

MINUTES 25 SEPTEMBER 2012



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 25 Sept 2012, commencing at 5.30 pm.

PRESENT: Mayor B. MacKenzie (Chair).
Councillors G. Dingle; C. Doohan; S. Dover; K. Jordan; P. Kafer; J. Morello; J Nell; S. Tucker;
General Manager; Corporate Services Group Manager; Facilities and Services Group Manager; Development Services Group Manager and Executive Officer.

232	Councillor Bruce MacKenzie Councillor Peter Kafer
	It was resolved that the apology from Councillor Paul Le Mottee be received and noted.

233	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 24 July 2012 be confirmed.

	No declarations of interest were received.
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DEPUTY MAYOR ELECTION

ELECTION OF DEPUTY MAYOR

1. BACKGROUND

The election of the Deputy Mayor is to be held in accordance with the provisions of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, should Council wish to proceed with the election of Deputy Mayor. The role of Deputy Mayor is not required under the *Local Government Act 1993*.

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

2. NOMINATIONS FOR THE OFFICE OF DEPUTY MAYOR

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

3. DETERMINE METHOD OF VOTING FOR ELECTION OF DEPUTY MAYOR

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

4. STATEMENT FROM DEPUTY MAYORAL CANDIDATES (OPTIONAL)

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

5. ELECTION OF DEPUTY MAYOR

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

234	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>
	<p>It was resolved that the Deputy Mayor be elected for a period of two (2) years.</p>

	<p>At the close of nominations only one (1) nomination was received. The nomination was received from Cr Sally Dover. Cr Dover was elected unopposed as Deputy Mayor for a period of two (2) years.</p>
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GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1

FILE NO: A2004-0373

COUNCIL PRAYER AND TRADITIONAL WELCOME AT COUNCIL MEETINGS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Continue with the current Prayer and Traditional Welcome at Council meetings.
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ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

235	Councillor Bruce MacKenzie Councillor Sally Dover
	It was resolved that Item 1 be deferred to allow discussion between the Councillors and the General Manager with respect to options available to Council.

BACKGROUND

The purpose of this report is allow Council the opportunity to consider whether to continue with the prayer and traditional welcome at Council meetings. Council's current Code of Meeting Practice makes provision for the prayer at the commencement of all Ordinary Meetings of Council.

Port Stephens Council in the past commenced Council meetings with the following prayer –

"We ask Almighty God to help us serve the community to the best of our ability, and make Port Stephens a happy and healthy place in which to live, work and visit. Amen."

Council previously passed a resolution to include a Traditional Welcome at each Council meeting. The Traditional Welcome is to follow the Prayer at the commencement of each Council meeting.

The Traditional Welcome is as follows:-

"I would like to acknowledge and pay respect to the Worimi People of Port Stephens, who are the traditional owners of this land on which we stand/meet today".

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		There are no direct costs from this recommendation.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

Nil.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
The only risk associated with this recommendation relates to reputation	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

- 1) Adopt the recommendation;
- 2) Resolve to cease having the prayer and/or the traditional welcome at Council meetings.

ATTACHMENTS

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 2

FILE NO: A2004-0372

COUNCIL AND COMMITTEE MEETINGS CYCLE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER’S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Determine the meeting cycle for Council Committee and Ordinary Council meetings;
- 2) Make the relevant changes to the Code of Meeting Practice to reflect the new meeting cycle and publicly exhibit for 28 days.

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

236	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Hold Ordinary Council meetings as listed in Option 1 of Attachment 1, on Weeks 2 and 4 of each month; 2) That 2 way conversations be programmed for Week 3 of each month; 3) That no briefing or meetings be scheduled for Weeks 1 and 5 of each month; and 4) Make the relevant changes to the Code of Meeting Practice to reflect the new meeting cycle and publicly exhibit for 28 days.
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BACKGROUND

The purpose of this report is to inform Council of the current Council and Committee meetings cycle.

The previous Council at its meeting in September 2011 adopted its meeting cycle. Council established one Standing Committee and a number of Joint Committees. The Standing Committee is a Committee of the Whole as follows:

The above Committees meet on Tuesdays in accord with the meeting cycle.

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

1) Week 1

Inspections and/or 2 way conversations as required.

2) Week 2

Inspections and/or 2 way conversations as required. Followed by public access, if required and then the Council Committee.

3) Week 3

Inspections and/or 2 way conversations as required. Followed by public access, if required.

4) Week 4

Inspections and/or 2 way conversations as required. Followed by the Ordinary Meeting of Council.

5) Week 5

Inspections and/or 2 way conversations as required. Followed by presentations and workshops as required.

1) FINANCIAL/RESOURCE IMPLICATIONS

All financial implications are provided for within the existing budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	20,200	Options 1 & 2 are provided for in the existing budget. The budget allows for the printing and distribution of business papers and minutes only. Other costs include staff time & catering. If Council elects to move towards a different meeting cycle additional cost implication would need to be provided.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

Section 365 of the Local Government Act requires Council to meet at least **10 times** per year in different months. The Local Government (General) Regulation provides for Council to establish such committees as it considers necessary. Council must specify the functions of such committees.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Council should ensure that it meets at least times a year to comply with the <i>Local Government Act 1993</i> .	Low	That Council holds at least 10 meeting per year.	Yes

SUSTAINABILITY IMPLICATIONS SOCIAL IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) General Manager.
- 2) Councillors

OPTIONS

- 1) Adopt the recommendation;
- 2) Adopt Option 1 with a trial for 3 months of the new meeting cycle;
- 3) Amended the recommendation;
- 4) Reject the recommendation.

ATTACHMENTS

- 1) Meeting Cycle Options.

TABLED DOCUMENTS

Nil.

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

ATTACHMENT 1

WEEK	OPTION 1 Committee of the Whole	OPTION 2 Former Council's meeting cycle	OPTION 3
1	4.00pm to 6.00pm 2-way conversation Program Presentations and Workshops as required.	4.00pm to 5.30pm 2-way conversation Program	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required Followed by Council Committee Meeting
2	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Ordinary Council Meeting (Committee of the Whole with "block" adoption of recommendations)	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required Followed by Council Committee Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Ordinary Council Meeting
3	4.00pm to 6.00pm 2-way conversation Program Presentations and Workshops as required.	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Council Committee Meeting
4	4.00pm to 5.30pm 2-way conversation Program 5.30pm Public Access, if required followed by Ordinary Council Meeting (Committee of the Whole with "block" adoption of recommendations)	4.00pm to 5.30pm 2-way conversation Program 5.30pm Ordinary Council Meeting	4.00pm to 5.30pm 2-way conversation Program 5.30pm Ordinary Council Meeting
5	4.00pm to 6.00pm 2-way conversation Program Presentations and Workshops as required.	4.00pm to 5.30pm 2-way conversation Program 5.30pm Presentations and Workshops as required.	4.00pm to 5.30pm 2-way conversation Program 5.30pm Presentations and Workshops as required.

ITEM NO. 3

FILE NO: A2004-0370

MEMBERSHIP OF COMMITTEES & GROUPS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER’S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominates membership of Standing Committees, if required;
- 2) Elects the Chair and Deputy Chair of each Standing Committee, if required;
- 3) Determines the quorum for Committee meetings;
- 4) Amendment the Code of Meeting Practice with respect to the quorum adopted by Council;
- 5) Nominates membership of Council Committees, 355(c) Committees and Regional Committees and Groups, and amends the constitutions to include new membership where applicable (**ATTACHMENT 1**);
- 6) Re-names the following Committees:
 - Hinton School of Arts Committee (No. 12) to Hinton School of Arts, Parks and Foreshore Committee;
 - Karuah Community Centre Committee (No.13) to Karuah Hall Committee;
- 7) Remove Windeyers Creek Catchment Committee and Taylors Beach Reserves, Tidy Towns & Landcare Committee as the committees no longer operate.

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

237	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council:-</p> <ol style="list-style-type: none"> 1) The quorum for Council meetings be half plus one (6). 2) Amend the Code of Meeting Practice with respect to the quorum adopted by Council; 3) Membership of 355(c) Committees be adopted as listed below; 4) Re-name the following Committees: <ul style="list-style-type: none"> • Hinton School of Arts Committee (No. 12) to Hinton School of Arts, Parks and Foreshore Committee; • Karuah Community Centre Committee (No.13) to Karuah Hall Committee; and 5) Remove Windeyers Creek Catchment Committee and Taylors Beach Reserves, Tidy Towns & Landcare Committee as the committees no longer operate.
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238	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that Council review all committees and report back to Council with details on those committees that can be amalgamated or removed from the list.

ELECTION OF REPRESENTATIVES ON COUNCIL COMMITTEES AND REGIONAL COMMITTEES AND GROUPS

The 2012/13 membership is listed below.

Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
1	<p>Aboriginal Strategic Committee</p> <p>To exchange information between the Aboriginal community and Council on issues affecting Aboriginal people.</p> <p>To promote mutual awareness and respect for the cultures of both Aboriginal and non Aboriginal communities.</p>	<p><i>Meeting cycle is under review and changes to the constitution.</i></p>	Development Services	<p><i>Cr Peter Kafer Cr Sally Dover</i></p>
2	<p>Anna Bay, Birubi Pt Reserves, Hall & Tidy Towns Committee</p> <p>To assist Council in the management of Anna Bay Hall.</p> <p>To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).</p>	<p><i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i></p>	Facilities & Services	<p><i>Cr Steve Tucker</i></p>
3	<p>Audit Committee</p> <p>The Audit Committee is an advisory committee of Council comprising of the Council representatives and two external representatives.</p> <p>The objective of the Audit Committee is to enhance the corporate governance of Council through the provision of independent oversight, review and advice. The Committee will assist Council by providing independent assurance and assistance on the organisation's governance, risk, control and compliance frameworks.</p>	<p><i>At least four times a year or when necessary</i></p>	General Manager's Office	<p><i>Cr Ken Jordan Cr Peter Kafer</i></p> <p><i>DLG guidelines preclude the Mayor from being a member of the Committee.</i></p>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
4 Boat Harbour Parks and Reserves Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Geoff Dingle Cr Sally Dover Cr John Morello</i>
5 Bobs Farm Public Hall Committee	To assist Council in the management of Bobs Farm Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Steve Tucker</i>
6 Communicate Port Stephens	To assist Council in the management and promotion of the Telecentre.	<i>Meetings are held quarterly</i>	Development Services	<i>Cr Ken Jordan Cr Peter Kafer</i>
7 Corlette Headland Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr John Morello</i>
8 Corlette Reserves & Hall 355(b) Committee	To assist Council in the management of Corlette Hall. To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr John Morello</i>
9 Fern Bay Public Hall, Reserves and Tidy Towns Committee	To assist Council in the management of Fern Bay Hall. To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Geoff Dingle</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
10	Financial Assistance Community Grants Panel	To make recommendations to Council on applications received through the Grants process	<i>Twice a year</i>	General Manager's Office	Mayor Cr Bruce MacKenzie Cr Ken Jordan Cr Chris Doohan Cr John Nell (1 Councillor from each Ward). Alternative Cr Geoff Dingle
11	Fingal Bay Parks & Reserves Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr John Nell
12	Hinton School of Arts Committee	To assist Council in the management of Hinton School of Arts.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Ken Jordan
13	Karuah Community Centre Committee	To assist Council in the management of Karuah Community Centre Committee.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Peter Kafer Cr Ken Jordan
14	Karuah Tidy Towns, Parks Reserves & Wetlands Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Ken Jordan Cr Paul Le Mottee
15	Lemon Tree Passage Parks and Reserves 355B Committee	To undertake maintenance and improvements to parks in Lemon Tree Passage	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	Facilities & Services	Cr Steve Tucker Cr Bruce MacKenzie

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
16	Mallabula Community Centre Committee	To assist Council in the management of Mallabula Community Centre.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Steve Tucker Cr Bruce MacKenzie</i>
17	Mallabula Parks and Reserves Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Steve Tucker Cr Bruce MacKenzie</i>
18	Mambo Wanda Wetlands, Reserves & Landcare Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr John Nell</i>
19	Medowie Community Centre Committee	To assist Council in the management of Medowie Community Centre.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Geoff Dingle Cr Chris Doohan Cr Steve Tucker</i>
20	Medowie Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 1st Monday</i>	Facilities & Services	<i>Cr Geoff Dingle Cr Chris Doohan Cr Steve Tucker</i>
21	Medowie Tidy Towns & Cycleway Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Geoff Dingle Cr Steve Tucker Cr Chris Doohan</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
22	Nelson Bay Senior Citizens Hall Committee	To assist Council in the management of Nelson Bay Senior Citizens Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Sally Dover</i>
23	Nelson Bay West Parkcare Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr John Nell</i>
24	Ngioka Centre Committee	To assist in the care and management of the Ngioka Centre (a facility to provide for education and therapy focusing on people with a disability and disadvantaged people).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Sally Dover</i>
25	Port Stephens Adult Choir Committee	To promote, organise and train the Port Stephens Choir. To develop a sense of community identity and belonging by involving participants in community cultural projects.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	Development Services	<i>Cr Steve Tucker</i>
26	Port Stephens Australia Day Celebrations Coordinating Committee	To co-ordinate the annual celebration of Australia Day in Port Stephens in line with recommendations from Australia Day Council. To organise the Citizen of the Year and the Junior Citizen of the Year activity.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	Development Services	<i>Cr Sally Dover Cr John Morello Cr Ken Jordan Cr Peter Kafer</i>
27	Port Stephens Sister Cities Committee	To promote positive and ongoing relationships between international communities providing opportunities for cultural exchange.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	General Manager's Office	<i>All Councillors</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
28	Port Stephens Community Band Committee	To promote, organise and train the Port Stephens Community Band. To develop a sense of community identity and belonging by involving youth and adults in community cultural projects.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Development Services	<i>Cr Cr Tucker</i>
29	Port Stephens Heritage Advisory Committee	This committee is run by Council and supported by funds from the Heritage Office. Community members meet to raise and make recommendation on local heritage issues.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Development Services	<i>Cr Paul Le Mottee</i>
30	Port Stephens Native Flora Garden Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Quarterly</i>	Facilities & Services	<i>Cr John Nell</i>
31	Port Stephens Sports Council	To provide input and forward planning, from a Council wide basis, on facilities, sporting statistics, policies and recommendations on future needs. To administer the Sportsperson of the Year Award.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	Facilities & Services	<i>Cr Bruce MacKenzie Cr Ken Jordan</i>
32	Raymond Terrace Parks, Reserves & Tidy Towns Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Peter Kafer Cr Ken Jordan Cr Paul Le Mottee</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
33	Raymond Terrace Senior Citizens Hall Management Committee	To assist Council in the management of the Raymond Terrace Senior Citizens Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services Cr Ken Jordan Cr Paul Le Mottee Cr Peter Kafer
34	Raymond Terrace Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 2nd Monday</i>	Facilities & Services Cr Ken Jordan Cr Paul Le Mottee Cr Peter Kafer
35	Rural West Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 2nd Wednesday</i>	Facilities & Services Cr Ken Jordan Cr Paul Le Mottee Cr Peter Kafer
36	Salt Ash Community Hall, Committee	To assist Council in the management of Salt Ash Community Hall & Tennis Courts. To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services Cr Steve Tucker Cr Bruce MacKenzie
37	Salt Ash Sports Ground Committee	To assist Council in the management, maintenance and improvements to Salt Ash Oval.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services Cr Steve Tucker Cr Bruce MacKenzie

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
38 Seaham School of Arts and Community Hall Committee	To assist Council in the management of: Seaham School of Arts Seaham Community Hall	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Ken Jordan</i>
39 Seaham Park & Wetlands Committee <i>Name change from Seaham Hall</i>	To assist Council in the management, maintenance and improvements to the Park.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Ken Jordan Cr Peter Kafer Cr Paul Le Mottee</i>
40 Section 94 Panel	Oversee the allocation of Section 94 contributions.	<i>Bi monthly</i>	Development Services	<i>Mayor Cr Bruce Mackenzie Cr Ken Jordan Cr Steve Tucker</i>
41 Shoal Bay Beach Preservation Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr John Morello</i>
42 Soldiers Point-Salamander Bay Tidy Towns and Landcare Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Sally Dover</i>
43 Tanilba Bay Parks, Reserves & Hall Committee	To assist Council in the management of Tanilba Bay Hall. To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Steve Tucker Cr Bruce MacKenzie</i>
44 Tanilba Bay Senior Citizens Hall Management Committee	To assist Council in the management of Tanilba Bay Senior Citizens Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Steve Tucker Cr Bruce MacKenzie</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
45 Tilligerry Aquatic Centre Advisory Committee	To promote the Tilligerry Aquatic Centre within the community. To establish and promote links with local primary, secondary schools and the community.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Steve Tucker Cr Bruce MacKenzie</i>
46 Lemon Tree Passage Old School Centre Committee <i>Name changed from Tilligerry Community Centre Committee</i>	To assist Council in the management of Tilligerry Community Centre and surrounds.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Steve Tucker Cr Bruce MacKenzie</i>
47 Tilligerry Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 3rd Monday</i>	Facilities & Services	<i>Cr Steve Tucker Cr Bruce MacKenzie</i>
48 Tomaree Education Complex Multi Purpose Centre Committee	To assist Council with the care, management and promotion of the facility. To make recommendation to Council as to the development, planning and management of Tomaree Education Complex Multi Purpose Centre.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Sally Dover</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	New Delegates
49	Tomaree Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 3rd Wednesday</i>	Facilities & Services	<i>Cr John Nell Cr John Morello Cr Sally Dover</i>
50	Tomaree Cemeteries Committee	To undertake maintenance and improvements to cemeteries on Tomaree Peninsula.	<i>.Meet Quarterly</i>	Facilities & Services	<i>Cr John Nell</i>
51	Tilligerry Tidy Towns and Landcare Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Steve Tucker</i>
52	West Ward Cemeteries Committee	To undertake maintenance and improvements to cemeteries in West Ward.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Peter Kafer</i>
53	Williamstown Public Hall Committee	To assist Council in the management of Williamstown Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Geoff Dingle</i>

