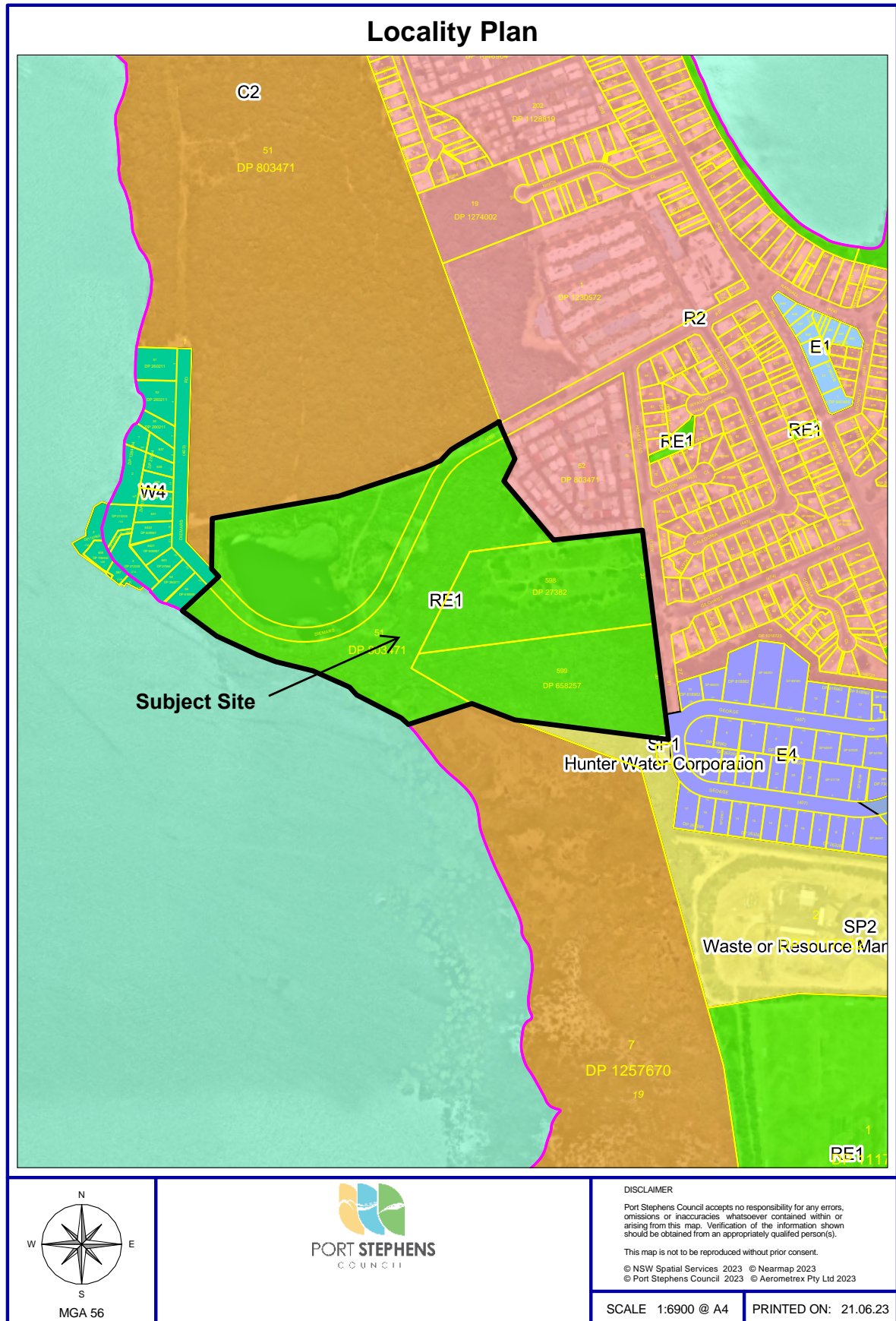
Should this Notice of Motion be supported, a report outlining the relevant processes, costs and resourcing required would be prepared and presented to Council.

MINUTES ORDINARY COUNCIL - 11 APRIL 2023**FINANCIAL/RESOURCE IMPLICATIONS**

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

ATTACHMENTS

Nil.



ITEM NO. 2**FILE NO: 23/66754
EDRMS NO: PSC2022-02922****DETERMINATION OF NUMBER OF COUNCILLORS FOR 2024-2028 TERM OF OFFICE****REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) In accordance with section 224(2) of the Local Government Act 1993, Council determine the number of councillors for the 2024-2028 term of office to be 10 (1 of whom is the Mayor).

BACKGROUND

The purpose of this report is to provide Council with the opportunity to determine the number of councillors (1 of whom is the Mayor) for the 2024-2028 term of office.

The Local Government Act requires Council to determine the number of councillors for the 2024-2028 term of office not less than 12 months before the next ordinary election (ie before 14 September 2023). The Act requires the number of councillors to be at least 5 and not more than 15 (1 of whom is the Mayor).

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver governance services and internal audit program

FINANCIAL/RESOURCE IMPLICATIONS

There are no additional financial implications arising from the recommendation.

Should Council elect to conduct a referendum to alter the current status it is estimated the costs for the referendum would be in the vicinity of \$20,000 to \$30,000.

Any increase in councillor numbers would result in an increase to the councillor allowances by approximately \$30,000 per year for each additional councillor, and other expenses would increase by around 33%.

ORDINARY COUNCIL - 11 JULY 2023

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 224(2) of the Local Government Act 1993 requires Council to determine the number of councillors for the next term of office.

Should Council wish to vary the number of councillors, it must, before determining the number, obtain approval for the change at a constitutional referendum. If a referendum was held in 2024, the result would come into force at the 2028 local government election.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the Local Government Act 1993 should the councillor numbers not be determined.	Low	Determine the number of councillors for the 2024-2028 term of office.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no sustainability implications related to this report.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance Section. The General Manager was consulted as part of the process.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 3

**FILE NO: 23/135180
EDRMS NO: PSC2022-04021**

WARD BOUNDARY REVIEW

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Ward boundaries changes in accordance with Option 2 shown at **(ATTACHMENT 3)**.
- 2) Commence public exhibition for a period of 28 days and allow 42 days for submissions to be received following approval from the NSW Electoral Commission.

BACKGROUND

The purpose of this report is to consider options available as a result of the Ward boundary review within the Port Stephens local government area. This review is required in preparation for the 2024 local government election.

The last review was conducted in 2019 and came into effect at the next ordinary local government election, which was held in 2021.

Section 211 of the Local Government Act 1993 (the Act) requires Council to keep its ward boundaries under review and ensure the variance between the ward with the highest number of electors and the lowest number of electors is not in excess of 10%. The elector numbers are reviewed on a monthly basis from data accessed from the NSW Electoral Commission.

The data shows that there have been some movement with elector numbers before and after each Federal, State and local government election since 2019.

In 2019, Council endorsed the current Ward boundaries which resulted in a variance of 7.52%. Whilst this was under the 10% required by the Local Government Act, it is desirable to achieve the lower percentage position to ensure the number of electors in each Ward are comparable, and to allow for population growth without the need of frequent Ward boundary reviews.

Based on the data to June 2023, the current variance is over 18%. Council is therefore required to review ward boundaries to ensure the new boundaries are in place for the 2024 local government election.

Ward	Elector numbers
Central	21,371
East	18,070
West	19,814
Total	59,255

Through the assessment of options available, 3 have been identified for Council's consideration. In identifying the options available, Council is required to meet the legislative requirements and may consider other factors. Consideration is given the following as part of the review:

- 1) Must ensure compliance with section 211 of the Act, meeting the 10% variance rule – therefore review of the elector numbers in terms of representation.
- 2) Must ensure compliance with section 210 and 210A of the Act, which requires consideration of boundaries of appropriate subdivisions and census districts.
- 3) Consider appropriate representation across each ward.
- 4) Maintaining central hubs within each ward, ie Raymond Terrace, Medowie and Nelson Bay.

The 3 options identified to meet the criteria above are:

Option 1

Transfer Boat Harbour (820 electors) from Central Ward to East Ward, transfer part Medowie from Central Ward to West Ward (43 electors).

The elector number projections (**ATTACHMENT 1**) and mapped proposal for Option 1 are shown at (**ATTACHMENT 2**).

Option 2

Transfer Boat Harbour (820 electors) from Central Ward to East Ward, transfer north Nelson Bay Road in Anna Bay (572 electors) from Central Ward to East Ward and transfer part Medowie from Central Ward to West Ward (43 electors).

The elector number projections (**ATTACHMENT 3**) and mapped proposal for Option 2 are shown at (**ATTACHMENT 4**).

