

MINUTES – 27 SEPTEMBER 2022



PORT STEPHENS C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 27 September 2022, commencing at 5:30pm.

PRESENT:

In Person

Mayor Ryan Palmer
Cr Leah Anderson
Cr Giacomo Arnott
Cr Matthew Bailey
Cr Chris Doohan
Cr Peter Francis
Cr Peter Kafer
Cr Steve Tucker
General Manager
Acting Corporate Services Group Manager
Development Services Group Manager
Facilities and Services Group Manager
Governance Section Manager

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Councillor Chris Doohan
Councillor Steve Tucker

It was resolved that the apology from Cr Jason Wells be received and noted, and leave of absence from Council meetings be approved for Cr Peter Francis on 11 and 25 October 2022 and Cr Glen Dunkley on 25 October, 8 and 22 November 2022.

MINUTES ORDINARY COUNCIL - 27 SEPTEMBER 2022

Note: Cr Glen Dunkley was previously granted leave of absence for 27 September 2022.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

Mayor Ryan Palmer declared a pecuniary conflict of interest in item 1. The nature of the interest being family members are directors of the proponent company – Park and Shop Pty Ltd.
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Cr Kafer declared a pecuniary conflict of interest in item 9. The nature being Directors of Wahroonga Aboriginal Corporation are relatives.

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Councillor Leah Anderson Councillor Matthew Bailey

It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 13 September 2022 be confirmed.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer, and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

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DECLARATION OF INTERESTS

ORDINARY COUNCIL - 27 SEPTEMBER 2022



Declaration of Interest form

Agenda item No. 1
Report title DA 16-2016-557-2 9 Shoal Bay Rd
Mayor/Councillor Ryan Palmer declared a Shoal Bay

Tick the relevant response:

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

in this item. The nature of the interest is family members are Directors of the proponent company - Park + Shop Pty Ltd.

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

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

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

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

Mayor/Councillor left the Council meeting at 5.39 pm.

Mayor/Councillor returned to the Council meeting at 5.45 pm.

ORDINARY COUNCIL - 27 SEPTEMBER 2022



Declaration of Interest form

Agenda item No. 9 File No 245175

Report title Request for financial assistance

Mayor/Councillor Peter J Kafes declared a

Tick the relevant response:

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

in this item. The nature of the interest is Director of Wahroonga Aboriginal Corporation are relatives

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

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

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

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

Mayor/Councillor left the Council meeting at 5:52 pm.

Mayor/Councillor returned to the Council meeting at 6:54 pm.

COUNCIL REPORTS

MINUTES ORDINARY COUNCIL - 27 SEPTEMBER 2022

Mayor Ryan Palmer vacated the chair and left the meeting at 5:39pm.
Deputy Mayor, Cr Giacomo Arnott, chaired the meeting.

ITEM NO. 1

FILE NO: 22/213262
EDRMS NO: 16-2016-557-2

DEVELOPMENT APPLICATION 16-2016-557-2 - 9 SHOAL BAY ROAD, SHOAL BAY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2016-557-2 for a S4.55(1A) Modification to approved motel accommodation at 9 Shoal Bay Road, Shoal Bay (Lot: 11 DP: 25297) subject to the conditions contained in **(ATTACHMENT 1)**.

ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION

259	<p>Councillor Giacomo Arnott Councillor Leah Anderson</p> <p>It was resolved that Council refuse Development Application DA No 16-2016-557-2 for a S.455(1A) Modification to approved motel accommodation at 9 Shoal Bay Road, Shoal Bay (Lot: 11 DP: 25297) on the following grounds:</p> <ol style="list-style-type: none">1) Council is not satisfied that the Application satisfies the requirements of S4.55(1A) of the Act, as follows:<ol style="list-style-type: none">a) S4.55(1A)(a) - Council does not believe that the environmental impact, both built and natural environment, will be "minimal", on the following grounds:<ul style="list-style-type: none">• Built environment factors:• The Application proposes to exceed the height limit by 4.05 metres.• There will be 11 parking spaces for 21 bedrooms.• Inclusion of a rooftop area will be disruptive to neighbours and those residing at the subject site.• It is hard to see how the site can be called be a 'motel' considering the lack of staff and multi-room dwellings proposed.• There will be changed overshadowing of neighbouring properties from the increased height proposed.
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	<ul style="list-style-type: none">• Natural environment factors:• The land is on vegetation buffer bushfire prone land adjacent to National Park, with no submitted plans to control the risk of fire spreading to or from the subject site.• The subject site is directly adjacent to supplementary koala habitat, with no submitted plans to control the risk of koala movements on site or impacts on koalas in habitat adjacent to the site. <p>b) S4.55(1A)(b) - Council does not believe that the proposal is substantially the same as the originally approved development, on the following grounds:</p> <ul style="list-style-type: none">• The proposed consent changes the site from a 16 to 9 unit development, a substantial change.• Rather than being single-bedroom units, the units will now be 2 or 3 bedroom units, which is a substantial change to the proposed nature of the site.• Addition of communal recreation area on the rooftop is a substantial change to the proposed plans.• Changes to vehicular access arrangements which are substantial in nature - 1m longer access driveway• Reduction of setbacks substantial.• Inclusion of new noise impacts on surrounding community was not identified in the original application and is substantial in nature.• Removal of a car park with an increase in bedrooms is likely to cause substantial parking issues in the surrounding area.• The height difference is not minimal; it is substantial and represents a significant departure from the DCP.• Increase in estimated cost of work by over 50%, to \$6,690,000 shows that the proposal is substantially different to what was originally approved.• The proposal fits the definition of "serviced apartments" better than "motel" per the LEP, which would be a change of use.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Leah Anderson, Giacomo Arnott, Peter Francis and Peter Kafer.

Those against the Motion: Crs Matthew Bailey, Chris Doohan and Steve Tucker.

The motion was carried.

Deputy Mayor, Cr Giacomo Arnott, vacated the chair.

Mayor Ryan Palmer returned to the meeting and resumed the chair at 5:45pm.

BACKGROUND

The purpose of this report is to present development application (DA) 16-2016-557-2 for a S4.55(1A) modification to approved motel accommodation to Council for determination.

A summary of the DA and property details is provided below:

Subject Land:	9 Shoal Bay Road, Shoal Bay (Lot: 11 DP: 25297)
Total Area:	575m ²
Zoning:	R3 Medium Density Residential Zone
Submissions:	18
Key Issues:	The key issues identified throughout the assessment of the DA relate to the substantially the same test, building height, parking and amenity impacts.

The modification application has been reported in accordance with Council's Planning Matters to be Reported to Council Policy as it has been called up by Councillors Leah Anderson, Giacomo Arnott and Peter Francis (**ATTACHMENT 2**).

A Locality plan is provided at (**ATTACHMENT 3**).

The assessment of this development application has been undertaken by an external planning consultant. This Council report provides a summary of the Consultants Assessment Report (**ATTACHMENT 4**).

Proposal

The application proposes to modify the approved development. The proposed changes from the approved design are generally as follows:

- Revision of ground floor arrangement to create more efficient parking and vehicular access arrangements, including addition of a communal recreation room and a reduction in 1 car space
- Upgrade of units from 'studio' style to 2 and 3 bedrooms resulting in a reduction of units from 16 to 9
- Removal of approved roof and use of the space for communal outdoor recreation
- Update to façade treatment in line with contemporary practices and coastal character.

Site Description and History

The subject site is legally identified as Lot 11 DP 25297, is rectangular in shape with an area of approximately 575m². The site is currently vacant.

The site is located on the corner of Shoal Bay Road and Lillian Street, Shoal Bay. The site is across the road from the waterfront. The site is zoned R3 Medium Density Residential.

The original DA was approved in January 2017 which included the redevelopment of the Santa Catalina Motel including demolition of the existing building and construction of a 4 storey motel building comprising 16 units and associated car parking.

The Santa Catalina Motel was approved in 1988.

Key issues

The key issues identified throughout the assessment of the modification application relate to the substantially the same test, building height, parking and amenity impacts.