REGIONAL COMMITTEES AND GROUPS

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	New Delegates
54	Aircraft Noise Reference Panel	To review public submission made to the draft Aircraft Noise Planning Policy and DCP to discuss Aircraft Noise issues.	Meets as required	Development Services	<i>Cr Chris Doohan Cr John Nell Cr Paul Le Mottee</i>
55	Port Stephens Community Safety Precinct Committee	<p>To provide a forum for local community members, service providers, businesses and the police to discuss issues and appropriate strategies relating to crime and community safety.</p> <p>** Attendees will be by invitation only, one representative will be invited by the Police from each peak body/organisation e.g. Hunter Water / Housing NSW). Council will hold two positions, one will be Community Planner Crime, and the other will be the Mayor or his/her representative if unable to attend.</p>	Meets quarterly	Development Services	<i>Cr Sally Dover Cr Peter Kafer</i>
56	Comprehensive Koala Plan of Management Implementation Committee	Responsible for overseeing the implementation of the Port Stephens Council Comprehensive Koala Plan of Management.	Meets every 2 months	Development Services	<i>Cr Geoff Dingle Cr Peter Kafer</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	New Delegates
57	Public Libraries NSW Association	Country Public Libraries Association constitution requires a Councillor representative. This Association provides support for country public libraries. The Joint Library Advisory Committee's constitution also requires a Councillor representative in line with the Newcastle Regional Library agreement.	Meets 3 times per year	Facilities & Services	<i>To be left open for all Councillors to attend.</i> <i>Note: Council is required to appoint a delegate.</i>
58	Gloucester Coal Seam Gas Project – Community Consultative Committee	The purpose of the Committee is to provide a forum for representatives to discuss the Project with the Company (Lucas Energy)		Development Services	<i>To be left open for all Councillors to attend.</i>
59	Hunter Councils	To discuss regional issues in the Hunter.		General Manager's Office	<i>Mayor Cr Bruce MacKenzie</i>
60	Hunter Councils Board Advisory Groups. 1. Economic Development & Infrastructure 2. Community & Cultural. 3. Environment.	Each of the Advisory Group have input into the development and implementation of strategic and regional positions that will enhance the Hunter Region.		General Manager's Office	<i>Under review</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	New Delegates
61	Hunter Community Reference Group of the Central Rivers Catchment Management Authority Note: New Group with the appointment for an 18 month period with extension options	This Group allows Local Government have presentation on the sub-committee to operate in an advisory capacity providing information and recommendations to the Catchment Management Authority Board.		Development Services	<i>Cr John Nell</i>
62	Hunter Water Corporation Community Consultative Committee	This committee is an advisory committee to Hunter Water Corporation. Note: Cr Nell is appointed to this Committee by Hunter Water.		General Manager's Office	<i>Cr Geoff Dingle</i>
63	Joint Regional Planning Panel	To consider development applications referred to the Panel under the legislation for development applications for the Port Stephens Local Government area. The Panel comprises of 3 State members and 2 Councillors. The term is for 3 years for each Panel member, commencing July 2009 and re-appointed in July 2012.	As required	Development Services	<i>Mayor Cr Bruce MacKenzie Cr Ken Jordan</i> <i>Alternates Cr Paul Le Mottee Cr John Nell Cr Geoff Dingle</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	New Delegates
64	Karuah Working Together Inc.	<p>The Committee is a peak group comprising representation of key organisations, businesses and industry representatives in Karuah.</p> <p>The Committee is responsible for ensuring community and economic development activities are co-ordinated in accordance with local needs, trends and opportunities in accordance with Council's Economic Development Strategy and as specified in the <i>Karuah Strategic Plan</i>.</p>	3 rd Monday evening of the month	Development Services	<i>Cr Peter Kafer</i> <i>Cr Paul Le Mottee</i> <i>Cr Ken Jordan</i>
65	Local Development Committee	Local Traffic Committee (see 65) providing advice to Council on development.		Facilities & Services	<i>Cr Peter Kafer</i>
66	Local Traffic Committee	This is an RTA-based committee which allows Council to have delegated authority to install or remove regulatory sign posting on public roads.	Meets 1 st Tuesday of the month	Facilities & Services	<i>Cr Peter Kafer</i> <i>Cr Geoff Dingle</i>
67	Lower Hunter Bushfire Management Committee	The committee is a legislative requirement and is to discuss direction across local government areas and across agencies in regard to bushfire management.	Meets quarterly	Facilities & Services	<i>Cr Bruce MacKenzie</i>
68	Lower Hunter Zone Liaison Committee	To review the progress of the Service Level Agreement between Port Stephens Council and NSW Rural Fire Service in the Local Government Area.	Meets quarterly	Facilities & Services	<i>Cr Bruce MacKenzie</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	New Delegates
69	Lower Tilligerry Floodplain Risk Management Committee	To oversee the Flood Studies for the Tilligerry Creek catchment.		Development Services	Cr Steve Tucker Cr Bruce MacKenzie
70	Marine Parks Advisory Panel <i>Ministerial Appointment</i>	Community Consultative Committee regarding the proposed Marine Park in Port Stephens.		Development Services	Cr John Nell
71	Medowie Floodplain Management Committee	This Committee will provide advice and recommendations to Council.		Development Services	Cr Geoff Dingle Cr Steve Tucker Cr Chris Doohan Cr Peter Kafer
72	National Parks & Wildlife Service Regional Advisory Committee <i>Ministerial Appointment</i>	This is a community reference group run by National Parks & Wildlife Service. It is not a Council committee.		Development Services	Cr John Nell <i>Should be noted that Council does not have a ministerial appointment at this time.</i>
73	Nelson Bay Community College	This committee is an advisory committee for Adult Education.		General Manager's Office	Cr Sally Dover Cr John Morello
74	Newcastle Airport Joint Sub-Committee	The purpose of this committee is to allow Port Stephens and Newcastle City Councils the opportunity to discuss the future direction of the Airport.		General Manager's Office	Cr Ken Jordan Cr Chris Doohan Cr Bruce MacKenzie
75	North Coast NSW Regional Tourism Board	To work with Tourism bodies and groups on a regional basis.		Development Services	Cr John Nell
76	Port Stephens Council Depot re-development committee	<ul style="list-style-type: none"> To explore the options available for re-development of the Council depot at Raymond Terrace. 	Bi-annual	Facilities & Services	Cr Ken Jordan Cr John Nell Cr Bruce MacKenzie

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	New Delegates
77	Port Stephens Economic Development Advisory Panel	<ul style="list-style-type: none"> • Act as a communication and advisory mechanism to Council on relevant Economic Development issues. • Oversee the implementation of the Economic Development Strategy. 2012 ED Strategy review has occurred. • 	Quarterly	Development Services	<p>Cr Chris Doohan Cr Bruce MacKenzie Cr Ken Jordan Cr Paul Le Mottee</p> <p>(1 Councillor from each Ward)</p>
78	Port Stephens Transport Forum	The Transport for NSW convenes these forums which have been established in most LGAs throughout NSW. It provides the opportunity for local transport providers (eg: community transport, bus and taxi operators) and local residents to discuss local and regional transport related issues and to formulate appropriate strategies to more effectively improve the delivery of existing public transport services in meeting the community's transport needs.	Every 2 months convened by Ministry of Transport	Development Services	<p>Cr Sally Dover</p> <p>All councillors to be notified of this meeting.</p>
79	Port Stephens Domestic Violence Committee	<p>To raise the awareness of the issues surrounding domestic violence and enhance service provision to victims by developing and maintaining effective interagency strategies.</p> <p>Note: Council staff no longer regularly attend this Committee following outcomes of sustainability review of Council's social planning service package.</p>	Meet every 2 months	Development Services	Cr Peter Kafer

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	New Delegates
80	Port Stephens East Local Health Committee	To ensure that the population of the Tomaree Peninsula has appropriate access to a suitable baseline level of health services and facilities to meet their existing and future health needs.	Meets on 2 nd Wed every 2 months	Development Services	<i>Cr Sally Dover</i>
81	Port Stephens West Local Health Committee	To ensure that the population of the Western area of Port Stephens (ie: east of Tomaree Peninsula) has appropriate access to a suitable baseline level of health services and facilities to meet their existing and future health needs.	Meets on 3 rd Wed every 2 months	Development Services	<i>Cr Geoff Dingle Cr Peter Kafer</i>
82	Port Stephens/Myall Lakes Estuary and Coastal Zone Management Committee	This Committee includes representatives from Great Lakes Council and is responsible for long term planning for the estuary and the coastline.		Development Services	<i>Cr John Nell Cr Paul Le Mottee Cr John Morello</i>
83	Sabre Jet Committee	The purpose of the committee is to assist with planning for a response to the future of the Sabre Jet. This committee has a sunset clause, which will be following the relocation of the Sabre Jet.	As required	Facilities & Services	<i>Cr Peter Kafer</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	New Delegates
84	Strategic Arts & Cultural Committee	<ul style="list-style-type: none"> • Provide strategic advice to Council on planning, policy, resource allocation and relevant issues and/or opportunities pertaining specifically to arts and culture in Port Stephens. • Build and maintain relationships between Council and local cultural organisations, peak bodies, government agencies on arts and cultural matters in Port Stephens 	Meets bi-monthly	Development Services	<i>Cr John Nell Cr Steve Tucker Cr Paul Le Mottee</i> <i>(1 from each Ward)</i>
85	Williams River Floodplain Risk Management Committee	To oversee the Flood Studies for the Williams River catchment including Dungog shire.		Development Services	<i>Open to all Councillors</i>
86	Tilligerry Creek Catchment Committee	To develop and implement the Tilligerry Catchment management Plan which will result in improved water quality in Tilligerry Creek.		Development Services	<i>To be reviewed.</i>
87	Worimi Conservation Lands Board of Management <i>Ministerial Appointment</i>	To oversee the management of the lands owned by the Aboriginal owners and leased back to the NSW Government.	4 times a year	General Manager's Office	<i>Cr Sally Dover</i> <i>Alternate: Cr Peter Kafer</i>

BACKGROUND

In accordance with legislation Council is required to nominate delegates and adopt the list of 355(c) Committees.

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

These committees are allowable under Section 355 and Section 377 of the Local

Government Act, which allow Council to delegate certain functions.

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

The key concept is that a 355(c) committee is a **Council** committee. Committees include Councillor representation and a Council staff member responsible for liaison. A 355(c) committee operates as an entity of Port Stephens Council and not as a separate entity in a commercial sense. This means that these committees use Council’s Australian Business Number (ABN) when trading goods and services and are also required to report on a monthly basis as is required of Council.

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

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

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

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

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

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

Regional Committees and Groups

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

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

ELECTION OF REPRESENTATIVES ON COUNCIL'S STANDING COMMITTEES, (if required)

Membership:

COUNCIL COMMITTEE

- Committee of the Whole
Current Chair: *Cr Jordan*
Current Deputy Chair: *former Cr Francis*

ELECTION OF CHAIR AND DEPUTY CHAIR OF COMMITTEES

Clause 10.7 of Council's Code of Meeting Practice provides as follows:

- a) The Chair of each Committee must be:-
 - i) The Mayor; or
 - ii) If he/she prefers, the Council may elect a Chair; or
 - iii) If the **Council** does not elect a Chair, the **Committee** may elect a Chair.
- b) A Council or Committee may elect a Deputy Chair.

QUORUM FOR COMMITTEE MEETINGS

Clause 10.2(c) of Council's Code of Meeting Practice provides as follows:-

The quorum for a meeting of a Committee of the Council is to be:-

- i) Such number of members as the Council decides; or
- ii) If the Council has not decided, then the majority of the members of the Committee.

FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The costs associated with Councillor attendance is included as part of the Councillor allowance.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council has a legal obligation under the Local Government Act 1993.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Council is required to appoint elected representative to each of the Committees/groups/org anisations	Low	Council appoint elected representatives as outlines in the report.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) General Manager.

OPTIONS

- 1) Note the report and endorse existing appointments;
- 2) Review committee appointments.

ATTACHMENTS

- 1) Election of Representatives on Council Committees and Regional Committees and Groups.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**ELECTION OF REPRESENTATIVES ON COUNCIL COMMITTEES
AND REGIONAL COMMITTEES AND GROUPS**

The 2011/12 membership is listed below.

Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
1 Aboriginal Strategic Committee	<p>To exchange information between the Aboriginal community and Council on issues affecting Aboriginal people.</p> <p>To promote mutual awareness and respect for the cultures of both Aboriginal and non Aboriginal communities.</p>	<i>Meeting cycle is under review and changes to the constitution.</i>	Development Services	<p>Cr O'Brien Cr Kafer Cr Dover Cr Mckenzie Mayor (Cr Westbury)</p>
2 Anna Bay, Birubi Pt Reserves, Hall & Tidy Towns Committee	<p>To assist Council in the management of Anna Bay Hall.</p> <p>To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).</p>	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Dover
3 Audit Committee	<p>The Audit Committee is an advisory committee of Council comprising of the Council representatives and two external representatives.</p> <p>The objective of the Audit Committee is to enhance the corporate governance of Council through the provision of independent oversight, review and advice. The Committee will assist Council by providing independent assurance and assistance on the organisation's governance, risk, control and compliance frameworks.</p>	<i>At least four times a year or when necessary</i>	General Manager's Office	<p>Cr Kafer Cr Jordan</p> <p>Alternate: Cr Francis Cr De Lyall</p> <p>DLG guidelines preclude the Mayor from being a member of the Committee.</p>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
4 Boat Harbour Parks and Reserves Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Westbury
5 Bobs Farm Public Hall Committee	To assist Council in the management of Bobs Farm Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr O'Brien
6 Communicate Port Stephens	To assist Council in the management and promotion of the Telecentre.	<i>Meetings are held quarterly</i>	Development Services	Cr Francis Cr Ward
7 Corlette Headland Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Ward
8 Corlette Reserves & Hall 355(b) Committee	To assist Council in the management of Corlette Hall. To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Ward Cr Dover
9 Fern Bay Public Hall, Reserves and Tidy Towns Committee	To assist Council in the management of Fern Bay Hall. To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Dingle Cr O'Brien

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates	
10	Financial Assistance Community Grants Panel	To make recommendations to Council on applications received through the Grants process	<i>Twice a year</i>	General Manager's Office	Mayor (Cr Westbury) Cr Jordan Cr Dover Cr Tucker (1 Councillor from each Ward).
11	Fingal Bay Parks & Reserves Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Nell
12	Hinton School of Arts Committee	To assist Council in the management of Hinton School of Arts.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Jordan
13	Karuah Community Centre Committee	To assist Council in the management of Karuah Community Centre Committee.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Kafer Cr Jordan
14	Karuah Tidy Towns, Parks Reserves & Wetlands Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Kafer Cr Francis
15	Lemon Tree Passage Parks and Reserves 355B Committee	To undertake maintenance and improvements to parks in Lemon Tree Passage	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Tucker Cr MacKenzie

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
16	Mallabula Community Centre Committee	To assist Council in the management of Mallabula Community Centre.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Tucker Cr MacKenzie</i>
17	Mallabula Parks and Reserves Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Tucker Cr MacKenzie</i>
18	Mambo Wanda Wetlands, Reserves & Landcare Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Nell Cr De Lyall</i>
19	Medowie Community Centre Committee	To assist Council in the management of Medowie Community Centre.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Dingle</i>
20	Medowie Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 1st Monday</i>	Facilities & Services	<i>Cr Tucker Cr Dingle</i>
21	Medowie Tidy Towns & Cycleway Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Dingle</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
22	Nelson Bay Senior Citizens Hall Committee	To assist Council in the management of Nelson Bay Senior Citizens Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Dover Cr Ward</i>
23	Nelson Bay West Parkcare Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Nell</i>
24	Ngioka Centre Committee	To assist in the care and management of the Ngioka Centre (a facility to provide for education and therapy focusing on people with a disability and disadvantaged people).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Dover</i>
25	Port Stephens Adult Choir Committee	To promote, organise and train the Port Stephens Choir. To develop a sense of community identity and belonging by involving participants in community cultural projects.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	Development Services	<i>Cr Tucker Cr O'Brien</i>
26	Port Stephens Australia Day Celebrations Coordinating Committee	To co-ordinate the annual celebration of Australia Day in Port Stephens in line with recommendations from Australia Day Council. To organise the Citizen of the Year and the Junior Citizen of the Year activity.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	Development Services	<i>Cr Tucker Cr Jordan Cr Westbury Cr Francis</i>
27	Port Stephens Sister Cities Committee	To promote positive and ongoing relationships between international communities providing opportunities for cultural exchange.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	General Manager's Office	<i>All Councillors</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
28	Port Stephens Community Band Committee	To promote, organise and train the Port Stephens Community Band. To develop a sense of community identity and belonging by involving youth and adults in community cultural projects.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Development Services	<i>Cr Tucker</i>
29	Port Stephens Heritage Advisory Committee	This committee is run by Council and supported by funds from the Heritage Office. Community members meet to raise and make recommendation on local heritage issues.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Development Services	<i>Cr Francis Cr Kafer</i>
30	Port Stephens Native Flora Garden Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Quarterly</i>	Facilities & Services	<i>Cr Nell</i>
31	Port Stephens Sports Council	To provide input and forward planning, from a Council wide basis, on facilities, sporting statistics, policies and recommendations on future needs. To administer the Sportsperson of the Year Award.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee</i>	Facilities & Services	<i>Cr MacKenzie Cr Westbury</i>
32	Raymond Terrace Parks, Reserves & Tidy Towns Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Francis</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
33 Raymond Terrace Senior Citizens Hall Management Committee	To assist Council in the management of the Raymond Terrace Senior Citizens Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Francis
34 Raymond Terrace Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 2nd Monday</i>	Facilities & Services	Cr Jordan Cr Francis Cr Kafer Cr De Lyall
35 Rural West Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 2nd Wednesday</i>	Facilities & Services	Cr Jordan Cr De Lyall Cr Kafer
36 Salt Ash Community Hall, Committee	To assist Council in the management of Salt Ash Community Hall & Tennis Courts. To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Tucker Cr MacKenzie
37 Salt Ash Sports Ground Committee	To assist Council in the management, maintenance and improvements to Salt Ash Oval.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	Cr Tucker Cr MacKenzie