Option 3

Transfer Boat Harbour (820 electors) from Central Ward to East Ward, transfer north Nelson Bay Road in Anna Bay (572 electors) from Central Ward to East Ward, Part Anna Bay (north east bounds with One Mile) (370 electors) from Central Ward to East Ward and transfer part Medowie from Central Ward to West Ward (43 electors).

The elector number projections (**ATTACHMENT 5**).and mapped proposal for Option 3 are shown at (**ATTACHMENT 6**).

ORDINARY COUNCIL - 11 JULY 2023

The proposal has taken into account growth, including known planning proposals.

Other options were also explored, as such reversing previous reviews and it was found that there would be no overall benefit.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver governance services and internal audit program

FINANCIAL/RESOURCE IMPLICATIONS

The financial and resource implications will be advertising (including social media), direct mail outs to those affected and community consultation sessions where the community will be invited to comment on the ward boundary proposal. These costs will be met within the existing budget.

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 211 of the Act requires Council to keep its ward boundaries under review and to take action should the variance be greater than 10% between the highest and lowest ward elector numbers.

The Act requires Council to take action and correct the variance should it continue to exist after the first year of a new Council term.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will be in breach of the Local Government Act 1993 if the ward boundary review is not conducted.	Low	Adopt the recommendation.	Yes

ORDINARY COUNCIL - 11 JULY 2023

There is a risk that there would be an imbalance between wards at the next local government election.	Low	Adopt the recommendation.	Yes
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The review of the ward boundaries will correct the current imbalance that exists between wards and provide an improved representation by the elected Council to the community.

CONSULTATION

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

Internal

Consultation has been undertaken with the General Manager and planning staff as part of the review.

A two way conversation was held with the Mayor and Councillors on 20 June 2023.

External

Council will place the proposal on public exhibition for a period of 28 days and allow 42 days for submissions to be lodged.

Consultation sessions will be held in the community to engage with the local communities and provide further information and answer questions on the proposal.

Council will consult with the NSW Electoral Commission, Office of the Local Government and the Australian Statistician as part of the process.

The **proposed** timeframe for the ward boundary review is:

Date	Purpose
20 June 2023	Two way conversation.
11 July 2023	Report to Council to endorse preferred option.
19 July 2023	Commence public exhibition with submissions closing 30 August 2023. Subject to consultation with NSW Electoral Commission.
19 September 2023	Two way conversation post exhibition.

ORDINARY COUNCIL - 11 JULY 2023

26 September 2023	Report to Council to consider submissions, if any, and adoption of final option.
5 October 2023	Deadline to advise the NSW Electoral Commission of changes.

OPTIONS

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

ATTACHMENTS

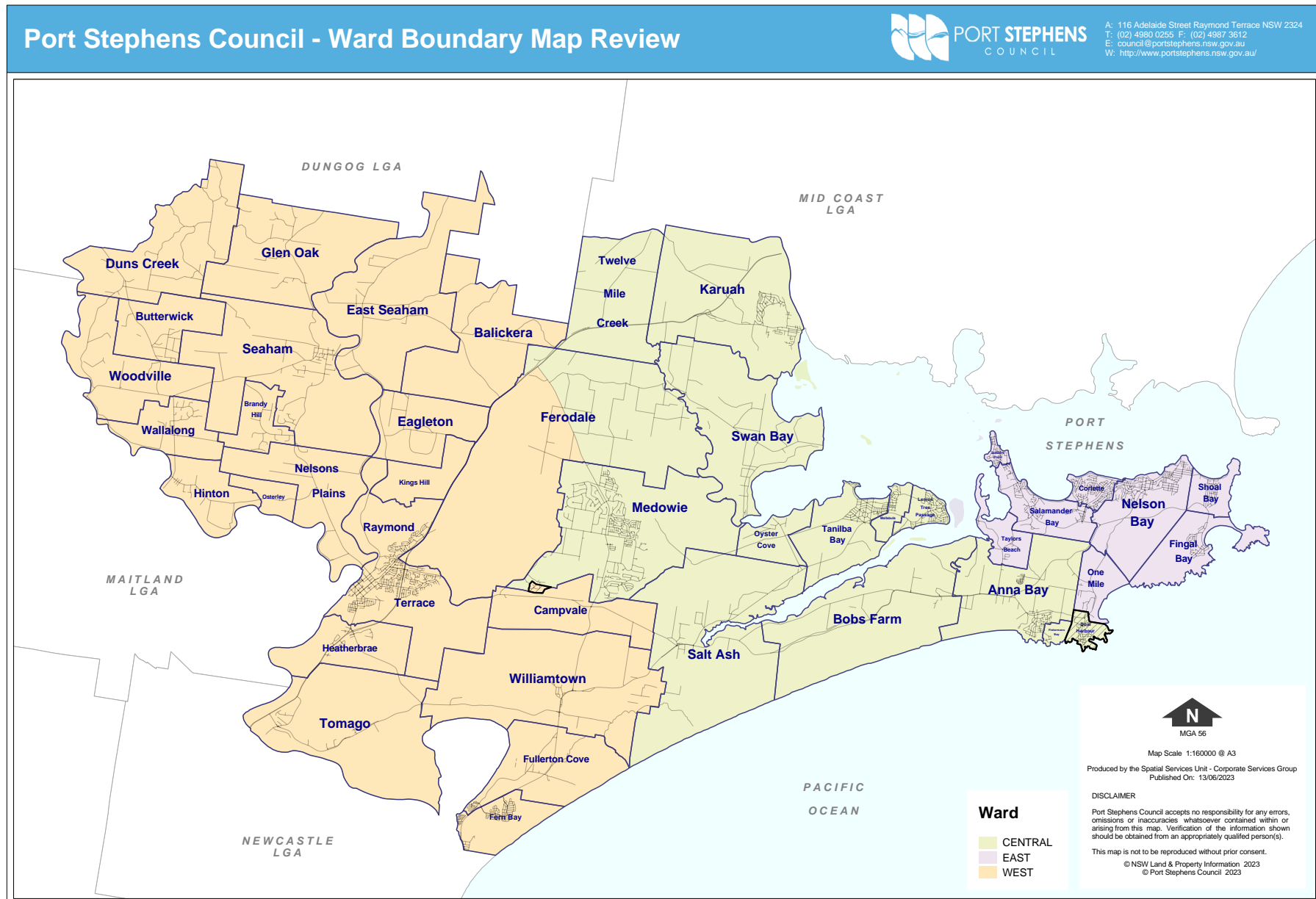
- 1) Option 1 - ward boundary review. [↓](#)
- 2) Option 1 - elector number projection. [↓](#)
- 3) Option 2 - ward boundary review. [↓](#)
- 4) Option 2 - elector number projection. [↓](#)
- 5) Option 3 - ward boundary review. [↓](#)
- 6) Option 3 - elector number projection. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