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
38 Seaham School of Arts and Community Hall Committee	To assist Council in the management of: Seaham School of Arts Seaham Community Hall	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Jordan</i>
39 Seaham Park & Wetlands Committee <i>Name change from Seaham Hall</i>	To assist Council in the management, maintenance and improvements to the Park.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Jordan Cr Kafer</i>
40 Section 94 Panel	Oversee the allocation of Section 94 contributions.	<i>Bi monthly</i>	Development Services	<i>Mayor (Cr Westbury) Cr Jordan Cr Tucker</i>
41 Shoal Bay Beach Preservation Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Westbury</i>
42 Soldiers Point-Salamander Bay Tidy Towns and Landcare Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Dover</i>
43 Tanilba Bay Parks, Reserves & Hall Committee	To assist Council in the management of Tanilba Bay Hall. To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Tucker Cr MacKenzie</i>
44 Tanilba Bay Senior Citizens Hall Management Committee	To assist Council in the management of Tanilba Bay Senior Citizens Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Tucker Cr MacKenzie</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
45	Tilligerry Aquatic Centre Advisory Committee	To promote the Tilligerry Aquatic Centre within the community. To establish and promote links with local primary, secondary schools and the community.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Tucker Cr MacKenzie Cr De Lyall</i>
46	Lemon Tree Passage Old School Centre Committee <i>Name changed from Tilligerry Community Centre Committee</i>	To assist Council in the management of Tilligerry Community Centre and surrounds.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Tucker Cr MacKenzie</i>
47	Tilligerry Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 3rd Monday</i>	Facilities & Services	<i>Cr Tucker Cr MacKenzie</i>
48	Tomaree Education Complex Multi Purpose Centre Committee	To assist Council with the care, management and promotion of the facility. To make recommendation to Council as to the development, planning and management of Tomaree Education Complex Multi Purpose Centre.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Westbury Cr Dover</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Committee Name	Purpose of Committee	Meeting Cycle	Group	Former Delegates
49	Tomaree Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	<i>Every 4 months– February, June, October 3rd Wednesday</i>	Facilities & Services	<i>Cr Dover Cr Nell Cr Ward Cr Westbury</i>
50	Tomaree Cemeteries Committee	To undertake maintenance and improvements to cemeteries on Tomaree Peninsula.	<i>.Meet Quarterly</i>	Facilities & Services	<i>Cr O'Brien</i>
51	Tilligerry Tidy Towns and Landcare Committee	To undertake maintenance and improvements to designated parks & reserves (as per map included in committee constitution).	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Tucker</i>
52	West Ward Cemeteries Committee	To undertake maintenance and improvements to cemeteries in West Ward.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Francis</i>
53	Williamstown Public Hall Committee	To assist Council in the management of Williamstown Hall.	<i>Committees are required to hold meetings at least quarterly at a time to be decided by the committee.</i>	Facilities & Services	<i>Cr Dingle Cr O'Brien</i>

REGIONAL COMMITTEES AND GROUPS

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	Former Delegates
54	Aircraft Noise Reference Panel	To review public submission made to the draft Aircraft Noise Planning Policy and DCP to discuss Aircraft Noise issues.	Meets as required	Development Services	<i>Cr Kafer</i> <i>Cr Tucker</i> <i>Cr Nell</i> <i>Alternates:</i> <i>Cr De Lyall</i> <i>Cr Dingle</i> <i>Cr Ward</i>
55	Port Stephens Community Safety Precinct Committee	<p>To provide a forum for local community members, service providers, businesses and the police to discuss issues and appropriate strategies relating to crime and community safety.</p> <p>** Attendees will be by invitation only, one representative will be invited by the Police from each peak body/organisation e.g. Hunter Water / Housing NSW). Council will hold two positions, one will be Community Planner Crime, and the other will be the Mayor or his/her representative if unable to attend.</p>	Meets quarterly	Development Services	<i>Cr Dover</i>
56	Comprehensive Koala Plan of Management Implementation Committee	Responsible for overseeing the implementation of the Port Stephens Council Comprehensive Koala Plan of Management.	Meets every 2 months	Development Services	<i>Cr Dingle</i> <i>Cr De Lyall</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	Former Delegates
57	Public Libraries NSW Association	Country Public Libraries Association constitution requires a Councillor representative. This Association provides support for country public libraries. The Joint Library Advisory Committee's constitution also requires a Councillor representative in line with the Newcastle Regional Library agreement.	Meets 3 times per year	Facilities & Services	<i>To be left open for all Councillors to attend.</i> <i>Note: Council is required to appoint a delegate.</i>
58	Gloucester Coal Seam Gas Project – Community Consultative Committee	The purpose of the Committee is to provide a forum for representatives to discuss the Project with the Company (Lucas Energy)		Development Services	<i>To be left open for all Councillors to attend.</i>
59	Hunter Councils	To discuss regional issues in the Hunter.		General Manager's Office	<i>Mayor (Cr Westbury)</i>
60	Hunter Councils Board Advisory Groups. 4. Economic Development & Infrastructure 5. Community & Cultural. 6. Environment.	Each of the Advisory Group have input into the development and implementation of strategic and regional positions that will enhance the Hunter Region.		General Manager's Office	<i>1. Cr Ward - Economic 2. Cr Tucker - Community & Cultural. 3. Cr Nell - Environment</i>
61	Hunter Community Reference Group of the Central Rivers Catchment Management Authority Note: New Group with the appointment for an 18 month period with extension options	This Group allows Local Government have presentation on the sub-committee to operate in an advisory capacity providing information and recommendations to the Catchment Management Authority Board.		Development Services	<i>Cr Nell</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	Former Delegates
62	Hunter Water Corporation Community Consultative Committee	<p>This committee is an advisory committee to Hunter Water Corporation.</p> <p>Note: Cr Nell is appointed to this Committee by Hunter Water.</p>		General Manager's Office	Cr Nell
63	Joint Regional Planning Panel	<p>To consider development applications referred to the Panel under the legislation for development applications for the Port Stephens Local Government area.</p> <p>The Panel comprises of 3 State members and 2 Councillors. The term is for 3 years for each Panel member, commencing July 2009 and re-appointed in July 2012.</p>	As required	Development Services	<p>Cr MacKenzie Cr Westbury</p> <p>Alternates Cr Dover Cr Nell Cr Dingle</p>
64	Karuah Working Together Inc.	<p>The Committee is a peak group comprising representation of key organisations, businesses and industry representatives in Karuah.</p> <p>The Committee is responsible for ensuring community and economic development activities are co-ordinated in accordance with local needs, trends and opportunities in accordance with Council's Economic Development Strategy and as specified in the <i>Karuah Strategic Plan</i>.</p>	3 rd Monday evening of the month	Development Services	Cr Francis

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	Former Delegates
65	Local Development Committee	Local Traffic Committee (see 65) providing advice to Council on development.		Facilities & Services	Cr Kafer
66	Local Traffic Committee	This is an RTA-based committee which allows Council to have delegated authority to install or remove regulatory sign posting on public roads.	Meets 1 st Tuesday of the month	Facilities & Services	Cr Kafer Cr Dingle
67	Lower Hunter Bushfire Management Committee	The committee is a legislative requirement and is to discuss direction across local government areas and across agencies in regard to bushfire management.	Meets quarterly	Facilities & Services	Cr MacKenzie
68	Lower Hunter Zone Liaison Committee	To review the progress of the Service Level Agreement between Port Stephens Council and NSW Rural Fire Service in the Local Government Area.	Meets quarterly	Facilities & Services	Cr MacKenzie
69	Lower Tilligerry Floodplain Risk Management Committee	To oversee the Flood Studies for the Tilligerry Creek catchment.		Development Services	Cr MacKenzie Cr Tucker
70	Marine Parks Advisory Panel Ministerial Appointment	Community Consultative Committee regarding the proposed Marine Park in Port Stephens.		Development Services	Cr Nell
71	Medowie Floodplain Management Committee	This Committee will provide advice and recommendations to Council.		Development Services	Cr Tucker Cr Dingle Cr O'Brien Cr MacKenzie Cr Kafer
72	National Parks & Wildlife Service Regional Advisory Committee Ministerial Appointment	This is a community reference group run by National Parks & Wildlife Service. It is not a Council committee.		Development Services	Cr Nell <i>Should be noted that Council does not have a ministerial appointment as this time.</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	Former Delegates
73	Nelson Bay Community College	This committee is an advisory committee for Adult Education.		General Manager's Office	<i>Former Cr Westbury</i>
74	Newcastle Airport Joint Sub-Committee	The purpose of this committee is to allow Port Stephens and Newcastle City Councils the opportunity to discuss the future direction of the Airport.		General Manager's Office	<i>Cr Ward Cr Westbury Cr MacKenzie Cr Jordan</i>
75	North Coast NSW Regional Tourism Board	To work with Tourism bodies and groups on a regional basis.		Development Services	<i>Cr Westbury</i>
76	Port Stephens Council Depot re-development committee	To explore the options available for re-development of the Council depot at Raymond Terrace.	Bi-annual	Facilities & Services	<i>Cr Jordan Cr Nell Cr MacKenzie</i>
77	Port Stephens Economic Development Advisory Panel	Act as a communication and advisory mechanism to Council on relevant Economic Development issues. Oversee the implementation of the Economic Development Strategy. <i>2012 ED Strategy review has occurred.</i>	Quarterly	Development Services	<i>Cr Tucker Cr Westbury (1 Councillor from each Ward)</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	Former Delegates
78	Port Stephens Transport Forum	The Transport for NSW convenes these forums which have been established in most LGAs throughout NSW. It provides the opportunity for local transport providers (eg: community transport, bus and taxi operators) and local residents to discuss local and regional transport related issues and to formulate appropriate strategies to more effectively improve the delivery of existing public transport services in meeting the community's transport needs.	Every 2 months convened by Ministry of Transport	Development Services	<i>Cr Dover</i> <i>All councillors to be notified of this meeting.</i>
79	Port Stephens Domestic Violence Committee	To raise the awareness of the issues surrounding domestic violence and enhance service provision to victims by developing and maintaining effective interagency strategies. Note: Council staff no longer regularly attend this Committee following outcomes of sustainability review of Council's social planning service package.	Meet every 2 months	Development Services	<i>Cr Francis</i> <i>Cr Kafer</i> <i>Cr De Lyall</i>
80	Port Stephens East Local Health Committee	To ensure that the population of the Tomaree Peninsula has appropriate access to a suitable baseline level of health services and facilities to meet their existing and future health needs.	Meets on 2 nd Wed every 2 months	Development Services	<i>Cr Dover</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	Former Delegates
81	Port Stephens West Local Health Committee	To ensure that the population of the Western area of Port Stephens (ie: east of Tomaree Peninsula) has appropriate access to a suitable baseline level of health services and facilities to meet their existing and future health needs.	Meets on 3 rd Wed every 2 months	Development Services	<i>Cr Francis Cr Dingle</i>
82	Port Stephens/Myall Lakes Estuary and Coastal Zone Management Committee	This Committee includes representatives from Great Lakes Council and is responsible for long term planning for the estuary and the coastline.		Development Services	<i>Cr Nell</i>
83	Sabre Jet Committee	The purpose of the committee is to assist with planning for a response to the future of the Sabre Jet. This committee has a sunset clause, which will be following the relocation of the Sabre Jet.	As required	Facilities & Services	<i>Cr Francis Cr De Lyall Cr Jordan Cr Kafer</i>
84	Strategic Arts & Cultural Committee	<ul style="list-style-type: none"> • Provide strategic advice to Council on planning, policy, resource allocation and relevant issues and/or opportunities pertaining specifically to arts and culture in Port Stephens. • Build and maintain relationships between Council and local cultural organisations, peak bodies, government agencies on arts and cultural matters in Port Stephens 	Meets bi-monthly	Development Services	<i>Cr Nell Cr Francis Cr Tucker (1 from each Ward)</i>
85	Williams River Floodplain Risk Management Committee	To oversee the Flood Studies for the Williams River catchment including Dungog shire.		Development Services	<i>Open to all Councillors</i>

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

	Name of Organisation	Purpose of Committee	Meeting cycles	Group	Former Delegates
86	Tilligerry Creek Catchment Committee	To develop and implement the Tilligerry Catchment management Plan which will result in improved water quality in Tilligerry Creek.		Development Services	<i>Cr Nell Cr MacKenzie</i>
87	Worimi Conservation Lands Board of Management <i>Ministerial Appointment</i>	To oversee the management of the lands owned by the Aboriginal owners and leased back to the NSW Government.	4 times a year	General Manager's Office	<i>Cr Dover Alternate required</i>

ITEM NO. 4

FILE NO: A2004-0169

REVIEW OF THE MAYOR AND GENERAL MANAGER'S DELEGATIONS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Delegate the functions as shown in the reviewed delegation for the Mayor shown in **(ATTACHMENT 1)**.
- 2) Delegate the functions as shown in the reviewed delegation for the General Manager shown in **(ATTACHMENT 2)**.
- 3) Delegate the functions as shown in the reviewed delegation for the Acting General Manager shown in **(ATTACHMENT 3)**.
- 4) Approve the affixing of the Common Seal to the Mayor's, General Manager's and Acting General Manager's delegations.

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

239	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to review the delegations to the Mayor, General Manager and acting General Manager following the election of the new Council.

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

It is proposed that no amendments be made to the delegations.

FINANCIAL/RESOURCE IMPLICATIONS

There is no financial implication from this recommendation.

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
That the Mayor and General Manager do not hold the appropriate delegations.	Low	Adopt the recommendation	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) General Manager;
- 2) Mayor.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Port Stephens C.O.U.N.C.I.L

... a community partnership

INSTRUMENT OF DELEGATION TO THE MAYOR

Review Date: 26 June 2001
27 July 2004
25 November 2008
23 August 2011

STATUTORY FUNCTIONS

The functions of the Mayor are defined in Section 226 of the Local Government Act 1993 as:

The role of the Mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council
- to exercise such other functions of the council as the council determines
- to preside at meetings of the council
- to carry out the civic and ceremonial functions of the mayoral office.

Delegations.

Pursuant to Section 377 of the Local Government Act, 1993, Port Stephens Council hereby delegates the following powers, authorities, duties or functions to the person holding the position of Mayor of Port Stephens Council. These delegations are to be exercised according to:

- the requirements of the Local Government Act, 1993, and Regulations thereunder ;
 - the requirements of any other relevant Act, law or regulation;
 - any expressed resolution or policy of Port Stephens Council.
-
- To approve expenditure from the Mayor's Office Component of Council's approved Budget;
 - To authorise the attendance of Councillors at seminars and conferences in accordance with budgetary limitations and Council's Policy on Councillors Reimbursement;

- To determine who should represent Council at civic, ceremonial and social functions where the Mayor is unable to attend and Council has not determined its representative(s)
- To approve use of the Council Chambers and Councillors Rooms by other persons
- To represent Council to the community generally and to be its spokesperson in accordance with Council's policies and decisions;
- To approve or refuse public access applications in accordance with Council's policy and Code of Meeting Practice.
- In the cases of emergency, where it is not practical to wait for the next scheduled meeting of Council, to exercise such functions of the Council as is necessary in the situation, except those functions listed under Section 377 of the Local Government Act 1993 and those regulatory functions under Chapter 7 of the Act. This delegation applies only to those functions properly held by the Council and does not extend to the statutory functions of the General Manager under Section 335 of the Local Government Act 1993.
- To make community awards on the recommendation of the Port Stephens Community Awards Panel and after appropriate consultation with all Councillors.

Specifically, Council hereby delegates, in accordance with Section 377(1) of the Local Government Act 1993, relating to affixing the Council corporate seal the following:-

To affix the corporate seal of Port Stephens Council to all documents necessary for Port Stephens Council to enter into or be a party to any property or commercial transaction, provided that the transaction has already been authorised by specific resolution of Council.

These delegations revoke all previous delegations to the Mayor.

The delegation to the Mayor is effective from the date of this Instrument of Delegation as authorised by Council.

The common seal of the Port Stephens
Council

Was hereto affixed pursuant to a Resolution of the

Councillor

Council at its meeting of #####
Min #####.

Councillor

ATTACHMENT 2



INSTRUMENT OF DELEGATION TO THE GENERAL MANAGER

Review Date: 20 June 2000
27 July 2004
25 November 2008
23 August 2011

STATUTORY FUNCTIONS

The functions of the General Manager are defined in Section 335 of the Local Government Act 1993 as:

335 (1) General responsibilities

The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

(2) Particular functions

The General Manager has the following particular functions:

- the day to day management of the Council;
- to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
- to appoint staff in accordance with an organisation structure and resources approved by Council;
- to direct and dismiss staff;
- to implement the Council's equal employment opportunity management plan.

(3) Further functions

The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.

Section 337 of the Act provides that the General Manager may appoint or dismiss senior staff only after consultation with the Council.

Section 378 of the Local Government Act, 1993, further provides that:

1. The General Manager may delegate any of the functions of the General Manager, other than this power of delegation;

2. The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the Council).

Local Government (General) Regulation, 2005 – Clause 209

Particular Responsibilities of the General Manager.

1. The General Manager of a Council must ensure that:-
 - a) the provisions of the Act, the regulations and any other written law relating to Council's financial obligations or the keeping of accounts by Council are complied with; and
 - b) effective measures are taken to secure the effective, efficient and economical management of financial operations within each division of the Council's administration; and
 - c) authorising and recording procedures are established to provide effective control over the Council's assets, liabilities, revenue and expenditure and secure the accuracy of the accounting records, including a proper division of accounting responsibilities among the Council's staff; and
 - d) lines of authority and the responsibilities of members of the Council's staff for related tasks are clearly defined.

The General Manager is also the Responsible Accounting Officer of Council for the purposes of the Regulation unless the General Manager designates a member of staff to be so.

Delegations.

Pursuant to Section 377 of the Local Government Act, 1993, Port Stephens Council hereby delegates the following powers, authorities, duties or functions to the person holding the position of General Manager of Port Stephens Council. These delegations are to be exercised according to:

- the requirements of the Local Government Act, 1993, and Regulations thereunder ;
- the requirements of any other relevant Act, law or regulation;
- any expressed resolution or policy of Port Stephens Council.

Specifically, Council hereby delegates, in accordance with Section 377(1) of the Local Government Act 1993, relating to affixing the Council corporate seal the following:-

To affix the corporate seal of Port Stephens Council to all documents necessary for Port Stephens Council to enter into or be a party to any property or commercial transaction, provided that the transaction has already been authorised by specific resolution of Council.

Pursuant to Part 5 of the Local Government (General) Regulation 2005, Council delegates the function of writing off rates and charges by the General Manager, to the fixed amount stated in the Council resolution.

These delegations revoke all previous delegations to the General Manager and recognise that certain functions are conferred on the General Manager by the Local Government Act 1993.

1. All powers and functions of Council under the Local Government Act. 1993, and regulations thereunder except:
 - those powers and functions under Section 377 of the Act which cannot be delegated being:-
 - the appointment of a general manager
 - the making of a rate
 - a determination under section 549 as to the levying of a rate
 - the making of a charge
 - the fixing of a fee
 - the borrowing of money
 - the voting of money for expenditure on its works, services or operations
 - the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)
 - the acceptance of tenders which are required under this Act to be invited by the council
 - the adoption of a management plan
 - the adoption of a financial statement included in an annual financial report
 - a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
 - the fixing of an amount or rate for the carrying out by the council of work on private land
 - the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work
 - the review of a determination made by the council , and not by a delegate of the council , of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979
 - the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
 - a decision under section 356 to contribute money or otherwise grant financial assistance to persons
 - the power of the council under section 455 in relation to attendance at meetings
 - the making of an application, or the giving of a notice , to the Governor or Minister
 - this power of delegation

- any function under this or any other Act that is expressly required to be exercised by resolution of Council

In addition the following functions of Council are excluded from this delegation:

- Adoption of a plan of management for community land;
- The granting of a lease or licence or other estate over community land except where the lease or licence is for a period of less than five (5) years and is consistent with an adopted Plan of Management for the relevant community land;
- Consent to the carrying out of development on community land prescribed by section 47E(1) of the Local Government Act 1993, except developments exempted under Section 47E(2) of the Local Government Act 1993;
- Adoption, amendment or revocation of a local approvals and orders policies;
- Abolition, alteration and naming of Wards (s210 LGA);
- Initiate a proposal to amalgamate or alter boundaries under s218E of the Local Government Act;
- The fixing of annual fees for Councillors and Mayor;
- The determination of the organisation structure and senior staff positions;
- Adoption and amendment of a Code of Meeting Practice (s362/3 LGA)
- Adoption or amendment to Council's Code of Conduct (s440 LGA)
- Sell land for unpaid rates and charges (s713 LGA)
- Any variation to approved expenditure votes except the authority to transfer votes up to a maximum of \$10,000 between Budget components and programs.

2. Powers and Legislative Responsibilities

Authority to exercise all of the functions **conferred or imposed on, or delegated to** the Council pursuant to any law, Act including all by-laws, Ordinances and Regulations or instrument of delegation including but not limited to:

A New Tax System (Goods And Services Tax) Act 1999 (Cth)
Anti-Discrimination Act 1977
Children and Young Persons (Care and Protection) Act 1998
Children (Education and Care Services) National Law (NSW) 2010
Coastal Protection Act 1979
Community Land Development Act 1989
Community Land Management Act 1989
Companion Animals Act 1998
Contaminated Land Management Act 1997
Crimes Act 1900
Crown Lands Act 1989
Disability Discrimination Act 1992 (Cth)
Disability Services Act 1993
Dividing Fences Act 1991
Environmental Planning & Assessment Act 1979

Environmental Planning and Assessment Regulation 2000
Fair Trading Act 1987
Food Act 2003
Food Regulation 2010
Geographical Names Act 1966
Government Information (Public Access) 2009
Heritage Act 1977
Impounding Act 1993
Independent Commission Against Corruption Act 1988
Land Acquisition (Just Terms Compensation) Act 1991
Library Act 1939
Local Government Act 1993
Local Government (General) Regulation 2005
National Parks & Wildlife Act 1974
Native Vegetation Act 2003
Noxious Weeds Act 1993
Noxious Weeds Regulation 2008
Ombudsman Act 1974
Privacy and Personal Information Protection Act 1998
Protection of the Environment Operations Act 1997
Public Health Act 2010
Public Health Regulation 2012
Public Interest Disclosures Act 1994
Roads Act 1993
Rural Fires Act 1997
Rural Lands Protection Act 1989
State Emergency and Rescue Management Act 1989
State Records Act 1998
Strata Schemes (Freehold Development) Act 1973
Strata Schemes (Leasehold Development) Act 1986
Strata Schemes Management Act 1996
Swimming Pools Act 1992
Threatened Species Conservation Act 1995
Trade Practices Act 1974 (Cth)
Unclaimed Money Act 1977
Waste Avoidance and Resource Recovery Act 2001
Work Health & Safety Act 2011
Workers Compensation Act 1987

The delegation to the General Managers is effective from the date of this Instrument of Delegation as authorised by Council.

The common seal of the Port Stephens
Council

Was hereto affixed pursuant to a Resolution of the

Mayor

Council at its meeting of #####
Min ####.

Councillor

ATTACHMENT 3



INSTRUMENT OF DELEGATION TO THE ACTING GENERAL MANAGER

Review Date: 20 October 2010
23 August 2011

STATUTORY FUNCTIONS

The functions of the General Manager (Acting) are defined in Section 335 of the Local Government Act 1993 as:

335 (1) General responsibilities

The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

(2) Particular functions

The General Manager has the following particular functions:

- the day to day management of the Council;
- to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
- to appoint staff in accordance with an organisation structure and resources approved by Council;
- to direct and dismiss staff;
- to implement the Council's equal employment opportunity management plan.

(3) Further functions

The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.

Section 337 of the Act provides that the General Manager may appoint or dismiss senior staff only after consultation with the Council.

Section 378 of the Local Government Act, 1993, further provides that:

1. The General Manager may delegate any of the functions of the General Manager, other than this power of delegation;
2. The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the Council).

Local Government (General) Regulation, 2005 – Clause 209

Particular Responsibilities of the General Manager.

1. The General Manager of a Council must ensure that:-
 - a) the provisions of the Act, the regulations and any other written law relating to Council's financial obligations or the keeping of accounts by Council are complied with; and
 - b) effective measures are taken to secure the effective, efficient and economical management of financial operations within each division of the Council's administration; and
 - c) authorising and recording procedures are established to provide effective control over the Council's assets, liabilities, revenue and expenditure and secure the accuracy of the accounting records, including a proper division of accounting responsibilities among the Council's staff; and
 - e) lines of authority and the responsibilities of members of the Council's staff for related tasks are clearly defined.

The General Manager is also the Responsible Accounting Officer of Council for the purposes of the Regulation unless the General Manager designates a member of staff to be so.

Delegations.

Pursuant to Section 377 of the Local Government Act, 1993, Port Stephens Council hereby delegates the following powers, authorities, duties or functions to the person holding the position of General Manager of Port Stephens Council. These delegations are to be exercised according to:

- the requirements of the Local Government Act, 1993, and Regulations thereunder ;
- the requirements of any other relevant Act, law or regulation;
- any expressed resolution or policy of Port Stephens Council.

Specifically, Council hereby delegates, in accordance with Section 377(1) of the Local Government Act 1993, relating to affixing the Council corporate seal the following:-

To affix the corporate seal of Port Stephens Council to all documents necessary for Port Stephens Council to enter into or be a party to any property or commercial transaction, provided that the transaction has already been authorised by specific resolution of Council.

Pursuant to Part 5 of the Local Government (General) Regulation 2005, Council delegates the function of writing off rates and charges by the General Manager, to the fixed amount stated in the Council resolution.

These delegations revoke all previous delegations to the General Manager and recognise that certain functions are conferred on the General Manager by the Local Government Act 1993.

3. All powers and functions of Council under the Local Government Act. 1993, and regulations thereunder except:
 - those powers and functions under Section 377 of the Act which cannot be delegated being:-
 - the appointment of a general manager
 - the making of a rate
 - a determination under section 549 as to the levying of a rate
 - the making of a charge
 - the fixing of a fee
 - the borrowing of money
 - the voting of money for expenditure on its works, services or operations
 - the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)
 - the acceptance of tenders which are required under this Act to be invited by the council
 - the adoption of a management plan
 - the adoption of a financial statement included in an annual financial report
 - a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
 - the fixing of an amount or rate for the carrying out by the council of work on private land
 - the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work
 - the review of a determination made by the council , and not by a delegate of the council , of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979
 - the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
 - a decision under section 356 to contribute money or otherwise grant financial assistance to persons
 - the power of the council under section 455 in relation to attendance at meetings
 - the making of an application, or the giving of a notice , to the Governor or Minister
 - this power of delegation
 - any function under this or any other Act that is expressly required to be exercised by resolution of Council

In addition the following functions of Council are excluded from this delegation:

- Adoption of a plan of management for community land;
- The granting of a lease or licence or other estate over community land except where the lease or licence is for a period of less than five (5) years and is consistent with an adopted Plan of Management for the relevant community land;
- Consent to the carrying out of development on community land prescribed by section 47E(1) of the Local Government Act 1993, except developments exempted under Section 47E(2) of the Local Government Act 1993;
- Adoption, amendment or revocation of a local approvals and orders policies;
- Abolition, alteration and naming of Wards (s210 LGA);
- Initiate a proposal to amalgamate or alter boundaries under s218E of the Local Government Act;
- The fixing of annual fees for Councillors and Mayor;
- The determination of the organisation structure and senior staff positions;
- Adoption and amendment of a Code of Meeting Practice (s362/3 LGA)
- Adoption or amendment to Council's Code of Conduct (s440 LGA)
- Sell land for unpaid rates and charges (s713 LGA)
- Any variation to approved expenditure votes except the authority to transfer votes up to a maximum of \$10,000 between Budget components and programs.

4. Powers and Legislative Responsibilities

Authority to exercise all of the functions **conferred or imposed on, or delegated to** the Council pursuant to any law, Act including all by-laws, Ordinances and Regulations or instrument of delegation including but not limited to:

A New Tax System (Goods And Services Tax) Act 1999 (Cth)
Anti-Discrimination Act 1977
Children and Young Persons (Care and Protection) Act 1998
Children (Education and Care Services) National Law (NSW) 2010
Coastal Protection Act 1979
Community Land Development Act 1989
Community Land Management Act 1989
Companion Animals Act 1998
Contaminated Land Management Act 1997
Crimes Act 1900
Crown Lands Act 1989
Disability Discrimination Act 1992 (Cth)
Disability Services Act 1993
Dividing Fences Act 1991
Environmental Planning & Assessment Act 1979
Environmental Planning and Assessment Regulation 2000
Fair Trading Act 1987

Food Act 2003
Food Regulation 2010
Geographical Names Act 1966
Government Information (Public Access) 2009
Heritage Act 1977
Impounding Act 1993
Independent Commission Against Corruption Act 1988
Land Acquisition (Just Terms Compensation) Act 1991
Library Act 1939
Local Government Act 1993
Local Government (General)Regulation 2005
National Parks & Wildlife Act 1974
Native Vegetation Act 2003
Noxious Weeds Act 1993
Noxious Weeds Regulation 2008
Ombudsman Act 1974
Privacy and Personal Information Protection Act 1998
Protection of the Environment Operations Act 1997
Public Health Act 2010
Public Health Regulation 2012
Public Interest Disclosures Act 1994
Roads Act 1993
Rural Fires Act 1997
Rural Lands Protection Act 1989
State Emergency and Rescue Management Act 1989
State Records Act 1998
Strata Schemes (Freehold Development) Act 1973
Strata Schemes (Leasehold Development) Act 1986
Strata Schemes Management Act 1996
Swimming Pools Act 1992
Threatened Species Conservation Act 1995
Trade Practices Act 1974 (Cth)
Unclaimed Money Act 1977
Waste Avoidance and Resource Recovery Act 2001
Work Health & Safety Act 2011
Workers Compensation Act 1987

The delegation to the Acting General Manager is effective from the ##### to ##### as authorised by Council.

The common seal of the Port Stephens Council

Was hereto affixed pursuant to a Resolution _____ Mayor
of the

Council at its meeting of ##### _____ Councillor
Min #####.

I, ##### employed by Port Stephens Council in the position of Group Manager ##### and as Acting General Manager do hereby acknowledge that I have read and understand the Delegations of Authority, delegated to me by the Council and that I will perform my duties within the boundaries of these delegations and in accordance with my position description. Further, I acknowledge these delegations are effective for the specified period.

Acting General Manager

Date:

ITEM NO. 5

FILE NO: A2004-0168

NEWCASTLE AIRPORT LIMITED - DELEGATION

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
 GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Delegate the functions as shown in **(ATTACHMENT 1)** to Newcastle Airport Limited to undertake the day to day function of control of Newcastle Airport Limited.
- 2) Approve the affixing of the Common Seal to the delegations for Newcastle Airport Limited.

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

240	Councillor Ken Jordan Councillor Peter Kafer
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to review the delegations to the Newcastle Airport Limited (NAL) following the election of the new Council.

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

It is proposed that no amendments be made to the delegations.

FINANCIAL/RESOURCE IMPLICATIONS

Financial and resource implications with respect to this report are all met by Newcastle Airport Ltd.

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

LEGAL, POLICY AND RISK IMPLICATIONS

In accordance with the *Local Government Act 1993*, Council can delegate functions to the General Manager or any other person or body. This delegation allows Newcastle Airport Ltd to operate on a day to day basis.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
That Council does not delegate function to Newcastle Airport Ltd as required under the Local Government Act 1993	Low	Adopt the recommendation of this report.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The operation of Newcastle Airport has major economic benefits for the Port Stephens Local Government area and also for the Hunter as a region with the increase in traffic and demand. Areas such as business, tourism and leisure will all benefit from a social and economic view.

CONSULTATION

General Manager
Legal Services Manager

OPTIONS

Adopt the recommendation;
Amend the recommendation.
Reject the recommendation.

ATTACHMENTS

- 1) Current Newcastle Airport Limited Delegations;

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



**INSTRUMENT OF DELEGATION TO NEWCASTLE
AIRPORT LIMITED**

Review Date: 22 May 2001
21 December 2004
25 August & 8 September 2009
22 November 2011

Delegations.

- (1) Pursuant to sections 355, 377 and 381 of the *Local Government Act 1993* (NSW) (**Act**) and the Declaration of Trust dated 3 June 1993, executed by Newcastle Airport Limited ACN 060 254 542 (**NAL**) (attached and marked "A"), the Council of the Port Stephens (**Council**) delegates the following functions to NAL:
 - (a) authority to establish, develop, maintain and regulate a facility for the conduct of civil aviation and all associated and/or supporting activities being a service and/or facility and/or activity within the meaning of Section 24 of the Act at the civil area of Williamtown Airport.
- (2) The instrument of delegation:
 - (a) is conditional upon the City of Newcastle Council delegating authority in terms identical to clause (1) (a) above; and
 - (b) will be deemed revoked upon revocation of the City of Newcastle Council delegation to NAL.
- (3) NAL must exercise all delegations under this instrument in a manner that is consistent with:
 - (a) all relevant legislation and regulations;
 - (b) all policies of Council; and
 - (c) all resolutions and decisions of Council.

- (4) This instrument of delegation takes effect from ##### and revokes all previous delegations of Council functions to NAL.

The common seal of the Port Stephens Council

was hereto affixed pursuant to a Resolution of

Mayor

the Council at its meeting of ##### Min ###

Councillor

ATTACHMENT - A

DATED 3rd June 1993

NEWCASTLE AIRPORT LIMITED
ACN 060 254 542

D E C L A R A T I O N O F T R U S T

TO

THE COUNCIL OF THE CITY OF NEWCASTLE

AND

THE COUNCIL OF THE SHIRE OF PORT STEPHENS

Trevor Dunn & Associates,
Solicitors,
148 Beaumont Street,
HAMILTON NSW 2303

DX 7950 NEWCASTLE
Telephone (049) 69 3699
FAX (049) 69 3528

2-00 800 3/29/12
DECLARATION OF TRUST

This deed is made 3rd June, 1993

TO THE COUNCIL OF THE CITY OF NEWCASTLE
AND THE COUNCIL OF THE SHIRE OF PORT STEPHENS
("the Councils")

NEWCASTLE AIRPORT LIMITED ACN 060 254 542 ("the Company")

SENDS GREETING:

WHEREAS:

- A. The Company has agreed to act as the delegate of the Councils upon the terms and conditions set forth in the Schedule below and as they may be amended, extended or replaced from time to time ("the Delegations").
- B. In compliance with and to satisfy paragraph 2 of the Delegations the Company is executing these presents.