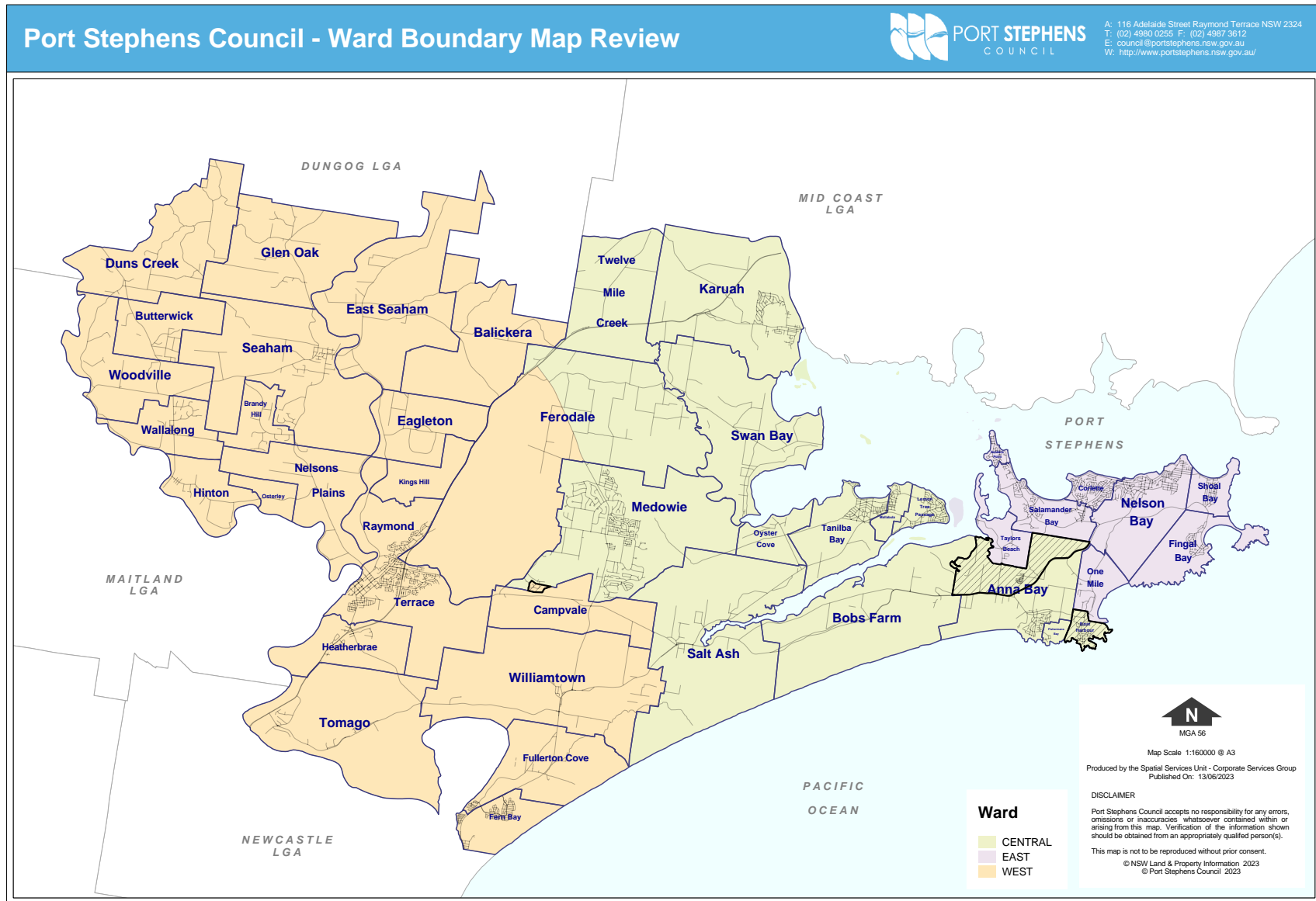
FILE LOCATION: G:\projects\Ward Boundary Readjustment\2019\PSC - Ward Boundary Map - Council Endorsed (A3L)

Ward elector numbers projections - Option 1

at 20.6.23

	Central Ward	East Ward	West Ward	Total	Variance	%
Current	21371	18070	19814	59255	3301	18.27
Boat Harbour	-820	820	0	0		
Part Medowie	43	0	-43	0		
	20594	18890	19771	59255	1704	9.02
Projections						
2023	20594	18917	19771	59282	1677	8.87
2024	21194	19117	20171	60482	2077	10.86
2025	21694	19317	20571	61582	2377	12.31
2026	22294	19517	20971	62782	2777	14.23
2027	22894	19717	21371	63982	3177	16.11
2028	23494	19917	21771	65182	3577	17.96
2029	24094	20117	22171	66382	3977	19.77
2030	24694	20317	22571	67582	4377	21.54

Denotes
Ward with
highest
number of
electors



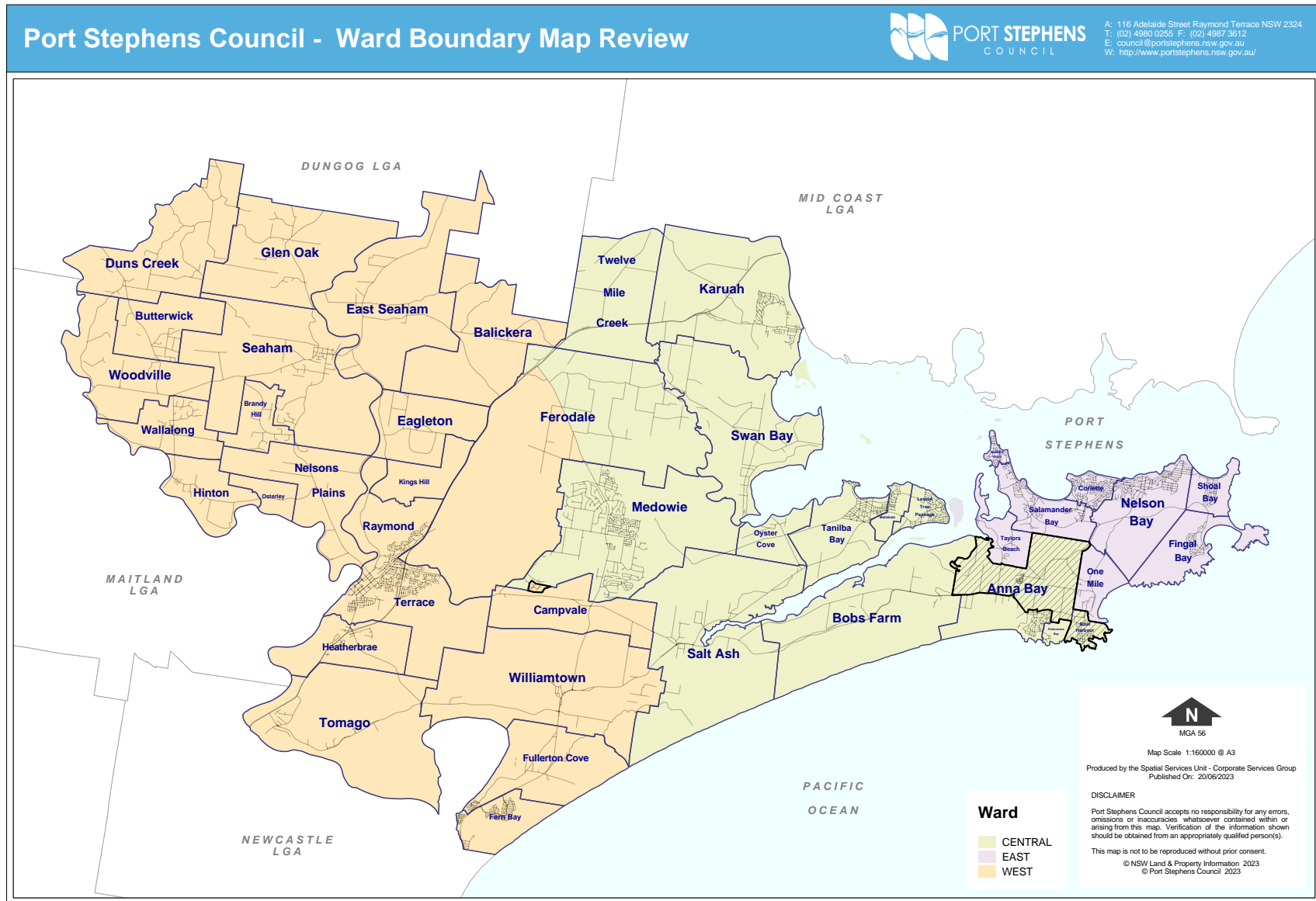
ITEM 3 - ATTACHMENT 4 OPTION 2 - ELECTOR NUMBER PROJECTION.

Ward elector numbers projections - Option 2

at 20.6.23

	Central Ward	East Ward	West Ward	Total	Variance	%
Current	21371	18070	19814	59255	3301	18.27
Boat Harbour	-820	820	0	0		
North Nelson						
Bay Road (Anna Bay)	-572	572	0	0		
Part Medowie	43	0	-43	0		
	20022	19462	19771	59255	560	2.88
Projections						
2023	20022	19462	19771	59255	560	2.88
2024	20622	19662	20171	60455	960	4.88
2025	21222	19862	20571	61655	1360	6.85
2026	21822	20062	20971	62855	1760	8.77
2027	22422	20262	21371	64055	2160	10.66
2028	23022	20462	21771	65255	2560	12.51
2029	23622	20662	22171	66455	2960	14.33
2030	24222	20862	22571	67655	3360	16.11

Denotes Ward
with highest
number of
electors



ITEM 3 - ATTACHMENT 6 OPTION 3 - ELECTOR NUMBER PROJECTION.

Ward elector numbers projections - Option 3

at 20.6.23

	Central Ward	East Ward	West Ward	Total	Variance	%
Current	21371	18070	19814	59255	3301	18.27
Boat Harbour	-820	820	0	0		
North Nelson						
Bay Road						
(Anna Bay)	-572	572	0	0		
Part Anna						
Bay (North)	-370	370	0	0		
Part Medowie	43	0	-43	0		
	19652	19832	19771	59255	180	0.92
Projections						
2023	19652	19832	19771	59255	180	0.92
2024	20252	20032	20171	60455	220	1.10
2025	20652	20232	20571	61455	420	2.08
2026	21252	20432	20971	62655	820	4.01
2027	21852	20632	21371	63855	1220	5.91
2028	22452	20832	21771	65055	1620	7.78
2029	23052	21032	22171	66255	2020	9.60
2030	23652	21232	22571	67455	2420	11.40
2031	24252	21432	22971	68655	2820	13.16

Denotes
Ward with
highest
number of
electors

ITEM NO. 4

FILE NO: 23/135109
EDRMS NO: PSC2009-02488

POLICY - FRAUD AND CORRUPTION CONTROL

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the new Fraud and Corruption Control policy shown at **(ATTACHMENT 1)**.
- 2) Place the Fraud and Corruption Control policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Fraud and Corruption Control policy dated 9 April 2020, Min No. 055 at **(ATTACHMENT 2)**, should no submissions be received.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the new Fraud and Corruption Control Policy (the 'policy'), **(ATTACHMENT 1)** which represents Council's commitment to effective fraud and corruption risk management and prevention.

The policy has been drafted and replaces the existing policy as part of Council's ongoing policy review program. The policy was reviewed to reflect the core elements and principles of the Australian Standard AS8001:2021 and the NSW Audit Office Better Practice Guide.

The policy has been reviewed and endorsed by the Audit Committee at its meeting of 25 May 2023.

Port Stephens Council is committed to protecting its revenue, expenditure and property from any attempt, either by members of the public, contractors, elected Councillors or its own employees, to gain by deceit, financial or other benefits. The policy (and a supporting management directive) has been developed to protect public funds and other assets, protect the integrity, security and reputation of Council and its employees, and assist in maintaining high levels of service to the community.

This policy draws together Council's fraud and corruption prevention and detection initiatives into 1 document. It forms part of Council's Risk Management Framework and has 3 major components:

ORDINARY COUNCIL - 11 JULY 2023

- Prevention – initiatives to deter and minimise the opportunities of fraud and corruption
- Detection – initiatives to detect fraud and corruption as soon as possible after it occurs
- Response – initiatives to deal with detected or suspected fraud and corruption.

The desired outcome of this policy is the elimination of fraud and corruption against Council.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Deliver governance services and internal audit program

FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the policy are within the existing budget.

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

All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.

The policy has been developed in accordance with Australian Standard AS8001:2021 Fraud and Corruption Control and the NSW Audit Office Better Practice Guide.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that fraudulent activity could occur within Council which is a risk of any	Low	Adopt the recommendations.	Yes

business. The key to managing the exposure to fraudulent activity is to ensure appropriate controls are in place.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Fraud and Corruption Control Policy provides the community with assurance of the integrity in the Local Government system and of Port Stephens Council. Related policies provide confidence to those who identify potential fraud or corruption to come forward.

Fraud and corruption cost the organisation because they detract from its financial performance and its ability to provide and enhance facilities and services to its community. This policy addresses this risk.

By putting in place mechanisms to detect corruption it allows for a 'level playing field' for promoters of economic development opportunities and the enhanced reputation of Council will underpin other strategies for economic growth in the LGA.

By preventing fraud and corruption, this policy allows for those other controls and conditions that are in place to protect the environment from being subverted.

CONSULTATION

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

Internal

The policy has been reviewed with consultation and endorsement of the Audit Committee.

Council's Executive Team has also endorsed the policy review.

External

Council is required to publicly exhibit the policy for a period of 28 days, seeking public comment.

OPTIONS

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

ATTACHMENTS

- 1) Proposed Fraud and Corruption Control policy. [↓](#)
- 2) Existing Fraud and Corruption Control policy. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ITEM 4 - ATTACHMENT 1 PROPOSED FRAUD AND CORRUPTION
CONTROL POLICY.**

Policy



FILE NO: PSC2009-02488

TITLE: FRAUD AND CORRUPTION CONTROL

OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 Port Stephens Council (Council) is committed to the prevention of fraud and corruption.
- 1.2 The purpose of Fraud and Corruption Control policy (the policy) is to outline the:
 - a) Framework for controlling fraud and corruption risks, and
 - b) Expectations and channels for reporting suspected fraud or corruption related to Council.

2. CONTEXT / BACKGROUND:

- 2.1 This policy reflects the core elements and principles of:
 - a) Australian Standard AS 8001:2021 Fraud and Corruption Control, and
 - b) NSW Audit Office Better Practice Guide: Fraud Control Improvement Kit.
- 2.2 Control of fraud and corruption risks helps protect the financial, regulatory and reputational wellbeing of Council and its key stakeholders, including Councillors, workers and the community.
- 2.3 As a sub-set of risk, fraud and corruption risk management operates within Council's risk management framework.

3. SCOPE:

- 3.1 This policy applies to all elected officials, Council officers, employees, volunteers and contractors.
- 3.2 Mayor and Councillors are also obliged to maintain standards as mandated by the Local Government Act 1993 (the Act).
- 3.3 Council will maintain a framework to control fraud and corruption against Council, or committed by or in the name of Council. This framework will be documented to direct and guide management practices and processes.

Policy

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Policy



4. DEFINITIONS:

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

Council	Means Port Stephens Council
Council officials	Means Port Stephens Council employees, consultants and contractors.
Corruption	<p>(Per Australian Standard AS 8001:2021)</p> <p>Dishonest activity in which a person associated with Council acts contrary to the interests of Council and abuses their position of trust in order to achieve personal advantage or advantage for another person or organisation.</p> <p>This can also involve corrupt conduct by the organisation, or a person purporting to act on behalf of and in the interests of the organisation, in order to secure some form of improper advantage for the organisation either directly or indirectly.</p> <p>Whilst the conduct must be dishonest for it to meet the definition of corruption, the conduct does not necessarily represent a breach of the law.</p>
Corrupt Conduct	<p>(Per Independent Commission Against Corruption Act 1988)</p> <p>Deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation.</p> <p>See Appendix 1 for more detail.</p>
Fraud	<p>(Per Australian Standard AS 8001:2021)</p> <p>Dishonest activity causing actual or potential gain or loss to any person or organisation including theft of moneys or other property by persons internal and/or external to the organisation and/or where deception is used at the time, immediately before or immediately following the activity.</p> <p>Property in this context also includes intellectual property and other intangible such as information.</p> <p>Fraud also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or</p>

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Policy



the improper use of information or position for personal financial benefit.

While conduct must be dishonest for it to meet the definition of "fraud" the conduct need not necessarily represent a breach of the criminal law.

Fraud can involve fraudulent conduct by internal and/or external parties targeting the organisation or fraudulent or corrupt conduct by the organisation itself targeting external parties.

ICAC

Independent Commission Against Corruption.

5. STATEMENT:

5.1 The Council has **zero tolerance** for fraud or corruption against Council, or committed by or in the name of Council.

5.2 This expectation is aligned to Council's core values and is demonstrated in policies and codes that establish standards and expectations for ethical behaviour for elected representatives, workers, contractors and other third parties.

5.3 This commitment is delivered through the implementation of a Fraud and Corruption Control (FCC) Framework, comprised of four pillars:

- a) Leadership and Commitment
- b) Prevention
- c) Detection
- d) Response.

5.4 Leadership and Commitment

5.4.1 The Council is committed to promoting a culture of trust, integrity and honesty in the services it provides to the Port Stephens community, and in the administration of those services. It is important that Council delivers its Community Strategic Plan without fraud or corruption reducing the ability or resources to achieve this goal.

5.4.2 The General Manager and senior management are committed to this culture and providing the leadership and resourcing for the implementation of an effective FCC Framework.

Policy

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ITEM 4 - ATTACHMENT 1 PROPOSED FRAUD AND CORRUPTION CONTROL POLICY.

Policy



5.5 Prevention

5.5.1 Council will endeavour to prevent fraud and corruption through the implementation of effective prevention systems, including:

- a) Proactive and integrated risk assessments
- b) Ethical workforce programs, including pre-employment screening
- c) Physical security and asset management systems
- d) Information Security Management System (ISMS)
- e) Education and awareness programs (internal and external)
- f) Third party management systems (including conflict management).

5.6 Detection

5.6.1 Council will implement and maintain effective systems designed to detect fraud or corruption, including:

- a) Post-transactional monitoring and review (including payroll, access control, procurement and financial transactions)
- b) Analysis of management accounting reports
- c) Identification of early warning indicators
- d) Data analytics
- e) Fraud and corruption reporting channels
- f) Whistleblower management (Public Interest Disclosures (PID) Act)
- g) Complaint management
- h) Internal and external audit functions.

5.6.2 Council will maintain an environment enabling timely notification of suspected fraud and corruption, including:

- a) Promoting and fostering a culture that supports staff reporting fraud and management acting on those reports,
- b) Policies, systems and procedures that support reporting,
- c) Processes to support upward reporting, and
- d) Mechanisms to enable external reporting.