NOW THIS DEED WITNESSES:

That the Company declares and agrees that it will:

1. Hold all property of any kind (including all interests therein or thereto and moneys or other property received or receivable by the Company to which the Company is or may become entitled) which the Company may hold or to which the Company may be entitled at any time in the exercise or purported exercise of the delegation referred to in paragraph 1 of the Delegations ("the property") on trust for the Councils absolutely.
2. Not dispose of or deal with the property from time to time other than to satisfy the obligations of the Company properly incurred in the exercise of the delegation referred to in paragraph 1 of the Delegations only when and in such manner as the Councils may from time to time permit.
3. Transfer and/or dispose of the property in such manner as the Councils may from time to time direct.
4. Insure all the property which is insurable in its full replacement value and to hold the policies of

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insurance and the proceeds of any claims thereunder upon trust for the Councils.

IN WITNESS whereof Newcastle Airport Limited ACN 060 254 542 has hereunto affixed its seal the day and year first hereinbefore written.

SCHEDULE

NEWCASTLE CITY COUNCIL

RESOLUTIONS FOR DELEGATION

- Section 530A Local Government Act, 1919

1. That pursuant to section 530A of the Local Government Act, 1919 ("the Act") Council delegate to Newcastle Airport Limited ACN 060 254 542 ("the Company") the function of establishing, maintaining and regulating a public aviation station within the meaning of section 490 of the Act at the civil area of Williamstown Airport.
2. That this delegation be conditional upon the Company's entering into a deed providing in substance that all property of any kind (including all interests therein and moneys or other property received or receivable by the Company or to which the Company is or may become entitled) which the Company may hold or to which the Company may be entitled at any time in the exercise or purported exercise of the delegation referred to in paragraph 1 above be held on trust for the benefit of Newcastle City Council and Port Stephens Shire Council ("the Councils") absolutely subject to the property's being disposed of or dealt with from time to time in such manner as the Councils may permit to satisfy the obligations of the Company properly incurred.
3. That this delegation be conditional upon:
 - (a) the delegation by Port Stephens Shire Council to Newcastle Airport Limited ACN 060 254 542 in terms identical with this delegation ("the Port Stephens delegation"); and
 - (b) the continuance in full force and effect of the Port Stephens delegation.
4. That this delegation shall be deemed to be revoked upon revocation of the Port Stephens delegation.
5. That this delegation shall not be capable of further delegation.

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6. That nothing in this delegation shall be construed so as to amount to a delegation specified in section 530A(2) of the Act namely:
 - (a) the making of any rate, the fixing of any charges or fees or the borrowing of any money;
 - (b) the voting of money for expenditure on the works, services or operations of the council;
 - (c) the resumption, purchase, sale, exchange, leasing or surrender of any land or other property or the granting of any lease of land;
 - (d) the acceptance of tenders;
 - (e) any application or notice to the Governor or the Minister; or
 - (f) . . .
 - (g) any other matter which may be prescribed.

PORT STEPHENS SHIRE COUNCIL

RESOLUTIONS FOR DELEGATION

- Section 530A Local Government Act, 1919

1. That pursuant to section 530A of the Local Government Act, 1919 ("the Act") Council delegate to Newcastle Airport Limited ACN 060 254 542 ("the Company") the function of establishing, maintaining and regulating a public aviation station within the meaning of section 490 of the Act at the civil area of Williamstown Airport.
2. That this delegation be conditional upon the Company's entering into a deed providing in substance that all property of any kind (including all interests therein and moneys or other property received or receivable by the Company or to which the Company is or may become entitled) which the Company may hold or to which the Company may be entitled at any time in the exercise or purported exercise of the delegation referred to in paragraph 1 above be held on trust for the benefit of Newcastle City Council and Port Stephens Shire Council ("the Councils") absolutely subject to the property's being disposed of or dealt with from time to time in such manner as the Councils may permit to satisfy the obligations of the Company properly incurred.
3. That this delegation be conditional upon:
 - (a) the delegation by Newcastle City Council to Newcastle Airport Limited ACN 060 254 542 in terms identical with this delegation ("the Newcastle City delegation"); and
 - (b) the continuance in full force and effect of the Newcastle City delegation.

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- 4. That this delegation shall be deemed to be revoked upon revocation of the Newcastle City delegation.
- 5. That this delegation shall not be capable of further delegation.
- 6. That nothing in this delegation shall be construed so as to amount to a delegation specified in section 530A(2) of the Act namely:
 - (a) the making of any rate, the fixing of any charges or fees or the borrowing of any money;
 - (b) the voting of money for expenditure on the works, services or operations of the council;
 - (c) the resumption, purchase, sale, exchange, leasing or surrender of any land or other property or the granting of any lease of land;
 - (d) the acceptance of tenders;
 - (e) any application or notice to the Governor or the Minister; or
 - (f) . . .
 - (g) any other matter which may be prescribed.

THE COMMON SEAL of NEWCASTLE)
 AIRPORT LIMITED ACN 060 254)
 542 was hereunto affixed by)
 the authority of a resolution)
 of the Directors in the)
 presence of;)



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ITEM NO. 6

FILE NO: A2004-0284

PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER’S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Draft Payment of Expenses and Provision of Facilities to Councillors’ Policy at **(ATTACHMENT 1)** for the purposes of public consultation;
- 2) Place the Draft Payment of Expenses and Provision of Facilities to Councillors’ Policy, at **(ATTACHMENT 1)** on public exhibition for a period of 28 days.

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

241	Councillor John Nell Councillor Ken Jordan
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to provide Council with the reviewed Councillors Reimbursement Policy in accordance with Section 252 of the *Local Government Act 1993* and the Division of Local Government’s Guideline.

Council last adopted the policy on 18 October 2011, following public consultation as required by legislation.

A copy of Council’s current policy is shown at **(ATTACHMENT 1)**. No changes to the policy are proposed.

Council is required to give 28 days public notice of the Policy changes prior to the final adoption of the amended Policy and revoking the previous Policy.

FINANCIAL/RESOURCE IMPLICATIONS

Expenditure associated with this policy is included in the 2012-13 budget allocation, however the upper limits are not fully budgeted, given some Councillor do not reach these limits. Councillors will be advised should the upper budget limits be achieved.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	94,500	This is the total cost allocated under this policy
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Council would be in breach of Section 252 & 253 of the Local Government Act 1993, should this policy not be adopted.	Low	Adopt a revised policy	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

- 1) General Manager.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the draft policy.

ATTACHMENTS

- 1) Draft Payment of Expenses & Provision of Facilities to Councillors Policy.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Payment of Expenses and Provision of
Facilities to Councillors Policy
(Section 252, Local Government Act 1993)

Adopted 28 June 1994
Minute No 342
Amended 13 December 1994
Minute No. 691
Amended 14/11/95
Minute No. 562
Amended 10/9/96
Minute No. 528
Amended 23/12/97
Minute No. 1471
Amended 09/03/04
Minute No. 107
Amended 31/01/06
Minute No.398
Amended 27/11/06
Minute No. 758
Amended 25/03/08
Minute No. 069
Amended 16/12/08
Minute No. 398
Amended 24/11/09
Minute No.399
Amended 23/11/10
Minute No. 373
Amended 18/10/11
Minute No. 385

Part 1 – Introduction

1.1 Title, commencement and definitions of the Policy

1.1.1 The Policy shall be known as the "Councillors Payment of Expenses and Provision of Facilities".

1.1.2 The Policy is effective from 23 November 2010.

1.1.3 Definitions

In this Policy, unless otherwise stated:

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

1.2 Purpose of the Policy

1.2.1 The purpose of the policy is to ensure that Councillors receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties. It ensures that these are provided in an accountable and transparent manner.

1.3 Objectives and scope of the Policy.

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

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

1.4 Making, adoption and reporting of the Policy

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

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

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

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

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

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

1.5 Legislative provisions

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

Local Government Act 1993

248 FIXING AND PAYMENT OF ANNUAL FEES FOR COUNCILLORS

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

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

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

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

249 FIXING AND PAYMENT OF ANNUAL FEES FOR THE MAYOR

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

252 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.*
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.*
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.*
- (4) A council may from time to time amend a policy under this section.*
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.*

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

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*

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

254 DECISION TO BE MADE IN OPEN MEETING

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

254A CIRCUMSTANCES IN WHICH ANNUAL FEES MAY BE WITHHELD

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

428 ANNUAL REPORTS

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

Local Government (General) Regulations 2005

217 ADDITIONAL INFORMATION FOR INCLUSION IN ANNUAL REPORT

- (1) For the purposes of [section 428](#) (4) (b) of [the Act](#), an annual report of a council is to include the following information:
- (a) details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),
 - (a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:
 - (i) the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),
 - (ii) telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,
 - (iii) the attendance of councillors at conferences and seminars,
 - (iv) the training of councillors and the provision of skill development for councillors,
 - (v) interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,

(vi) overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,

(vii) the expenses of any spouse, partner (whether of the same or the opposite sex) or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,

(viii) expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions

403 Payment of expenses and provision of facilities

A policy under [section 252](#) of [the Act](#) must not include any provision enabling a council:

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

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

For the purposes of [section 254A](#) of [the Act](#), a prescribed circumstance for the non-payment or reduction of a councillor's annual fee is the circumstance where both of the following conditions are satisfied:

- (a) the payment of the annual fee adversely affects the councillor's entitlement to a pension, benefit or allowance under any legislation of the Commonwealth, a Territory or a State (including New South Wales),
- (b) the councillor agrees to the non-payment or reduction.

1.6 Other Government policy provisions

- Division of Local Government Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors.
- Port Stephens Council Code of Conduct, as amended.
- Division of Local Government Model Code of Conduct – June 2008.
- ICAC Publications.

Part 2 – Payment of Expenses

2.1 General Provisions

- 2.1.1 Council will determine an annual allowance, to be paid monthly in arrears, in accordance with Section 248 - 251 of the Local Government Act and the determination of the Local Government Remuneration Tribunal.
- 2.1.2 This Policy is intended to cover most situations where a Councillor reasonably incurs expenses in discharging the functions of civic office. The annual fees paid to each Councillors is generally not intended to offset those costs.
- 2.1.3 All allowances and reimbursements of expenses made under this Policy shall be in respect to costs directly associated with the functions of civic office.
- 2.1.4 Councillors are not permitted to claim expenses in connection with political activities, including political fundraising as this is considered a personal interest.
- 2.1.5 Councillors will not be provided with general expense allowance. A general expense allowance is a sum of money paid by a Council to a Councillor to expend on an item or a service that is not required to be receipted and/or otherwise reconciled according to a set procedure and within a specific timeframe

2.2 Reimbursement and reconciliation of expenses processes

- 2.2.1 All claims for reimbursement must be made within three (3) months of incurring the expense and shall be subject to the General Manager or delegated officer discretion.
- 2.2.2 All claims shall be submitted to the General Manager and the delegated officer for assessment against the policy on **FORM 1.**"
- 2.2.3 All claims must be supplied with a tax invoice or receipt to support the claim. If a Councillor is not able to provide a tax invoice or receipt then a Statutory Declaration is to be provided.
- 2.2.4 Claims for travel under this Policy shall be lodged using travel **FORM 2**, include:
- Date
 - Place of departure and arrival
 - Distance travelled
 - Fare and parking fees paid
- 2.2.5 The kilometre rate payable to Councillors who travel in their own vehicle shall be the rate payable under the Local Government State Award.

2.2.6 Where travel is outside the Hunter Councils Area, Council shall as appropriate meet or reimbursement the lesser amount of the following expenses:-

- a) The cost of an economy class air ticket and associated taxi transfers.
- b) The cost of a first class rail ticket and associated taxi transfers.
- c) Transportation expenses using a Councillor's own vehicle (calculated under clause 2.2.5).
- d) Transportation using a Council-owned vehicles, actual costs incurred.

2.2.7 Where possible Council will pay all expenses directly by account or through use of a corporate credit card. In some instance it maybe necessary for Councillors to pay unexpected costs and seek reimbursement.

2.2.8 Once expenses of attending conferences, seminars or training course have been finalised, an invoice shall be forwarded to Councillors for any expenses payable by them.

2.3 Approval and Dispute resolution

2.3.1 The Executive Assistant – Councillor Support shall assess all claims against this Policy and provide the assessed documentation to the General Manager **and** Executive Officer for approval.

2.3.2 Claims will be paid on a monthly basis, generally the first Friday of the month.

2.3.3 Should the General Manager **and** Executive Officer determine that a claim should not be paid, the Councillor should be advised in writing. Should the Councillor still believe that the claim should be paid, in part or full, it shall be considered that a dispute exists.

2.3.4 In the event of a dispute at any time regarding payment of a claim or anything else under this Policy, the parties to this dispute shall each provide a written report on the nature of the dispute. The General Manager shall submit such reports to the next open meeting of Council. The dispute shall then be determined by a resolution of Council having regard to the reports, this Policy, Act and any other relevant laws.

2.3.5 The decision of Council pursuant to clause 2.3.4 shall be binding on all parties.

2.4 Payment in advance

2.4.1 Councillors may require advance payment for an anticipated expense associated with attendance at a conference, seminar and training course. The amount is **\$200** per Councillor per event.

2.4.2 In the event of a payment being made in advance, Councillors must full reconcile all expenses against the amount of the advance and submit the reconciliation to Council with **30 days** of the event.

2.5 Monetary Limits

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

Spouse and Partner Expenses

- 2.6.1 Accompanying person means a person who has a close relationship with a Councillor and/or provides carer support to the Councillor.
- 2.6.2 In limited circumstances, Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions with the Port Stephens Local Government Area, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of **\$500.00** per year of term, not including the NSW Local Government and Shires Association annual conference.
- 2.6.3 Costs and expense incurred by the Councillor on behalf of their spouse, partner or accompanying person shall be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function.
- 2.6.4 In limited circumstances, Council shall meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of **\$1000.00** per year of term, not including the NSW Local Government and Shires Association annual conference.
- 2.6.5 Council shall meet limited expenses of spouse, partner or accompanying person associated with attendance at the NSW Local Government and Shires Association annual conference. These expenses are limited to the costs of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program shall not be met by Council.
- 2.6.6 Costs associated with spouse, partner or accompanying person associated with attendance conferences other than the NSW Local Government and

Shires Association annual conference, or any seminars or training shall not be met by Council.

- 2.6.7 In no circumstances will the peripheral expenses of spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Specific Expenses for Councillors

2.7 Attendance at seminars, conferences, training and educational expenses

- 2.7.1 Council shall meet expenses incurred by Councillors in attending conferences and seminars or undertaking training and educational courses when the attendance is:
- a) To the NSW Local Government and Shires Associations' annual conference; or
 - b) Authorised by resolution of an open meeting of Council.
- 2.7.2 Councillors should generally have their attendance at a conference, seminar or participation in a training course authorised by Council in accordance with clause 2.7.1 (b).
- 2.7.3 Where it is impractical to have a Councillor's attendance or participation authorised by Council in accordance with clause 2.7.1 (b), Councillors wishing to claim expenses incurred due to their attendance or participation shall obtain the approval of the Mayor and the General Manager prior to attendance. Where the Mayor is seeking approval to claim his or her attendance or participation expenses under this clause, he or she shall obtain the approval of the Deputy Mayor and the General Manager.
- 2.7.4 Councillors shall submit their request for attendance in writing with the appropriate notice detailing the costs and benefits to the Councillor, to Council and the community.
- 2.7.5 In making its decision, the General Manager/Mayor or Council should consider:-
- a) The relevance of the seminar, conference, training or educational expenses to Council and the potential benefit that may result from attendance;
 - b) The special interest of the Councillor/s wishing to attend;
 - c) The total cost to Council of attendance relative to the Program budget;
 - d) The fair and equitable division of opportunity for Councillors to attend conferences/seminars.
- 2.7.6 Councillors shall at the conclusion of their attendance at the seminar, conference, or training provide a written report to Council on the aspects of the seminar, conference or training. This report should be submitted to Council

within one month of their attendance. Attendance at the NSW Local Government & Shires Association annual conference will not require a report to Council.

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

2.8 Seminars, Conferences and Training Expenses

- 2.8.1 Council will meet the costs for attendance at approved conferences and seminars, training and educational courses to a maximum of **\$3,500.00** per Councillor per year of term, excluding the costs associated with attendance at the NSW Local Government and Shires Associations' annual conference:

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

- 2.8.2 Conferences, seminars and training held outside the Port Stephens Local Government Area, Council shall as appropriate (having regard to availability,

time/cost effectiveness of the transport options) meet or reimburse the lesser amount of the following transportation expenses:

- a) The cost of an economy class air ticket and associated taxi transfers.
- b) The cost of a first-class rail ticket and associated taxi transfers.
- c) Transportation expenses by a Councillor with the Councillor's own vehicle (refer to clause 2.2.5).

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

2.9 Meals

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

2.9.2 Costs payable by Council under clauses 2.9.1 and 2.9.2 shall be capped at a maximum of **\$100.00** per Councillor per day inclusive. Councillors will be paid actual costs if under **\$100.00** per day.

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

2.9.4 Costs payable by Council under clause 2.9.3 shall be capped at a maximum of **\$50.00** per Councillor per day or actual costs, whichever is less.

2.10 Local Travel Arrangements and Associated Expenses

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

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

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

2.10.4 Claims for reimbursement under this clause 2.10 shall be made in accordance with clause 2.2.

2.11 Travel outside the HROC Area including Interstate and Overseas Travel

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

2.11.2 Approval for payment of travel expenses under clause 2.11.1 may be granted subject to any conditions Council so determines, and Council shall meet only those expenses that Council so determines.