5.6.3 **Appendix 2** details the expectations for **reporting suspected fraud and corruption**, and the reporting channels available (internally and externally).

5.7 Response

5.7.1 Council will respond to a notification of a suspected fraud or corruption event in a professional manner.

5.7.2 The investigation process must be clearly documented.

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Policy



5.7.3 Council will maintain effective record keeping systems to demonstrate due process has been followed for all actions and decisions arising out of the implementation of this policy. All investigative documentation will comply with relevant legislative provisions, will remain strictly confidential and will be retained in accordance with the State Records Act 1998 and Council's Access to Information policy.

5.7.4 The General Manager (or their delegate) shall:

- a) Approve the person(s) and/or third parties to be advised of the notification and/or investigation, and the nature of such disclosures.
- b) Determine the resources to be engaged for the purpose of conducting the investigation.
- c) Approve all external notifications, including to those to agencies that may have an interest in further investigation and/or prosecution.

5.7.5 Investigations must be conducted by appropriate, qualified and experienced staff or third party.

5.7.6 Any unauthorised communications or disclosures will be considered a breach of this policy, to be dealt with under the provisions of the Enterprise Agreement and/or the terms of contract; and/or the Code of Conduct.

Disciplinary systems:

5.7.7 Mayor and Councillors:

- a) Council's Code of Conduct notes the Local Government Act 1993 has specific provisions that prohibit the Mayor and Councillors from certain conduct. This conduct relates to:
 - Misuse of Position
 - Improper Direction and Improper Influence
 - Confidential Information
 - Conflict of Interest
 - Electoral Conduct.
- b) Any allegation of a breach of the requirements of the Code of Conduct shall be handled in accordance with the process set out in the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW.

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Policy



5.7.8 Workers, Volunteers, Contractors:

- a) Where any matter is investigated and an incident of fraud or corrupt conduct is affirmed, employment ramifications (including termination) will be considered on a case by case basis in accordance with provisions of the Enterprise Agreement and/or the terms of contract; and/or the Code of Conduct.

6. RESPONSIBILITIES:

6.1 The elected representatives are responsible for:

- Maintaining compliance with the Conflict of Interest obligations pursuant to the Code of Conduct
- Facilitating accountability at all levels within the Council for fraud and corruption control
- Maintain awareness of this policy and its applicability to the Mayor and Councillors.

6.2 The General Manager is responsible for:

- Setting the tone at the top, by demonstrating commitment to and compliance with, this policy
- Promoting an ethical working culture
- Understanding the fraud and corruption risks facing Council and ensuring appropriate resources to control those risks
- Complying with mandatory reporting requirements on instances of fraud and corruption.

6.3 The Audit, Risk and Improvement Committee is responsible for:

- Overseeing the risk management framework, including risks and controls as they relate to fraud and corruption control.

6.4 Group Managers are responsible for:

- Setting the tone at Group level, by demonstrating commitment to and compliance with this policy
- Promoting an ethical working culture
- Understanding the fraud and corruption risks facing the Group's area of responsibility and applying appropriate preventative and detective controls
- Implementing this policy.

Policy

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Policy



6.5 The Governance Section Manager is responsible for:

- Training and awareness of fraud and corruption control policies and practices
- Risk and control programs and assessments that target fraud and corruption
- Facilitating review of the Fraud and Corruption Control management directive in accordance with review schedule, or following significant structural change
- Leading investigations into alleged fraud or corrupt conduct within Council, engaging only with authorised persons and authorities, and reporting findings to the General Manager (or Mayor, if the allegation involves General Manager).

6.6 All employees, contractors and volunteers are responsible for:

- Understanding and following this policy
- Acting lawfully, ethically and honestly and in accordance with Council's Code of Conduct
- Acting within their delegated authority
- Complying with all Council policies, management directives, procedures and processes
- Promptly reporting instances of suspected fraud and corruption
- Providing assistance in investigations.

7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993 and Local Government (General) Regulations 2021
- 7.2 Environmental Planning and Assessment Act 1979
- 7.3 Independent Commission Against Corruption Act 1988
- 7.4 Public Interest Disclosures Act 1994
- 7.5 Public Interest Disclosures Act 2022
- 7.5 Crimes Act 1990
- 7.6 State Records Act 1998
- 7.7 Australian Standard AS8001:2021
- 7.8 Port Stephens Council Code of Conduct
- 7.9 Internal Reporting policy
- 7.10 Grievance and dispute resolution process
- 7.11 Access to Information policy.

Policy

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ITEM 4 - ATTACHMENT 1 PROPOSED FRAUD AND CORRUPTION CONTROL POLICY.

Policy



Appendix 1 – Definition of Corrupt Conduct from Independent Commission against Corruption Act 1988

Corrupt conduct is defined in the Independent Commission against Corruption Act 1988 (ICAC Act 1988) as:

7 Corrupt conduct

1. For the purposes of this Act, corrupt conduct is any conduct which falls within the description of corrupt conduct in either or both of subsections (1) and (2) of section 8, but which is not excluded by section 9;
2. Conduct comprising a conspiracy or attempt to commit or engage in conduct that would be corrupt conduct under section 8 (1) or (2) shall itself be regarded as corrupt conduct under section 8 (1) or (2); and
3. Conduct comprising such a conspiracy or attempt is not excluded by section 9 if, had the conspiracy or attempt been brought to fruition in further conduct, the further conduct could constitute or involve an offence or grounds referred to in that section.

8 GENERAL NATURE OF CORRUPT CONDUCT

1. Corrupt conduct is:
 - a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority; or
 - b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions; or
 - c) any conduct of a public official or former public official that constitutes or involves a breach of public trust; or
 - d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.
2. Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:
 - a) official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition);

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ITEM 4 - ATTACHMENT 1 PROPOSED FRAUD AND CORRUPTION CONTROL POLICY.



Policy

- b) bribery;
 - c) blackmail;
 - d) obtaining or offering secret commissions;
 - e) fraud;
 - f) theft;
 - g) perverting the course of justice;
 - h) embezzlement;
 - i) election bribery;
 - j) election funding offences;
 - k) election fraud;
 - l) treating;
 - m) tax evasion;
 - n) revenue evasion;
 - o) currency violations;
 - p) illegal drug dealings;
 - q) illegal gambling;
 - r) obtaining financial benefit by vice engaged in by others;
 - s) bankruptcy and company violations;
 - t) harbouring criminals;
 - u) forgery;
 - v) treason or other offences against the Sovereign;
 - w) homicide or violence;
 - x) matters of the same or a similar nature to any listing above; and
 - y) any conspiracy or attempt in relation to any of the above.
3. Conduct may amount to corrupt conduct under this section even though it occurred before the commencement of this subsection, and it does not matter that some or all of the effects or other ingredients necessary to establish such corrupt conduct occurred before that commencement and that any person or persons involved are no longer public officials.
 4. Conduct committed by or in relation to a person who was not or is not a public official may amount to corrupt conduct under this section with respect to the exercise of his or her official functions after becoming a public official.
 5. Conduct may amount to corrupt conduct under this section even though it occurred outside the State or outside Australia, and matters listed in subsection (2) refer to:
 - a) Matters arising in the state or matters arising under the law of the State; or
 - b) Matters arising outside the State or outside Australia or matters arising under the law of the Commonwealth or under any other law.

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ITEM 4 - ATTACHMENT 1 PROPOSED FRAUD AND CORRUPTION
CONTROL POLICY.

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6. The specific mention of a kind of conduct in a provision of this section shall not be regarded as limiting the scope of any other provision of this section.

9. LIMITATION ON NATURE OF CORRUPT CONDUCT

1. Despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve:
 - a) A criminal offence; or
 - b) A disciplinary offence; or
 - c) Reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official; or
 - d) In the case of conduct of a Minister of the Crown or a member of a House of Parliament – a substantial breach of an applicable code of conduct.
2. It does not matter that proceedings or action for such an offence can no longer be brought or continued, or that action for such dismissal, dispensing or other termination can no longer be taken;
3. For the purpose of this section:
applicable code of conduct means, in relation to:
 - a. a Minister of the Crown – a ministerial code of conduct prescribed or adopted for the purposes of this section by the regulations; or
 - b. a member of the Legislative Council or of the Legislative Assembly (including a Minister of the crown) – a code of conduct adopted for the purposes of this section by resolution of the House concerned.

Criminal offence means a criminal offence under the law of the State or under any other law relevant to the conduct in question.

Disciplinary offence includes any misconduct, irregularity, neglect of duty, breach of discipline or other matter that constitutes or may constitute grounds for disciplinary action under any law.

4. Subject to subsection (5), conduct of a Minister of the Crown or a member of a House of Parliament which falls within the description of corrupt conduct in section 8 is not excluded by this section if it is conduct that would cause a reasonable person to believe that it would bring the integrity of the office concerned or of Parliament into serious disrepute.
5. Without otherwise limiting the matters that it can under section 74A (1) include in a report under section 74, the Commission is not authorised to include a finding or opinion that a specified person has, by engaging in conduct of a kind referred to in subsection (4), engaged in corrupt conduct, unless the Commission is

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satisfied that the conduct constitutes a breach of a law (apart from this Act) and the Commission identifies that law in the report.

A reference to a disciplinary offence in this section and sections 74A and 74B includes reference to a substantial breach of an applicable requirement of a code of conduct required to be complied with under section 440(5) of the Local Government Act 1993, but does not include a reference to any other breach of such a requirement.

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ITEM 4 - ATTACHMENT 1 PROPOSED FRAUD AND CORRUPTION CONTROL POLICY.

Policy



Appendix 2 – Reporting Suspected Fraud or Corruption

Council's Code of Conduct requires Council officials to report any improper conduct, which includes suspected fraudulent or corrupt behaviour. Any individual (internal or external to Council) can report suspected fraud or corruption involving Council. The report must:

- a) Have reasonable grounds for suspicion and not be vexatious in nature,
- b) Be disclosed only to the appropriate internal and/or external authority,
- c) Be disclosed as soon as practically possible.

Internally

Mayor, Councillors, Council officials, delegates of Council and auditors must report as soon as possible any suspected fraudulent or corrupt behaviour to:

- a) General Manager,
- b) Governance Section Manager; or
- c) Mayor.

Where the General Manager is suspected of conduct relating to fraud or corruption, the matter should be reported to the:

- a) Mayor;
- b) Governance Section Manager; or
- c) Relevant external agency (see below).

Council's Internal Reporting Policy provides protection to Council officials who report suspected fraudulent or corrupt behaviour, where certain conditions are met.

External Agencies

Matters relating to suspected fraudulent or corrupt activities can also be reported to the following external agencies:

- a) Independent Commission Against Corruption (ICAC) – telephone 1800 463 909 (for allegations of fraud or corruption);
- b) Office of Local Government – telephone 02 4428 4100 (for allegations relating to pecuniary interests);
- c) NSW Police – telephone 02 4983 7599 (for allegations relating to fraud); &
- d) NSW Electoral Commission – telephone 1300 135 736 (for allegations relating to election fraud).

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ITEM 4 - ATTACHMENT 1
CONTROL POLICY.

PROPOSED FRAUD AND CORRUPTION

Policy



CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2009-02488	EDRMS record No.	TBC
Audience	Council officials		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	3 years	Next review date	TBC
Adoption date	This is the original Council adoption date		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	TBC	Governance Section Manager	New policy. Previous policy replaced with the introduction of the new Australia Standard AS8001:2021 Fraud and Corruption Control.	TBC

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ITEM 4 - ATTACHMENT 2 EXISTING FRAUD AND CORRUPTION CONTROL POLICY.

Policy



FILE NO: PSC2009-02488

TITLE: FRAUD AND CORRUPTION CONTROL

POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Fraud and Corruption control policy (the policy) is to establish a framework for fraud and corruption control and prevention.
- 1.2 Port Stephens Council (Council) recognises that it has a responsibility to develop, encourage and implement sound financial, legal and ethical decision-making and organisational practices.
- 1.3 Council is committed to protecting its revenue, expenditure and property from any attempt, either by members of the public, contractors, elected Councillors or its own employees, to gain by deceit, financial or other benefits. This policy is designed to protect public funds and other assets, protect the integrity, security and reputation of Council and its employees and assist in maintaining high levels of service to the community.
- 1.4 This policy represents Council's commitment to effective fraud and corruption risk management and prevention. The desired outcome of this commitment is to minimise the potential for fraud and corruption against Council.
- 1.5 This policy draws together Council's fraud and corruption prevention and detection initiatives into one document. It forms part of Council's risk management framework and has three major components:
- a) Prevention – initiatives to deter and minimise the opportunities of fraud and corruption;
 - b) Detection – initiatives to detect fraud and corruption as soon as possible if it occurs; and
 - c) Response – initiatives to deal with detected or suspected fraud and corruption.
- 1.6 The desired outcome of this policy is the elimination of fraud and corruption against Council involving employees and other persons external to Council. While the elimination of all instances of fraud and corruption may not realistically be achievable, it remains Council's ultimate fraud and corruption prevention objective.

2. CONTEXT/BACKGROUND:

- 2.1 The policy was developed in 2011 as part of Council's review of fraud and corruption control. The policy framework provides Council's position with respect to the overall management of fraud and corruption.
- 2.2 This Fraud and corruption control policy represents the commitment of the Council to effective fraud and corruption risk management. It also requires the commitment, co-operation and involvement of all Councillors, staff, contractors and the public in preventing, detecting and responding to all instances of fraud and corruption.

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ITEM 4 - ATTACHMENT 2 EXISTING FRAUD AND CORRUPTION CONTROL POLICY.

Policy

**3. SCOPE:****3.1 Attitude to fraud and corruption**

- a) The Council has a zero tolerance to fraud and corruption.
- b) Council is committed to minimising the incidence of fraud and corruption through the development, implementation and regular review of fraud and corruption prevention, detection and response strategies.

3.2 Council's approach to fraud and corruption control

- a) Council will ensure that Council officials are aware of the fraud and corruption reporting procedures and are actively encouraged to report suspected fraud and corruption through the appropriate channels.
- b) Council has adopted a clear framework and approach to fraud and corruption detection and prevention. This approach is based on the Australian standard for fraud and corruption control AS 8001:2008. In particular, the following fraud and corruption control strategies are pursued by Council:

Prevention Strategies	Detection Strategies
<ul style="list-style-type: none"> ▪ Integrity framework – Code of conduct 	<ul style="list-style-type: none"> ▪ Council and external agency reviews
<ul style="list-style-type: none"> ▪ Fraud and corruption control management directive (including allocation of fraud and corruption prevention responsibilities) 	<ul style="list-style-type: none"> ▪ Management reports and internal audit reviews
<ul style="list-style-type: none"> ▪ Fraud and corruption awareness training 	<ul style="list-style-type: none"> ▪ Staff induction and fraud and corruption awareness training sessions
<ul style="list-style-type: none"> ▪ Fraud and corruption risk assessments 	<ul style="list-style-type: none"> ▪ Clear reporting channels and internal audit reviews
<ul style="list-style-type: none"> ▪ Robust internal controls 	<ul style="list-style-type: none"> ▪ Public Interest disclosures and internal reporting
<ul style="list-style-type: none"> ▪ Pre-employment screening 	<ul style="list-style-type: none"> ▪ Police checks and references

- c) All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.
- d) If fraud or corruption against Council is detected, the General Manager will make all decisions on the appropriate communications protocol by nominating one person to be the authorised spokesperson. Any communications relating to a fraud or corrupt incident by a person other than the General Manager or authorised spokesperson will be considered a

ITEM 4 - ATTACHMENT 2 EXISTING FRAUD AND CORRUPTION CONTROL POLICY.

Policy



breach of this policy. Any breach of any policy is dealt with under the provisions of the Enterprise Agreement and/or the terms of contract; and/or the Code of conduct.

3.3 Reporting

- 3.3.1 Under the Code of Conduct there is an obligation for each Council official to report any improper conduct, which includes suspected fraudulent or corrupt behaviour. An individual may report the matter either internally or externally as outlined below.
- 3.3.2 Council officials should report any suspicions to only those people who absolutely need to know. This protects people from allegations that may not be proven and prevents the possible destruction of evidence.

Internally

- 3.3.3 Councillors, Council officials and delegates of Council must report as soon as possible any suspected fraudulent or corrupt behaviour to:
- a) Governance Section Manager;
 - b) General Manager; or
 - c) Mayor.
- 3.3.4 Supervisors and managers or the internal auditors have an obligation to immediately pass on the reports of suspected fraudulent or corrupt behaviour or breaches of the policy to the General Manager.
- 3.3.5 The only exception to this is where the General Manager is suspected of conduct relating to fraud or corruption, in which case the matter should be reported to the:
- a) Mayor;
 - b) Governance Section Manager; or
 - c) The relevant external agency. (See 3.2 below)
- 3.3.6 Council's Public Interest Disclosure Internal Reporting Policy provides protection to council officials who report fraudulent or corrupt behaviour.