2.12 Communication Device Costs and Expenses

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

2.12.2 Council shall not purchase the equipment in item 2.12.1 on a Councillors behalf.

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

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

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

2.12.6 If a Councillor so elects, Council will provide the Councillor with a mobile phone instead of paying a contribution towards the Councillor's expenses on their existing mobile phone, however the maximum amount of mobile phone expenses incurred by Council must not exceed the amount set out in clause 2.12.5. All communication device costs incurred above this maximum must be reimbursed to Council by the Councillor. Councillors are encourage to purchase their own mobile phone and seek reimbursement under clause 2.12.5.

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

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

2.12.9 Upon a Councillor ceasing to hold office, that Councillor must return to Council any items provided to him or her under this clause. Generally Council

does not provide such equipment as Councillors are required to by such equipment under 2.12 and seek reimbursement.

2.13 Care and Other Related Expenses.

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

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

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

2.13.2 Where a Councillor has responsibilities for the care and support of any relative, Council shall reimburse the actual cost incurred by the Councillor to engage professional care for the relative whenever considered necessary by the Councillor (acting reasonably) in order for the Councillor to discharge the functions of civic office.

2.13.3 The total amount paid to a Councillor under this clause 2.13 shall not exceed **\$2,000.00** per year of term.

2.13.4 Claims for reimbursement under this clause 2.13 shall be made in accordance with clause 2.2.

2.14 Insurance Expenses

Councillors shall receive the benefit of insurance cover for:

2.14.1 Personal Accident - Personal Accident insurance covers personal injury which is caused by violent, accidental external and visible means that solely and independently of any other cause results in a Councillor's death or disablement. The cover applies anywhere in the world during and while travelling to and from Council business. The capital benefit for the death of a Councillor is \$500,000. The cover does not include medical expenses.

2.14.2 Professional Indemnity - Professional Indemnity insurance covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.

2.14.3 Public Liability - Public Liability insurance covers Council's legal liability to pay compensation to third parties arising in connection with the business activities

of Council. Matters arising from Councillors' performance of civic duties or exercise of their functions as Councillors are covered subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme policy wording.

2.14.4 Councillors' & Officers' Liability - Councillors' & Officers' Liability insurance protects Councillors and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Councillors for personal liabilities as a result of wrongful acts subject to any limitations or conditions set out in the policy of insurance.

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

2.15 Legal Expenses

2.15.1 Councillors shall receive legal expenses, in the event of:

(a) An enquiry, investigation or hearing by any of:

- The Independent Commission Against Corruption;
- The Office of the Ombudsman;
- Division of Local Government;
- The Police;
- The Director of Public Prosecutions;
- The Local Government Pecuniary Interest Tribunal; or
- Council's Conduct Review Committee/Reviewer.

into the conduct of a Councillor; or

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

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

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

The amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by

Council's Hunter based Solicitors will be paid ie. any portion of the expenses representing any hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

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

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

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

- (d) Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the Local Government Pecuniary Interest Tribunal or an investigative body PROVIDED the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.
- (e) Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something which a councillor has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.
- (d) In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach has occurred may not necessarily be considered a substantially unfavourable outcome.

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

POLICY

General

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

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

then Council will indemnify or reimburse the Councillor for:

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

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

Engagement of Legal Representatives – Required Procedure

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

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

3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.

4.
 - i. If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed Solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Councillor concerned in written form of that view.
 - ii. If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.

5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause (4); the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.

6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to consultation with the General Manager and the Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the insurers the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
 - If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must

attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.

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

Exclusion from Policy

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

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

current at the time the statement was alleged to have been made; and

- Does not breach any other law.

Part 3 Provision of Facilities

3.1 Provision of Facilities Generally

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

3.2 Private Use of Equipment and Facilities

- 3.2.1 Councillors shall not generally obtain private benefit from the provision of equipment and facilities. This includes benefits such as a travel bonus or other benefit arising from a loyalty scheme. However, incidental personal use of Council equipment and facilities may occur from time to time. No entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.
- 3.2.2 If a Councillor does obtain a private benefit for the use of a facility provided by Council being more than incidental use, the Councillor shall be invoiced for the amount of the private benefit with repayment to be in accordance with Council's normal terms.
- 3.2.3 The value of a private benefit to be invoiced under this clause 3.2 shall be determined by the General Manager or, at the request of the Councillor in receipt of the private benefit, the General Manager, or any two Councillors, by resolution of an open meeting of Council.
- 3.2.4 Equipment, facilities and services provided under this Policy shall not be used to produce election material or for any other political purposes.

3.3 Councillors' Room

- 3.3.1 Councillors shall be provided with equipment and facilities at the Raymond Terrace Administration Building. Equipment provided under this clause remains the property of Council.
- 3.3.2 The Councillors' Room furnished for use by all Councillors shall be provided with:

- a) A telephone, computer with internet access, multifunction device and computer peripherals for use by all Councillors.
- b) A library including Council policies, relevant legislation, reports on Development Applications and other relevant documents.

3.3.3 Light refreshments such as biscuits, health bars and beverages.

3.4 Administration Support, Stationery, Postage & Business Cards

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

3.4.2 Council shall post all correspondence for Councillors relative to the discharge of the functions of civic office.

3.4.3 Council shall provide appropriate letterhead stationery, business cards and Christmas cards for use by Councillors.

3.4.4 Correspondence by Councillors relative to the discharge of the functions of civic office is considered official correspondence of Council where the matter is referred to the General Manager for attention. The correspondence shall be attached to the appropriate Council file for registration, attention and reply.

3.4.5 Under no circumstances shall Councillors use the administration services, staff or other facilities provided in association with Local, State or Federal Government Elections.

3.4.6 Under no circumstances shall Councillors use the administration services or other facilities provided for the initiation of circular type letters without prior authority of the Council being obtained.

3.4.7 Council shall provide Councillors with official name badges indicating the wearer holds the office of Councillor, to wear at Civic functions.

3.5 Meals

3.5.1 Councillors will be provided with meals and refreshments following Committee and Council meetings and at other times considered appropriate by the Mayor and General Manager. The standard of the meal will be determined by the Mayor and/or the General Manager.

3.5.2 Light refreshments such as biscuits, health bars and beverages will be provided in the Councillors Room.

3.6 Transport Facilities

3.6.1 Four designated car parking spaces shall be provided for Councillors in the Council car park at the Council administration building, to be shared amongst Councillors.

3.6.2 Councillors will be reimbursed for all transport costs (taxi, use of private vehicle, etc) in accordance with clause 2.2 for their attendance at official Council functions. This includes deputising for the Mayor.

3.7 Corporate Uniform

3.7.1 Councillors may choose from a selection of Corporate Uniform provided by Council's approved supplier. Council will contribute a subsidy to 35% of the initial cost to a maximum of \$220 per annum. A sundry debtor account will then be forwarded to the Councillor for payment of the balance. Alternatively, a deduction can be made from the Councillor's monthly allowance.

3.8 Superannuation

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

3.9 Health & Wellbeing Initiative

3.9.1 Councillors shall be able to access a Health Initiative program which includes gym membership at local facilities. The program requires a minimum six (6) month membership with a payment to be made in advance for three (3) months – non refundable.

3.9.2 Councillors shall investigate any taxation implications for individual councillors as a result of the membership.

3.9.3 Further details can be obtained through Council's Recreation Services Section at Council.

3.10 Provision of Safety equipment

3.10.1 Councillors shall be provided with the following Protective Apparel:

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

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

Provision of Additional Expenses, Equipment and Facilities for the Mayor

3.11 Additional Expenses, Equipment and Facilities

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

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

3.12 Equipment and Facilities

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

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

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

3.12.4 Office refreshments.

3.12.5 Mayoral letterhead.

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

3.12.7 A mobile phone for the use of the Mayor in discharge of their formal duties, the cost of which shall be fully met by Council.

3.12.8 All items provided to the Mayor under this clause 3.12 must be returned to Council when the Mayor ceases to hold office.

3.13 Mayor's Staff

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

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

3.14 Mayoral Motor Vehicle

3.14.1 The Mayor shall be provided with:

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

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

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

3.14.5 All items provided to the Mayor under this clause 3.14 must be returned to Council when the Mayor ceases to hold office.

Part 4 Other Matters

4.1 Acquisition and Return of Facilities and Equipment by Councillors

4.1.1 Upon ceasing to hold office a Councillor may purchase any Council equipment held by the Councillor at the market value of the equipment at the time of ceasing to hold office as approved by the General Manager.

4.2 Status of the Policy

4.2.1 This Policy replaces the previous version of the Policy adopted by Council on 24 November 2009.

4.2.2 This Policy shall only be amended by resolution of Council.



COUNCILLORS' EXPENSES CLAIM FORM

116 Adelaide Street, Raymond Terrace NSW 2324
 PO Box 42, Raymond Terrace NSW 2324



Form 1

COUNCILLOR.....

MONTH.....

DATE	PURPOSE	\$	POLICY LIMITS	Klms TRAVELLED	TOTAL CLAIM \$ (Office Use Only)
	Phone Call Claim (receipts required)		\$200/month (for landline rental and calls, facsimile, mobile phone calls and rental/plan)		
	Line Rental (receipts required)				
	Fax Expenses (receipts/documentation required)				
	Mobile Claim (receipts required)				
	Internet Claim (receipts required)		\$60.00/month		
	Travel (log required)		\$6,000/year		
	Conference/Seminars (receipts required)		\$3,500/year		
	Partner Expenses (receipts required)		\$500/year for Councillor & \$1,000/year for Mayor		
	Computer/laptop, multifunction devices, peripherals and software (receipts required)		\$3,000/term of Council		
TOTAL					

***PAYMENT WILL ONLY BE MADE WHERE RECEIPTS AND VEHICLE LOG IS PROVIDED.**

Signature of Claimant..... Date.....

Councillors – Please note that ALL Councillor’s reimbursement claims will be paid the **first Friday** of each month. Therefore Councillors are required to lodge their claims with the Executive Assistant Councillor Support at the end of each month at the **Ordinary Council meeting** for payment the following week.



**COUNCILLORS' MOTOR VEHICLE LOG
BOOK CLAIM FORM**

116 Adelaide Street, Raymond Terrace NSW 2324
PO Box 42, Raymond Terrace NSW 2324



Form 2

COUNCILLORMONTH.....YEAR.....

DATE	PURPOSE	TOTAL KILOMETRES
TOTAL		

Signature of Claimant Date



COUNCILLORS' REMUNERATION
SACRIFICE ELECTION FORM –
SUPERANNUATION

116 Adelaide Street, Raymond Terrace NSW 2324
PO Box 42, Raymond Terrace NSW 2324



Form 3

Councillor Name: _____

Date to commence arrangement _____

Annual Remuneration _____

Annual Sacrifice Amount _____

Your Superannuation Fund Details:

Fund Name _____

Membership No (if applicable) _____

Account Name _____

Super Fund ABN (if applicable) _____

Superannuation Product
Identification Number (if applicable) _____

DECLARATION OF COUNCILLOR

I, _____ hereby certify that I have not relied on information or advice gathered through sources or resources from Port Stephens Council to make the decision to enter into a sacrifice arrangement.

I certify that I have obtained independent financial advice or made the decision based on my own investigation in relation to this sacrifice election.

I understand that at all times it remains my responsibility as a Councillor to notify Finance in writing of any change to the benefits sacrificed.

I have attached:

- A letter from the trustee stating that this is a complying fund and (for a self managed superannuation fund) a copy of documentation from the Tax Office confirming the fund is regulated
- Written evidence from the fund that they will accept contributions from Council, and
- Details about how Council can make contributions to this fund

Signed: _____

Councillor

Date: _____

Signed: _____

Finance Officer

Date: _____

ITEM NO. 7

FILE NO: A2004-0030

LOCAL GOVERNMENT ACT 1993 AMENDMENT – SPECIAL DISCLOSURE FORM

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
 GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the report;
 - 2) Amended the Code of Meeting Practice to include the new Special Disclosure of Pecuniary Interest form (**ATTACHMENT 1**) and the Declaration of Interest form (**ATTACHMENT 2**).
-

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

242	<p>Councillor Steve Tucker Councillor Peter Kafer</p> <hr/> <p>It was resolved that the recommendation be adopted.</p>
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BACKGROUND

The purpose of this report is to inform Council of the amendment to the Section 451 of the *Local Government Act 1993* (the Act).

The amendment was effective from 10 August 2012. The amendment to Section 451 provides for a councillor who has a pecuniary interest in a principal environmental planning instrument (applying to the whole or a significant part of the Council's area), to participate in the discussion of and vote on the instrument, provided that they make a special disclosure.

The special disclosure must be made before the commencement of a Council meeting or a Council Committee meeting, and must be recorded in the minutes of the meeting.

The existing declaration of interest form has been re-formatted to make the form easier to use and more transparent.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		No additional funds are required.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to comply with the provisions of Section 451 of the *Local Government Act 1993*.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is no risk associated with this report, however there may be some risk if a Councillor does not comply with the provisions of Section 451 of the Local Government Act 1993.	Low	Ensure Councillors are fully briefed on the requirements of the Act.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This amendment will allow Councillors to share their valuable experience and knowledge of the area when the principal environmental planning instrument is before Council. The previous legislation did not allow Councillors to contribute where a pecuniary interest existed. This should contribute to the sustainability of Port Stephens.

CONSULTATION

- 1) General Manager.

OPTIONS

- 1) Adopt the recommendation.

ATTACHMENTS

- 1) Special Disclosure of Pecuniary Interest form;
- 2) Declaration of Interest form.



COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

	<p>Local Government (General) Regulation 2005</p> <p>Schedule 3A Form of special disclosure of pecuniary interest</p> <p>(Clause 195A)</p> <p><u>Local Government Act 1993</u></p>	
-----------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------

Form of Special Disclosure of Pecuniary Interest

- 1 The particulars of this form are to be written in block letters or typed.
- 2 If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is 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 sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of 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.

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 [name of council or council committee (as the case requires)] _____

to be held on the _____ day of _____ 20__.

<p>Pecuniary interest</p>	
<p>Address of land in which councillor or an associated person, company or body has a proprietary interest (<i>the identified land</i>)</p>	
<p>Relationship of identified land to councillor [Tick or cross one box.]</p>	<p><input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise).</p> <p><input type="checkbox"/> Associated person of councillor has interest in the land.</p> <p><input type="checkbox"/> Associated company or body of councillor has interest in the land.</p>

Matter giving rise to pecuniary interest	
Nature of land that is subject to a change in zone/planning control by proposed LEP (<i>the subject land</i>) [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]	
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 [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.]

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]

¹ Section 443 (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative⁴ or because your business partner or employer has a pecuniary interest. You may 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.

¹ Section 442 of the *Local Government Act 1993* 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 section 448 of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).

¹ 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 section 443 (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest—see section 448 (g) (ii) of the *Local Government Act 1993*.

⁴ **Relative** is defined by the *Local Government Act 1993* 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.

ATTACHMENT 2

	<p>Local Government Act 1993 Declaration of Interest from</p>	
-----------------------------------------------------------------------------------	-------------------------------------------------------------------	-------------------------------------------------------------------------------------

Item No. in agenda _____

Brief Description of Item _____

Councillor _____ declared a

Tick the box for the relevant response:

- pecuniary** conflict of interest
- significant** non pecuniary conflict of interest
- 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.)

Councillor _____ left the Chamber and thereby did not take part in the discussion or voting on the Item.

Time Councillor retired from the Chamber _____pm.

Councillor _____ returned to the Chamber and resumed his/her usual place at the meeting.

Time Councillor returned to the Chamber _____pm.

ITEM NO. 8

FILE NO: PSC2011-03811

**LOCAL GOVERNMENT ASSOCIATION NSW CONFERENCE 2012
DUBBO**

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate four (4) delegates for the Local Government Association of NSW Conference.
-

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

243	<p>Councillor Ken Jordan Councillor Peter Kafer</p> <hr/> <p>It was resolved that the four (4) voting delegates for the Local Government Association of NSW Conference are:</p> <p>Mayor, Cr Bruce MacKenzie Cr Ken Jordan Cr Steve Tucker Cr Paul Le Mottee.</p>
-----	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

BACKGROUND

The purpose of this report is to inform Council of the 2012 Local Government Association Annual Conference which will be held in Dubbo from 28 to 30 October 2012.

The draft program is shown at **(ATTACHMENT 1)**.

As a member of the Association, Council is eligible to have four voting delegates attend. Council has four (4) registrations available for Councillors to attend this years conference and is asked to consider the nomination of four Councillors to attend.

The Association has been consulting with its members for sometime with respect to the formation of "One Association". The creation of "One Association" will see the Local Government Association and the Shires Association become one organisation.

The previous Council considered this matter and nominated delegates to vote on the issue of forming "One Association". The vote has been held and the formation of

"One Association" was successful. This years conference will be the last conference known as the Local Government Association conference.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	1,155	The costs associated with the conference are provided in the current budget. The registration cost is shown in the report. Other costs will depend on individuals attendance at the conference
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
This conference provides the Port Stephens community to be represented at a State level on matters affecting local government. It is important for the area to have input into these matters.	Low	That the Mayor and Councillors represent the Port Stephens local government area.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council’s involvement in this conference allows Port Stephens Council to have a voice in policy matters for the Local Government industry.

CONSULTATION

- 1) General Manager.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

- 1) Draft Conference Programme.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Local Government Association of NSW Conference 2012

DRAFT PROGRAM (as of 6 September 2012)

28-30 October, 2012

Dubbo Regional Theatre and Convention Centre, Darling Street, Dubbo

Theme: Tribal by Nature

Sunday 28 October

- 9.00am – 5.30pm **Registration opens**
Dubbo Regional Theatre and Convention Centre, Darling Street, Dubbo
- 8.00am & 10.00am **Sunday Local Church Services:**
Holy Trinity Anglican Church, Brisbane St
- 9.00am & 6.00pm St Brigid's Catholic Church, Brisbane St
- 9.30am & 6.00pm Church of Christ Community, Church Lot 1 Mitchell Highway
- 9.30am & 7.00pm Wesley Church (Uniting Church), Church St
- 9.00, 11.00 am
& 6.00pm Presbyterian Church, Cnr Sheraton & Douglas Mawson Roads
- 4.00pm – 6.00pm **Official Opening Ceremony**
Dubbo Regional Theatre and Convention Centre, Darling Street, Dubbo
Mayoral procession
Welcome to Country
National Anthem
Welcome from **Cr Mathew Dickerson, Mayor of Dubbo City Council**
Welcome address by **Cr Keith Rhoades AFSM, President LGA**
Address from the **Minister for Local Government**
Presentation of the AR Bluett Awards
Presentation of Outstanding Service Awards
Address by Welcome Function Sponsor YMCA
(Delegates encouraged to walk through Victoria park, coach provided for those who need it)
- 6.30pm – 8.30pm **President's Welcome Function, sponsored by YMCA**
Venue: Western Plains Cultural Centre, Wingewarra Street
***Coach transfers from WPCC to accommodation*

Monday 29 October

Conference Sessions at Dubbo Regional Theatre and Convention Centre, Darling Street, Dubbo

- 8.00am Registration opens
- 9.00am **Investment in Community Infrastructure**
Conference Opening of Business Session
- Adoption of Standing Orders
- Presentation and Adoption of Treasurer's Report
- Ms Genia McCaffery, Mayoral Mentor**
- Other general business
- Consideration of Motions

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

- 10.30am Session breaks for Morning Tea in trade exhibition
- 11.00am Consideration of Motions
- 11.30am
- 12.00am **Mr Bill Bristow, CEO, Angel Flight**
- 12.15pm Consideration of Motions
- 1.00pm Lunch in trade exhibition sponsored by Environment Protection Agency
- 2.00pm **Supporting Strong Economic Management**
Mr Peter McKinlay, Director, Local Government Centre, Institute of Public Policy, AUT University, Auckland
- 2.30pm Consideration of Motions
- 3.00pm
- 3.30pm Consideration of motions
- 4.00pm Conference adjourns for Sponsors Happy Hour drinks sponsored by Toyota and afternoon tea in trade exhibition
- 5.00pm Sponsors Happy Hour concludes. End of Day proceedings
- ** (Coach transfers from DRTCC to accommodation)*
- 7.00pm – 10.00pm Delegates Optional Function Old Dubbo Gaol, Macquarie Street or Free night for delegates to enjoy local restaurants. Bookings essential.
- ** (Coach transfers from ODG to accommodation (staggered and set times commencing 9pm)*

Tuesday 30 October

Conference Sessions at Dubbo Regional Theatre and Convention Centre, Darling Street, Dubbo

- 7.30am Australian Local Government Woman's Association and NSW Australian Local Government Womens' Association Breakfast
Ms Jane Caro *new optional event*
- 8.00am Registration opens
- 9.00am Conference Business Session
Consideration of Motions
- 9.30am **Mr Barry Buffier, Chair and Chief Executive, NSW EPA**
- 10.00am Consideration of Motions
- 10.30am Session breaks for Morning Tea in trade exhibition
- 11.00am **Delivering Quality Services**
Consideration of Motions
- 11.30am **Mr Bob Abbot, Mayoral Mentor, Local Government Association Queensland**

MINUTES FOR ORDINARY COUNCIL – 25 SEPTEMBER 2012

- 12.00noon **Mr Peter Lambert, CEO, Local Government Superannuation**
- 12.15pm **Mr John Turner, Chair, NSW Local Government Act Taskforce** (invited)
- 1.00pm Lunch in trade exhibition sponsored by Local Government Super
- 2.00pm Consideration of Motions
- 2.30pm **Professor Graham Sansom, Review of Local Government, address and Q and A with fellow panellists Mr Glenn Inglis and Ms Jude Munro** (invited)
- 3.30pm Consideration of Motions
- 4.00pm Drawing of prizes. Submission of conference evaluation forms closed. Conference adjourns for Sponsors Happy Hour drinks in trade exhibition
- 5.00pm Sponsors Happy Hour concludes. End of Day proceedings.
*** (Coach transfers from DRTCC to accommodation)*
- 6.45pm *** (Coach transfers from accommodation to TWPZ)*
- 7.30pm – 11.00pm **Gala dinner sponsored by Essential Energy**
Taronga Western Plains Zoo
- From 10.30pm Coach transfers form TWPZ to accommodation (staggered and set times from 10.30pm)**

CLOSE OF CONFERENCE

This program is correct at the time of printing; speakers and program details may have changed due to unforeseen circumstances.

ITEM NO. 9

FILE NO: PSC2011-00718

PROMOTING BETTER PRACTICE REVIEW

REPORT OF: PETER GESLING – GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the Report.

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

244	Councillor John Nell Councillor Sally Dover
	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to provide Council with a quarterly report on Code of Conduct complaints relating to Councillors.

The Promoting Better Practice (PBP) Review Final Report, prepared by the Division of Local Government was tabled at the Council in December 2011.

Recommendation 20 of the PBP report requires a report be provided to Council regarding Code of Conduct complaints relating to Councillors on a quarterly basis rather than annually for the next twelve months after the release of the PBP Report.

Since the tabling of the PBP Report, no Code of Conduct complaints relating to Councillors have been received.

Council will be provided with the final report in December 2012.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Minimal costs were associated with the production of this report.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council has an obligation to respond to the Division of Local Government with respect to the Promoting Better Practice Review. These Reviews are linked to legislative processes under the Local Government Act 1993.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
That Council not respond to the Recommendations within the PBP Report.	Medium	That Council respond to all 36 Recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor;
- 2) Councillors.

OPTIONS

- 1) Adopt the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 10

FILE NO: PSC2010-00134

JOINT REGIONAL PLANNING PANELS – NOMINATIONS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate two (2) delegates and three (3) alternate delegates for membership on the Joint Regional Planning Panel.
-

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

245	<p>Councillor Ken Jordan Councillor Chris Doohan</p>
	<p>It was resolved that Council appoint Mayor Cr Bruce MacKenzie and Cr Ken Jordan as delegate to the Joint Regional Planning Panel, and Crs Paul Le Mottee, John Nell and Geoff Dingle be appoint as alternate delegates.</p>

BACKGROUND

The purpose of this report is to seek nominations from Council for membership to the Joint Regional Planning Panel (JRPP).

Membership on the JRPP is for a period of three (3) years. The membership of the JRPP consists of three (3) members appointed by the State Government and two (2) Council members.

Former delegates were Councillors Westbury and MacKenzie with alternate delegates being Councillors Dover, Nell and Dingle.

The previous Council at its meeting in July 2012, confirmed the nominees for the election period as the Panel term end in July 2012.

The next meeting of the JRPP will be held on Thursday 27 September 2012, in Newcastle.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		There are no budgetary implications for Council from this recommendation.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Joint Regional Planning Panel is established under the Environmental Planning & Assessment Act 1979 for a period of 3 years. Delegates are governed by the Act and the Code of Conduct for Joint Regional Planning Panels.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is minimal risk associated with this recommendation. Delegates are required to act in accordance with the Act and the Code of Conduct for Joint Regional Planning Panels	Low	That delegates clearly understand their obligations as Council delegates	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Community ultimately will benefit from Council representation on the JRPP. The membership provides the Panel with local knowledge and expertise of the area, together with many years of experience from the elected Councillors.

CONSULTATION

General Manager

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 11

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 25 September, 2012.

No:	Report Title	Page:
1	Cash and Investment held at 31 July 2012 and 31 August 2012	128

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

246	Councillor John Nell Councillor Bruce MacKenzie
	It was resolved that the recommendation be adopted.

GENERAL MANAGERS INFORMATION PAPERS



INFORMATION ITEM NO. 1

**CASH AND INVESTMENTS HELD AT 31 JULY 2012 AND 31 AUGUST
2012**

REPORT OF: TIM HAZELL – FINANCIAL SERVICES MANAGER

GROUP: CORPORATE SERVICES

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 31 July 2012 and 31 August 2012.

ATTACHMENTS

- 1) Cash and investments held at 31 July 2012;
- 2) Cash and investments held at 31 August 2012;
- 3) Monthly cash and investments balance August 2011 to August 2012; and
- 4) Monthly Australian term deposit index August 2011 to August 2012.

ATTACHMENT 1

CASH AND INVESTMENTS HELD AS AT 31 JULY 2012								
ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
POLICE CREDIT UNION LTD	RIM	N/R	TD	5.65%	90	6-Aug-12	1,000,000	1,000,000
POLICE CREDIT UNION LTD	FARQUHARSON	N/R	TD	5.80%	120	10-Aug-12	1,000,000	1,000,000
BANK OF CYPRUS AUSTRALIA LTD	CURVE	N/R	TD	5.55%	91	13-Aug-12	1,000,000	1,000,000
BANK OF CYPRUS AUSTRALIA LTD	CURVE	N/R	TD	5.55%	90	13-Aug-12	1,000,000	1,000,000
SUNCORP METWAY	FIG	A1/A+	TD	5.60%	120	11-Sep-12	1,000,000	1,000,000
ME BANK	CURVE	A2/BBB	TD	5.35%	120	18-Sep-12	1,000,000	1,000,000
ME BANK	CURVE	A2/BBB	TD	5.11%	91	24-Sep-12	1,000,000	1,000,000
MYSTATE FINANCIAL LTD	FARQUHARSON	A2/BBB	TD	5.35%	120	3-Oct-12	1,000,000	1,000,000
BANK OF QUEENSLAND	RIM	A2/BBB+	TD	5.26%	120	5-Oct-12	1,000,000	1,000,000
PEOPLE'S CHOICE CREDIT UNION	CURVE	A2/BBB+	TD	5.17%	120	12-Oct-12	1,000,000	1,000,000
RAILWAYS CREDIT UNION LTD	FIG	N/R	TD	5.14%	120	16-Oct-12	1,000,000	1,000,000
WAW CREDIT UNION								
COOPERATIVE LTD	FIG	N/R	TD	5.15%	120	24-Oct-12	1,000,000	1,000,000
SOUTH-WEST CREDIT UNION CO-OP LTD	FARQUHARSON	N/R	TD	5.05%	120	8-Nov-12	1,000,000	1,000,000
SUNCORP METWAY	RIM	A1/A+	TD	4.96%	120	14-Nov-12	1,000,000	1,000,000
BANK OF QUEENSLAND	CURVE	A2/BBB+	TD	5.11%	120	20-Nov-12	1,000,000	1,000,000
SUB TOTAL \$							15,000,000	15,000,000
OTHER INVESTMENTS								
LONGREACH SER. 19 PROP. LNK NOTE	LONGREACH	A+	FRN	0.00%	6yrs	7-Sep-12	500,000	495,450
C'TH BANK EQUITY LNK DEPOSIT SER. 2	C'TH BANK	AA	FRN	3.00%	5yrs	5-Nov-12	500,000	498,300
BENDIGO BANK	C'TH BANK	BBB+	FRSD	4.91%	5yrs	9-Nov-12	500,000	497,850
HELIUM CAP. LTD "ESPERANCE AA+"	GRANGE	CCC-(sf)	CDO	4.28%	7yrs	20-Mar-13	1,000,000	338,800
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	30-Jun-13	500,000	500,000
GRANGE SECURITIES "KAKADU AA" GRANGE SEC. "COOLANGATTA AA" *	GRANGE	CCC	CDO	4.35%	7yrs	20-Mar-14	1,000,000	124,300
DEUTSCHE BANK TELSTRA LNK DEP. NTE	GRANGE	C	CDO	0.00%	7yrs	20-Sep-14	1,000,000	0
THE MUTUAL	FIG SECURITIES	A+	FRN	4.43%	7yrs	30-Nov-14	500,000	500,000
NEXUS BONDS LTD "TOPAZ AA-"	THE MUTUAL	N/R	FRSD	4.99%	10yrs	31-Dec-14	500,000	500,000
ANZ ZERO COUPON BOND	GRANGE	A+p	CDO	0.00%	10yrs	23-Jun-15	412,500	326,085
	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,876	797,587
SUB TOTAL (\$)							7,430,376	4,578,372
INVESTMENTS TOTAL (\$)							22,430,376	19,578,372
CASH AT BANK (\$)							1,723,502	1,723,502
TOTAL CASH AND INVESTMENTS							24,153,878	21,301,874
CASH AT BANK INTEREST RATE				3.45%				
BBSW FOR PREVIOUS 3 MONTHS				3.62%				
AVG. INVESTMENT RATE OF RETURN				4.44%				
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE			
CDO = COLLATERALISED DEBT OBLIGATION					FRSD = FLOATING RATE SUB DEBT			
* LEHMAN BROTHERS IS THE SWAP COUNTERPARTY TO THIS TRANSACTION AND AS SUCH THE DEAL IS BEING UNWOUND NO VALUATION INFORMATION IS AVAILABLE								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT								
P GESLING								

ATTACHMENT 2

CASH AND INVESTMENTS HELD AS AT 31 AUGUST 2012								
ISSUER	BROKER DESC.	RATING		YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
SUNCORP METWAY	FIGG	A1/A+	TD	5.60%	120	11-Sep-12	1,000,000	1,000,000
ME BANK	CURVE	A2/BBB	TD	5.35%	120	18-Sep-12	1,000,000	1,000,000
ME BANK	CURVE	A2/BBB	TD	5.11%	91	24-Sep-12	1,000,000	1,000,000
MYSTATE FINANCIAL LTD	FARQUHARSON	A2/BBB	TD	5.35%	120	3-Oct-12	1,000,000	1,000,000
BANK OF QUEENSLAND	RIM	A2/BBB	TD	5.26%	120	5-Oct-12	1,000,000	1,000,000
PEOPLE'S CHOICE CREDIT UNION	CURVE	A2/BBB	TD	5.17%	120	12-Oct-12	1,000,000	1,000,000
RAILWAYS CREDIT UNION LTD	FIGG	N/R	TD	5.14%	120	16-Oct-12	1,000,000	1,000,000
WAW CREDIT UNION COOPERATIVE LTD	FIGG	N/R	TD	5.15%	120	24-Oct-12	1,000,000	1,000,000
SOUTH-WEST CREDIT UNION CO- OP LTD	FARQUHARSON	N/R	TD	5.05%	120	8-Nov-12	1,000,000	1,000,000
SUNCORP METWAY	RIM	A1/A+	TD	4.96%	120	14-Nov-12	1,000,000	1,000,000
BANK OF QUEENSLAND	CURVE	A2/BBB	TD	5.11%	120	20-Nov-12	1,000,000	1,000,000
POLICE CREDIT UNION LTD	FARQUHARSON	N/R	TD	5.00%	122	10-Dec-12	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	CURVE	F3/BBB-	TD	5.14%	120	11-Dec-12	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	RIM	F3/BBB-	TD	5.11%	120	18-Dec-12	1,000,000	1,000,000
ING BANK (AUSTRALIA) LTD	CURVE	A1/A	TD	5.07%	150	10-Jan-13	1,000,000	1,000,000
ING BANK (AUSTRALIA) LTD	CURVE	A1/A	TD	5.03%	150	25-Jan-13	1,000,000	1,000,000
SUB TOTAL (\$)							16,000,000	16,000,000
OTHER INVESTMENTS								
LONGREACH SER. 19 PROP. LNK NOTE	LONGREACH	A+	FRN	0.00%	6yrs	7-Sep-12	500,000	498,200
C'TH BANK EQUITY LNK DEPOSIT SER. 2	C'TH BANK	AA	FRN	3.00%	5yrs	5-Nov-12	500,000	499,250
BENDIGO BANK HELIUM CAP. LTD "ESPERANCE AA+"	C'TH BANK	BBB+	FRSD	4.81%	5yrs	9-Nov-12	500,000	498,725
THE MUTUAL	GRANGE	CCC-(sl	CDO	4.28%	7yrs	20-Mar-13	1,000,000	360,000
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	30-Jun-13	500,000	500,000
GRANGE SECURITIES "KAKADU AA"	GRANGE	CCC	CDO	4.35%	7yrs	20-Mar-14	1,000,000	150,900
GRANGE SEC. "COOLANGATTA AA" *	GRANGE	C	CDO	0.00%	7yrs	20-Sep-14	1,000,000	0
DEUTSCHE BANK TELSTRA LNK DEP. NTE	FIGG SECURITIES	A+	FRN	4.43%	7yrs	30-Nov-14	500,000	500,000
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	31-Dec-14	500,000	500,000
NEXUS BONDS LTD "TOPAZ AA-"	GRANGE	A+p	CDO	0.00%	10yrs	23-Jun-15	412,500	342,379
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,876	805,700
SUB TOTAL (\$)							7,430,376	4,655,154
INVESTMENTS TOTAL (\$)							23,430,376	20,655,154
CASH AT BANK (\$)							5,655,350	5,655,350
TOTAL CASH AND INVESTMENTS (\$)							29,085,726	26,310,504
CASH AT BANK INTEREST RATE				3.45%				
BBSW FOR PREVIOUS 3 MONTHS				3.59%				
AVG. INVESTMENT RATE OF				4.37%				
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE			
CDO = COLLATERALISED DEBT OBLIGATION					FRSD = FLOATING RATE SUB DEBT			
* LEHMAN BROTHERS IS THE SWAP COUNTERPARTY TO THIS TRANSACTION AND AS SUCH THE DEAL IS BEING UNWOUND NO VALUATION INFORMATION IS AVAILABLE								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
P GESLING								