External Agencies

- 3.3.7 Matters relating to suspected fraudulent or corrupt activities can also be reported to the following external agencies:
- a) Independent Commission Against Corruption (ICAC) – telephone 1800 463 909 (in the case of allegations of fraud or corruption);
 - b) Office of Local Government – telephone 4428 4100 (in the case of allegations relating to pecuniary interests);
 - c) NSW Police – telephone 4983 7599 (in the case of allegations relating to fraud); and
 - d) NSW Electoral Commission – telephone 1300 135 736 (in the case of allegations relating to election fraud).

ITEM 4 - ATTACHMENT 2 EXISTING FRAUD AND CORRUPTION CONTROL POLICY.**Policy****3.4 Responsibilities**

3.4.1 Council will ensure that:

- a) Relevant exposure of significant risks to the Council are identified. The evaluation of risk is a critical determinant in Council's approach to fraud and corruption prevention and detection;
- b) Relevant legal obligations are monitored to ensure that operating procedures and conditions meet these obligations;
- c) The Code of Conduct and associated policies and procedures are developed and publicised;
- d) Appropriate fraud and corruption prevention and detection controls are incorporated when developing and maintaining computer and/or other systems;
- e) Employees are properly trained and understand relevant Council policies and the legislative requirements of protection for informants under the Public Interest Disclosures Act 1994;
- f) An environment exists in which fraud and corruption related activity is discouraged; and
- g) Effective investigations of allegations are undertaken, and notified to the NSW Police, the ICAC, the NSW Electoral Commission and/or the Office of Local Government, for investigation and/or prosecution as required.

3.4.2 There are a number of specific responsibilities associated with the prevention of fraud and corruption related activity. These specific responsibilities are to be included in the Fraud and Corruption Control management directive.

3.5 Record keeping, confidentiality and privacy

3.5.1 Council will maintain effective record keeping systems to demonstrate due process has been followed for all actions and decisions arising out of the implementation of this policy. All investigative documentation will comply with relevant legislative provisions, will remain strictly confidential and will be retained in accordance with the State Records Act 1998 and Council's Access to Information policy.

4. DEFINITIONS:

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

Council officials	Means Port Stephens Council employees, consultants and contractors
Corruption	For the purpose of this management directive, corruption and corrupt conduct will have the same meanings as defined in the Independent Commission Against Corruption (ICAC) Act 1988, which is set out in Appendix B.

ITEM 4 - ATTACHMENT 2
POLICY.

EXISTING FRAUD AND CORRUPTION CONTROL

Policy



In summary, corrupt conduct means any conduct, which could affect the honest or impartial exercise of official functions, may be a breach of trust, or may involve the misuse of any Council information by any Council official.

Council
Fraud

Means Port Stephens Council
Fraud is defined in Australian Standard AS 8001: 2008 as:

“Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position.”

For the purpose of this management directive, fraud is not restricted to tangible benefits only and includes intangibles such as information, which may not be in documentary form.

ICAC

Independent Commission Against Corruption.

5. POLICY STATEMENT:

5.1 Council is committed to:

- a) Adopting measures to minimise risk;
- b) Serving, representing and promoting community needs, interests and aspirations;
- c) Protecting community assets and resources; and
- d) Exercising its powers and engage in initiatives that add value to and capitalise on the community's assets and resources.

5.2 To achieve its fraud and corruption prevention objectives Council will:

- a) Identify fraud and corruption risks and regularly review and update this policy;
- b) Provide fraud and corruption awareness training to those staff who are identified as being in positions that require fraud and corruption awareness training;
- c) Ensure all Councillors, staff, contractors and the public are aware of this policy;

ITEM 4 - ATTACHMENT 2 EXISTING FRAUD AND CORRUPTION CONTROL POLICY.

Policy



- d) Encourage and promote professional and ethical business practice;
- e) Identify any weaknesses in Council's control processes through regular review of Council's operations;
- f) Clearly communicate how suspected instances of fraud and corruption can be reported;
- g) Investigate alleged or suspected instances of fraud or corruption using professionals with experience in investigation techniques;
- h) Take appropriate action to deal with instances of actual, suspected or alleged fraud or corruption, including by recommending prosecution of persons and/or organisations for fraud or corruption offences where and when appropriate; and
- i) Use all practicable avenues to recover money or property lost through fraudulent or corrupt activity.

6. POLICY RESPONSIBILITIES:

- 6.1 The General Manager, Group Managers and Governance Section Manager is responsible for implementing, complying with the policy.
- 6.2 The Governance Section Manager is responsible for monitoring, evaluating, reviewing and providing advice on the policy.
- 6.3 Council officials are required to comply with the policy.

7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993 and Local Government (General) Regulations 2005;
- 7.2 Environmental Planning and Assessment Act 1979
- 7.3 Independent Commission Against Corruption Act 1988
- 7.4 Public Interest Disclosures Act 1994
- 7.5 Crimes Act 1990
- 7.6 State Records Act 1998
- 7.7 Australian Standard AS8001:2008
- 7.8 Port Stephens Council Code of conduct;
- 7.9 Public Interest disclosures internal reporting policy;
- 7.10 Grievance and dispute resolution process; and
- 7.11 Access to information policy.

ITEM 4 - ATTACHMENT 2 EXISTING FRAUD AND CORRUPTION CONTROL POLICY.

Policy

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RM8 container No	PSC2009-02488	RM8 record No	20/149832
Audience	Council officials		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Two years	Next review date	31 July 2021
Adoption date	12 April 2011		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	12 April 2011	Corporate Services Group Manager	Original version adopted by Council.	111
2.0	26 November 2013	Executive Officer	Review completed and adopted by Council.	346
3.0	14 April 2015	Governance Manager	Review completed and adopted by Council.	088
4.0	11 July 2017	Governance Manager	Transferred the policy into the new template. Reviewed the policy. Updated contact telephone numbers.	175

ITEM 4 - ATTACHMENT 2 EXISTING FRAUD AND CORRUPTION CONTROL POLICY.

Policy



4.1	9 April 2020	Governance Section Manager	<p>Reviewed the policy, included numbering to each paragraph and updated the version control.</p> <p>Updated title of policy owner.</p> <p>1.1 – inserted purpose of policy.</p> <p>1.3 – delete “Port Stephens”.</p> <p>1.4 - delete “Fraud and corruption control”.</p> <p>1.5, 3.3.3, 3.3.5, 3.3.7, 3.4.1, 5.1, 5.2 - update itemising of paragraphs.</p> <p>3.1, 3.2, 3.3, 3.4, 3.5, 6 – updated item numbering.</p> <p>7.8 – inserted “Port Stephens Council”.</p>	055
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ITEM NO. 5

**FILE NO: 23/152469
EDRMS NO: PSC2021-04206**

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Ward funds to the following:-
 - a) Karuah Public School P&C – Cr Jason Wells – Rapid response – Central Ward funds - \$300 donation towards the running of school canteen to support students.
 - b) Bobs Farm Public School P&C – Cr Jason Wells – Rapid response – Central Ward funds - \$300 donation towards the purchase of technology items to support student learning.
 - c) 1st Tilligerry Scouts – Central Ward funds - \$1200 donation towards replacement of boundary fence.

BACKGROUND

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

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

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

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

ORDINARY COUNCIL - 11 JULY 2023

The requests for financial assistance are shown below:

WARD FUNDS

Karuah Public School P&C	A group of individuals who raise funds to provide resources to students at Karuah Public School	\$300	Donation towards running of school canteen to support students.
Bobs Farm Public School P&C	A group of individuals who raise funds to provide resources to students at Bobs Farm Public School	\$300	Donation towards the purchase of technology items to support student learning.
1 st Tilligerry Scouts	The Scout Group involves boys and girls aged 6-26 in the Scout Program where they engage in peer to peer mentoring and healthy, outdoor and adventurous activities.	\$1200	Donation towards replacement of boundary fence.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6

FILE NO: 23/152479
EDRMS NO: PSC2022-02308

INFORMATION PAPERS

REPORT OF: TIMOTHY CROSDALE - 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 July 2023.

No: Report Title Page:

1	Council Resolutions	69
2	Delegations Report	77

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 23/152465
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

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

BACKGROUND

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

ATTACHMENTS

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

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



Action Sheets Report	Division:	Corporate Services	Date From:	27/08/2013
	Committee:		Date To:	27/06/2023
	Officer:		Printed:	Thursday, 29 June 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Property Investment and Development Policy	30/09/2023	12/10/2022	
1						22/273002
28 Jun 2023						
Public Exhibition deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/10/2022	Pattison, Zoe	Policy Review: Acquisition and Divestment of Land	30/09/2023	12/10/2022	
2						22/273002
28 Jun 2023						
Report deferred to allow for further clarification on the distribution of funds.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/09/2020	Pattison, Zoe	Newline Road, Raymond Terrace	30/09/2023		
2						20/288489
199						
28 Jun 2023						
Contacts and survey plan are being prepared. Completion of the acquisition is subject to registration of the plan.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
		Pattison, Zoe	Campvale Drain	30/12/2023		
28 Jun 2023						
Awaiting final execution of easement documentation for 2 properties. All other properties (with exception of these 2) have been finalised.						