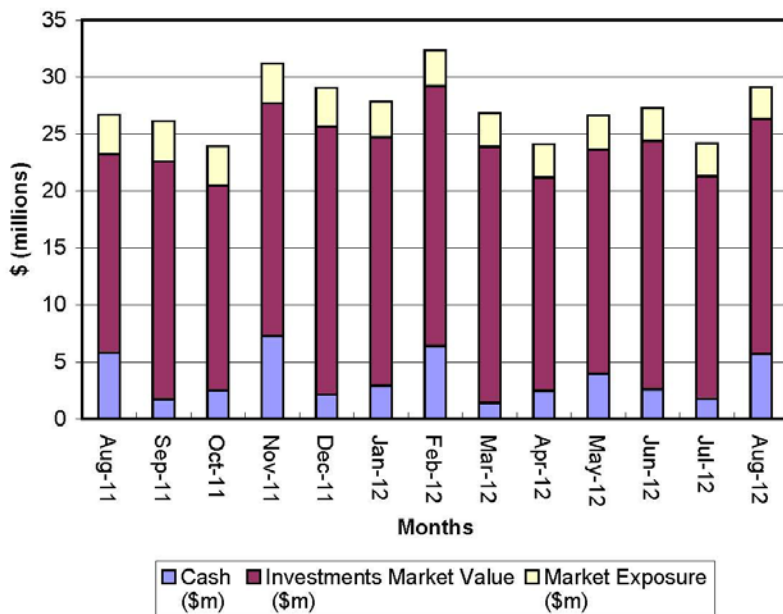
ATTACHMENT 3

Cash and Investments Held

Aug-12

Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Aug-11	5.767	17.441	3.489	26.697
Sep-11	1.676	20.893	3.538	26.106
Oct-11	2.476	17.978	3.453	23.906
Nov-11	7.240	20.462	3.468	31.171
Dec-11	2.101	23.546	3.384	29.032
Jan-12	2.909	21.781	3.150	27.839
Feb-12	6.372	22.787	3.143	32.303
Mar-12	1.391	22.465	2.965	26.821
Apr-12	2.441	18.722	2.959	24.121
May-12	3.931	19.700	2.981	26.611
Jun-12	2.597	21.774	2.906	27.277
Jul-12	1.724	19.576	2.854	24.154
Aug-12	5.655	20.655	2.775	29.086

Cash and Invested Funds for the Period ended 31/08/2012

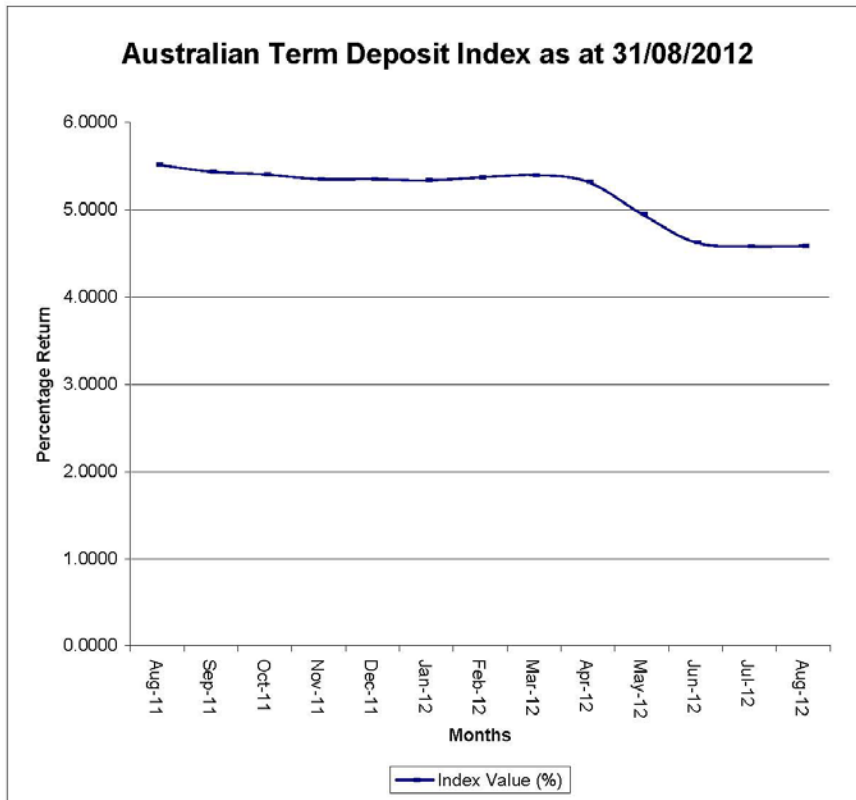


ATTACHMENT 4

Australian Term Deposit Accumulation Index

Aug-12

Date	Index Value (%)
Aug-11	5.5178
Sep-11	5.4358
Oct-11	5.4065
Nov-11	5.3510
Dec-11	5.3504
Jan-12	5.3389
Feb-12	5.3715
Mar-12	5.3972
Apr-12	5.3227
May-12	4.9508
Jun-12	4.6252
Jul-12	4.5808
Aug-12	4.5858



RESCISSION MOTION

RESCISSION MOTION

ITEM NO. 1

FILE NO: 16-2011-507-2

DEVELOPMENT APPLICATION FOR A SECTION 96 MODIFICATION INVOLVING THE DELETION AND MODIFICATION OF BUSHFIRE CONSTRUCTION REQUIREMENTS FOR PROPOSED DWELLING AT NO 144 ROCKY POINT ROAD, FINGAL BAY

COUNCILLORS: MACKENZIE, O'BRIEN, TUCKER, WESTBURY

That Council rescind its decision of 24 July 2012 on Item 2 of the Ordinary Council Meeting Report, namely Development Application for a section 96 modification involving the deletion and modification of bushfire construction requirements for proposed dwelling at no 144 Rocky Point Road, Fingal Bay.

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

247	Councillor Steve Tucker Councillor Ken Jordan
	It was resolved that Council rescind its decision of 24 July 2012 on Item 2 of the Ordinary Council Meeting Report, namely Development Application for a Section 96 Modification involving the deletion and modification of bushfire construction requirements for proposed dwelling at No. 144 Rocky Point Road, Fingal Bay.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan, Chris Doohan, Steve Tucker, John Morello and Sally Dover.

Those against the Motion: Crs Peter Kafer, Geoff Dingle and John Nell.

The motion was carried.

248	Councillor Ken Jordan Councillor Bruce MacKenzie
	It was resolved that the Section 96 modification application come back to Council with draft conditions of consent following on site consultation with the Rural Fire Service.

Those for the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan, Chris Doohan, Steve Tucker, John Morello, Sally Dover.

Those against the Motion: Crs Peter Kafer, Geoff Dingle and John Nell.

REPORT FROM MINUTES 24.7.2012

ITEM NO. 2

FILE NO: 16-2011-507-2

DEVELOPMENT APPLICATION FOR A SECTION 96 MODIFICATION INVOLVING THE DELETION AND MODIFICATION OF BUSHFIRE CONSTRUCTION REQUIREMENTS FOR PROPOSED DWELLING AT NO 144 ROCKY POINT ROAD, FINGAL BAY

REPORT OF: PAUL MINETT – DEVELOPMENT ASSESSMENT AND COMPLIANCE ACTING MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

Refuse the Section 96 Development Application 16-2011-507-2 for the building design modification to reduce the extent of bushfire construction requirements and deletion of bushfire condition 21 of development consent DA16-2011-507-1 for the construction of a single storey dwelling the 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay for the following reasons:

- 1) The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, appropriate to the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and intensity of the bushfire attack on the proposed building;
- 2) The proposal is not supported by the NSW Rural Fire Service;
- 3) The development is inconsistent with the provisions of clause 16 (2)(e), Residential Zoning 2(a) – Residential "A" Zone of Councils Local Environmental Plan 2000; and
- 4) The development is does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor
	That Council indicate its support in principle with conditions of consent to be brought back to Council.

In accordance with Section 375A of the Local Government Act 1993, a division is required.

MINUTES FOR ORDINARY MEETING – 25 SEPTEMBER 2012

Those for the motion: Crs Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover, Frank Ward and Bob Westbury.

Those against the motion: Crs Geoff Dingle, Peter Kafer, John Nell, Caroline De Lyall and Glenys Francis.

ORDINARY COUNCIL MEETING – 24 JULY 2012

191	Councillor John Nell Councillor Geoff Dingle
	<p>It was resolved that Council refuse the Section 96 Development Application 16-2011-507-2 for the building design modification to reduce the extent of bushfire construction requirements and deletion of bushfire condition 21 of development consent DA16-2011-507-1 for the construction of a single storey dwelling the 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay for the following reasons:</p> <ol style="list-style-type: none">1) The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, appropriate to the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and intensity of the bushfire attack on the proposed building;2) The proposal is not supported by the NSW Rural Fire Service;3) The development is inconsistent with the provisions of clause 16 (2)(e), Residential Zoning 2(a) – Residential "A" Zone of Councils Local Environmental Plan 2000; and4) The development is does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009.

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

Those for the Motion: Crs Peter Kafer, Glenys Francis, Steve Tucker, Geoff Dingle, John Nell and Ken Jordan.

Those against the Motion: Crs Bob Westbury, Bruce MacKenzie, Shirley O'Brien, Frank Ward and Sally Dover.

BACKGROUND

This application has been called to Council by Councillor Mackenzie "as the Rural Fire (Service) conditions are not realistic for the location". The purpose of this report is to present a development application to Council for determination.

Development consent (Section 96 modification) has been sought for the design modification to reduce the level of bushfire construction requirements and deletion of bushfire condition requirements on the development consent that was approved for the construction of a single storey dwelling the 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay. (Dwelling plans are available for full inspection in the Councillors' room).

The subject site is zoned 2(a) – Residential "A" Zone which is described in Port Stephens Local Environment Plan 2000 (LEP). The subject site is identified as bushfire prone land, BAL – Flame Zone. (Site location plan **Attachments 1 & 2**)

Included in the original Development application submission was Parker Scanlon P/L bushfire assessment report dated 16 July 2010 (Amended 18 August 2011 – part attachment 5) which was referred to the NSW Rural Fire Service for comment in accordance Section 79BA of Environmental Planning and Assessment Act 1979.

The applicant's submitted bushfire assessment report and the returned documentation from the RFS indicated that construction requirements to the South Eastern, South Western and North Western elevations (building rear and side faces) must comply with section 9 (BAL FZ) AS 3959-2009 'Construction of buildings in bush fire prone areas'. Additionally it was a requirement the new construction on the north eastern elevation (front face) shall comply with section 8 (Bal 40) Australian Standard AS3959-2009 'Construction of buildings in bushfire prone areas' and section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection' (report attached).

Consequently the application was approved as submitted by the applicant in September 2011 adopting the RFS recommendations in accordance with 'Planning for Bushfire Protection 2006', Australian Standard AS 3959-2009 and the Building Code of Australia.

SECTION 96 DA MODIFICATION REVIEW APPLICATION- APPLICANTS SUBMISSION

The applicant has submitted a development application (DA) under the provisions of Section 96 to modify the proposed dwelling building design as approved by development consent issued 21 September 2011 (DA-16-2011-507-1) in the following ways:-

- 1) Change the building design and reduce the bushfire safety construction requirements for the site which is subject to a bushfire attack level (BAL) – **BAL 40** for the building front façade and **BAL Flame zone** for the building sides and rear.

MINUTES FOR ORDINARY MEETING – 25 SEPTEMBER 2012

- 2) Remove the DA condition 21 which references the Rural Fire Service letter dated 12/9/2011 that requires construction to incorporate the appropriate bushfire construction requirements.

Please refer to the Section 96 application submission made by the applicant (attachment 3) and the original RFS referral letter dated 12/9/2011 (part **ATTACHMENT 5**).

The applicant's submission to change the building design is summarised as "*appeal the RFS requirements for flame zone at the above property.*" The applicant supports his proposal by clarifying his intentions as follows:-

"DELETE:-

1. *Remove stainless steel mesh from all windows and doors cost saving \$5,000.00*
2. *Remove ember seals from garage doors as they are 45m from the fire trail cost saving \$1,000.00*
3. *Remove Trend Quantum Extreme windows and replace with standard range as they are now certified to BAL 40 cost saving \$21,100.00*
4. *Remove the RSF required bushfire shutters/fire curtains as they are not affordable cost saving on shutters \$53,000.00 or fire curtains \$70,000.00*
5. *Council allow to have the house moved forward 1m to have a 5m setback*

INCLUDE

We will have a greater protection than other homes in the street with these RFS requirements which we can afford & install:-

1. *Fire proof blanket in roof*
2. *leafless gutter system*
3. *5000L above ground tank*
4. *Fire retardant paint*
5. *Spark arrestors to brickwork*
6. *steel vent pipes*
7. *Brass headed sprinklers fitted to the top of the retaining walls facing the rear of the home and connected to either mains or bore water."*

The abovementioned proposed modifications have been assessed and it is considered that they do not comply with the following applicable standards:-

- Planning for Bushfire Protection, ISBN 0 9751033 2 6;
- Australian Standard 3959 2009; and

- The Building Code of Australia.

The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, appropriate to the:-

- a) potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and
- b) intensity of the bushfire attack on the building.

Accordingly the proposed modification is not supported. The applicant was advised of this likely assessment result shortly after lodgement of the Section 96 DA modification and given opportunity to review the proposal to better deal with the bushfire threat in a manner that was more likely to gain Rural Fire Service support. The applicant has however, chosen not to change the modification proposal and requested that the application as submitted be referred directly and unaltered to the RFS for appropriate consultation as required by the legislation.

The bushfire aspect of the DA is appropriately dealt with under the provisions of 79BA [1A] of the Environmental Planning and Assessment Act which provides that if Council *"is satisfied that the development does not conform to the relevant specifications and requirements, the consent authority may, despite subsection (1), grant consent to the carrying out of the development but only if it has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire."*

Accordingly, the DA proposal has been referred to the Rural Fire Service for Comment. The Rural Fire Service response of 19/6/2012 does not support the S96 modification application and their original correspondence dated 12/9/2011 still applies:-

"Based upon an assessment of the plans and documentation received for the proposal, the NSW Rural Fire Service does not support the request to remove construction standards from the development. As such the RFS correspondence to council dated 12 September 2011 still applies to the abovementioned Development Application."

The Rural Fire Service response dated 19/6/2012 is attached for Council's due consideration - **ATTACHMENT 6**.

The application as submitted can not be supported. Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be unsatisfactory. Therefore, it is recommended that the application be refused for the reasons as listed at the start of the report.

FINANCIAL/RESOURCE IMPLICATIONS

Should the Council decision be a refusal in accordance with the recommendation the applicant may choose to complete the building as per the original DA approval which is compliant with the relevant construction standards for the bushfire prone site.

Should the Council decision be to approve the application contrary to the recommendation there must be consideration given to the financial implications of defending such a decision possibly in the Land and Environment Court or, in the worst case scenario the Coroners court should a significant bushfire result in death of occupants and/or damages to the proposed building, adjoining or adjacent buildings.

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council Policy and it is inconsistent with the objectives of the Residential 2(a) zoning within the *Port Stephens Local Environmental Plan 2007*.

A review of the assessment report, the applicants submission and the appropriate 79C assessment under the provisions of the EP&A Act coupled with the potential risk indicated in the below table identify a decision contrary to the recommendation presents an unacceptable risk to Council as per Council's risk management matrix. There are unacceptable risks to Council in relation to public safety, Council reputation and legal exposure such that a refusal of the application is the only viable risk treatment.

A risk assessment has been under taken in accordance with Council's risk management framework and a refusal of the application is the only viable risk treatment.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
People- Multiple fatalities or extensive long term injuries	High	Determined by way of Refusal	Yes
Reputation- Extensive external criticism by Government and national media	High	Determined by way of Refusal	Yes
Legal- Extensive fines and litigation with possible class action; threat to viability of program or service; extensive	High	Determined by way of refusal	Yes

financial loss; indictable offences			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that there may be potential adverse social, economic and environmental impacts given the proposal does not adequately address the bushfire threat in the building construction design. One of the intentions of the Environmental Planning and Assessment Act and Regulations is that over time improved developments will provide a safer and higher quality built environment better able to cope with the known bushfire threat. Council must recognise this responsibility and apply current standards.

Whilst some empathy should be shown towards the applicant, the proposal effectively lowers the construction standards the community can reasonably expect to be provided under the provisions of the NSW State policies and the Building Code of Australia and as such is not in the public interest. This is further reinforced by the objectives of the Residential "A" Zone which include the requirement *"to ensure that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk."*

Should the Section 96 Modification DA be approved there may be a possible economic benefit for the existing landowners which is largely offset by the likely adverse impacts on adjoining properties and the wider community, including future owners who would rightly expect that a dwelling approved and constructed in 2012 would incorporate the appropriate bushfire construction requirements.

CONSULTATION

The application was not required to be notified or otherwise exhibited in accordance with Council policy being a single storey dwelling.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend or reject the recommendation;
- 3) Defer the application to allow the applicant the opportunity to liaise directly with the RFS with the view to agreeing on a performance based compromise that affords an acceptable level of bushfire construction appropriate to the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and b/ intensity of the bushfire attack on the building.

ATTACHMENTS – all listed below are provided under separate cover.

- 1) Locality Plan;
- 2) Aerial photograph locality plan;
- 3) Section 96 Application and applicant's submission letter;
- 4) The Assessment officers' assessment report;
- 5) Extracts from the existing approval including the RFS letter dated 12/9/2012, the Parker Scanlon Bushfire Assessment Report dated 16/7/2010 (Amended 18/8/2011), and the approved site plan DA 16/2011/507/01; and
- 6) Rural Fire Service referral letter dated 19/6/2012.

COUNCILLORS ROOM

- 1) Copy of the existing approved plans.

TABLED DOCUMENTS

Nil.

There being no further business the meeting closed at 6.25pm.

I certify that pages 1 to 143 of the Open Ordinary Minutes of Council 25 September 2012 were confirmed by Council at its meeting held on 9 October 2012.

.....
Bruce MacKenzie
MAYOR