ITEM 1 - ATTACHMENT 2 DEVELOPMENT SERVICES RESOLUTIONS.



Action Sheets Report	Division:	Development Services	Date From:	14/09/2021
	Committee:		Date To:	27/06/2023
	Officer:		Printed:	Thursday, 29 June 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/06/2023	Lamont, Brock	RAMSAR Listing for Mambo Wanda Wetlands	1/12/2023	14/06/2023	
1		Peart, Steven				23/147603
137						
29 Jun 2023						
Council has commenced investigations and benchmarking to identify available options. A business paper is forecasted to be presented to Council at the 28 November 2023 meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/06/2023	Lamont, Brock	Proposed re-establishment of Alcohol Free Zones in Anna Bay, Lakeside (Raymond Terrace), Nelson Bay and Raymond Terrace town centre	28/07/2023	14/06/2023	
3		Peart, Steven				23/147603
138						
29 Jun 2023						
Council is preparing to commence public exhibition on 21 June 2023, for a 28 day period. If no submissions are received, the proposed re-establishment of Alcohol-Free Zones will be adopted.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Peart, Steven	Development Application Information	31/08/2023	12/04/2023	
3		Peart, Steven				23/92450
103						
28 Jun 2023						
Council Officers have requested the 'DA Tracker' software vendor to add additional fields. Benchmarking has been undertaken with other Councils and a report will be provided to Council in relation to providing additional information on 'DA Tracker'.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	Housing Affordability	29/09/2023	12/04/2023	
6		Peart, Steven				23/92450
105						
29 Jun 2023						
Special Rate Variation has been approved by IPART. The draft Affordable Housing Action Plan is being reviewed, further consultation is to be scheduled with Councillors prior to finalisation and public exhibition.						



Action Sheets Report	Division:	Development Services	Date From:	14/09/2021
	Committee:		Date To:	27/06/2023
	Officer:		Printed:	Thursday, 29 June 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Lamont, Brock	NSW Electric Vehicle Strategy	11/08/2023	12/04/2023	
3 093		Peart, Steven				23/92450
29 Jun 2023 Draft DCP amendment in progress, Business Paper is scheduled to be reported to Council on 8 August 2023 meeting. Investigations continue into available grant funding opportunities. Potential sites have been identified for EV chargers, a site feasibility study is being undertaken. Expression of Interest for EV charging providers is currently being drafted, subject to site feasibility study findings.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/03/2023	Lamont, Brock	Street Tree Strategy	11/08/2023	29/03/2023	
1 070		Peart, Steven				23/81000
29 Jun 2023 Council has commenced benchmarking and investigations on the development of a Street Tree Strategy. A report is forecasted to be presented to Council at the 8 August 2023 meeting.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/03/2023	Lamont, Brock	Draft Development Control Plan - Housekeeping	8/08/2023	15/03/2023	
3 048		Peart, Steven				23/69308
29 Jun 2023 Council has written to impacted landholders regarding a further review of Chapter D12 - Richardson Road, responses are being collated. A draft amendment is forecasted to be presented to Council at the 8 August 2023 meeting, seeking endorsement to commence public exhibition.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/09/2021	Lamont, Brock	Port Stephens Waterway Strategy	29/12/2023	15/09/2021	
1 240		Peart, Steven				21/252518
29 Jun 2023 Council was unsuccessful in the Regional NSW - Business Case and Strategy Development Fund grant, other funding sources are currently being investigated. Funding is being sought for consultants to prepare the Port Stephens Waterways Strategy.						



Action Sheets Report	Division:	Development Services	Date From:	14/09/2021
	Committee:		Date To:	27/06/2023
	Officer:		Printed:	Thursday, 29 June 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	14/03/2023	Lamont, Brock Peart, Steven	Matter Arising - LEP Amendment to review building height controls	15/12/2023		
29 Jun 2023 Council is investigating height controls and objectives as a part of the administrative amendment of the LEP. A draft amendment is forecasted to be presented to Council at the 12 December 2023 meeting, seeking endorsement to submit the planning proposal to the NSW Department of Planning and Environment for a Gateway determination.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES RESOLUTIONS.



Action Sheets Report	Division:	Facilities & Services	Date From:	09/2/2021
	Committee:		Date To:	27/06/2023
	Officer:		Printed:	Thursday, 29 June 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 9/05/2023	Maretich, John	Construction of a Building	22/12/2023	10/05/2023	
1		Kable, Gregory				23/115742
113						
28 Jun 2023						
Staff will investigate and prepare a report as per Council resolution to be presented at the Council Meeting held on the 22 August 2023.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Maretich, John	Naming Recreation Precinct at Medowie after Geoff Dingle	31/12/2023	12/04/2023	
2		Kable, Gregory				23/92450
085						
28 Jun 2023						
Once the reserve has been subdivided as per the Medowie Place Plan, an application will be submitted to the Geographical Naming Board to name the recreation precinct after Geoff Dingle.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 28/03/2023	Maretich, John	Naming of Athletics Track at Vi Barnett Oval	30/09/2023	29/03/2023	
4		Kable, Gregory				23/81000
073						
28 Jun 2023						
After consultation with the club the sign design has been confirmed and sign ordered. Awaiting delivery of the sign for installation.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 24/05/2022	Maretich, John	Review of Dog Off Lead Areas - Boat Harbour Beach	31/10/2023	27/05/2022	
4		Kable, Gregory				22/136825
28 Jun 2023						
Report was endorsed by Council at its meeting held 24 May 2022, Minute No. 133. A review is currently underway and will be reported by back to Council once targeted community engagement has been completed.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Gutsche, Tammy	Change to Lease Arrangements for Fingal Bay Surf Life Saving Club and Commercial Tenancies	31/08/2023	13/10/2021	
8		Kable, Gregory				21/274186
270						
28 Jun 2023						
Lease for Saltwater Restaurant has been executed. Response received from solicitors for Longboat Café and Fingal Surf Club. Council staff finalising outstanding items.						

ITEM 1 - ATTACHMENT 3 FACILITIES & SERVICES RESOLUTIONS.



Action Sheets Report	Division:	Facilities & Services	Date From:	09/2/2021
	Committee:		Date To:	27/06/2023
	Officer:		Printed:	Thursday, 29 June 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 10/08/2021	Maretich, John	Raymond Terrace Seven Day Makeover	26/09/2023		
17 228		Kable, Gregory				21/218740
28 Jun 2023 This will be discussed with the Councillors in the lead up to William Street, Stage 2 which funded through the Streets of Shared Spaces grant. There is the possibility to incorporate a Business Boosters Program to create great business vibrancy in Raymond Terrace.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 13/06/2023	Gutsche, Tammy	Urgency Motion - Council halls, venues and facilities	30/09/2023		
		Kable, Gregory				
28 Jun 2023 Council staff have reviewed the Terms and Conditions and Online Forms for the hire of Council managed facilities and have provided suggested amendments.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
	Ordinary Council 27/06/2023	Maretich, John	Matter Arising: Medowie Lounge Library - Request the General Manager to prepare a report on potential funding options for a lounge library at Medowie.	30/09/2023		
		Kable, Gregory				
28 Jun 2023 Staff will investigate and prepare a report for the 26 September 2023 Council meeting.						



Action Sheets Report	Division:	General Manager's Office	Date From:	11/04/2023
	Committee:		Date To:	27/06/2023
	Officer:		Printed:	Thursday, 29 June 2023

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 11/04/2023	Crosdale, Tim	Financial Assistance	31/07/2023	12/04/2023	
3 083						23/92450
28 Jun 2023						
Awaiting necessary paperwork to process payments.						

ITEM NO. 2

FILE NO: 23/153010
EDRMS NO: PSC2009-00965

DELEGATIONS REPORT

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

BACKGROUND

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

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

ATTACHMENTS

- 1) Delegations report. [↓](#)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

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

Date exercised	Delegations exercised	Purpose	Role exercising delegation	Reported to Council
22 June 2023	Clause 178 of the Local Government (General) Regulation 2022	Acceptance of a tender - T044-2023 - Parking Meter Network and related systems.	General Manager	11 July 2023
26 June 2023	Code of Meeting Practice	Approval of Public Access - DA 16-2022-1030-1 for flood mound and change of use to animal boarding and training establishment - 209 Newline Road, Raymond Terrace	Mayor	11 July 2023