Modification Application Considerations

A development consent can only be modified if the consent authority is satisfied that the development is substantially the same development as the development for which the consent was originally granted. The modified development is considered to be substantially the same as the approved development for the following reasons:

- Both developments are for the same land use, being tourist and visitor accommodation, specifically motel accommodation, and comprises construction of a new 4 storey building
- Site access shall be the same for both developments where ingress shall be direct from Shoal Bay Road and egress shall be direct to Lillian Street
- The carrying capacity is substantially the same, increased slightly from 18 to 21 bedrooms. The proposed number of units has decreased from 16 units to 9 units
- Proposed quantity of car parking is substantially the same, reduced slightly from 11 spaces to 10 spaces
- The proposed modification has a slight increase in height to the approved development.

Building Height

The modified development results in a slight increase in the approved building height from 12.9 metres to 13.05 metres to accommodate the lift over-run on the rooftop terrace. This exceeds the 9m height control applying to the site. However, the height increase is minimal having regard to the existing approval and is considered acceptable. The building height is substantially the same as the approved development and remains consistent with the objectives of the R3 zone and PSLEP 2013, Clause 4.3 objectives.

Parking

Under Section B8.B On-site Parking Provisions of the Port Stephens DCP 2014, the parking requirement for hotel or motel accommodation is as follows:

- 1 car space for each accommodation unit
- 1 car space per 2 employees
- 1 accessible space per 20 parking spaces

The modified development provides 9 units and the applicant has advised that no staff are proposed to be based on site. The proposed modification provides 10 car parking spaces including 1 accessible space and meets the requirements of the DCP.

Amenity Impacts

The proposed modification is considered to be consistent with the amenity and character of the Shoal Bay locality.

The applicant provided an acoustic assessment to address the potential noise impacts generated by the rooftop terrace. The acoustic assessment determined that existing background noise levels are already above the levels predicted to be generated by the proposal. As such, the assessment concluded that the proposed rooftop will result in minimal additional noise impact. Subject to implementing the recommended acoustic treatment and restriction to hours of use, the proposed rooftop was assessed to result in minimal noise impact on surrounding residential area.

The applicant has submitted shadow diagrams demonstrating that the resulting overshadowing will be substantially the same as the original development.

Conclusion

As detailed in the Consultants Assessment Report (**ATTACHMENT 4**), the modification application is considered to be substantially the same as the approved development and consistent with the aims and objectives of the relevant environmental planning instruments applicable to the subject site.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Strong Economy, Vibrant Businesses, Active Investment	Support sustainable business development in Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

The application could be potentially challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (S7.11)	No		The proposal reduces the number of units from 16 to 9 from the original approval. The previous consent provided a credit for the existing 12 tourist and visitor accommodation units and calculated the condition relating to contributions based on an additional 4 units. Given there are now only 9 units, section 7.11 contributions do not apply.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with the relevant planning instruments including the Environmental Planning and Assessment Act 1979 (EP&A Act), Port Stephens Local Environmental Plan 2013 (PS LEP), Port Stephens Development Control Plan 2014 (DCP 2014), Port Stephens Comprehensive Koala Plan of Management and associated State Environmental Planning Policies. A detailed assessment against the relevant environmental planning instruments is contained within the Consultants Assessment Report contained at **(ATTACHMENT 4)**.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is approved, the determination of the DA may be challenged by a third party in the Land and Environment Court.	Low	Accept the recommendation.	Yes

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the DA is refused, the determination of the DA may be challenged by the applicant in the Land and Environment Court.	Medium	Accept the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Social and Economic Impacts

The proposed modification includes a rooftop terrace. The rooftop terrace will provide a positive social outcome by providing an outdoor communal area for visitors and occupants of the building to use. Subject to implementing the recommended acoustic treatment and limited hours of operation, the development will mitigate potential noise impacts and impacts to amenity of adjoining development and residential dwellings.

The proposed modification provides 1 parking space per unit meaning that the traffic and parking requirements generated by the development will be contained within the site.

The modified development will continue to operate as hotel or motel accommodation and will provide short stay accommodation to support the local tourism industry.

There are no changes to the likely social and economic impacts.

Impacts on the Built Environment

The proposed modification will have a similar height as the development for which consent was originally granted noting only a minimal height increase of 0.15 metres is proposed. There will be no additional overshadowing impacts on adjoining properties.

The proposed modification provides a better design solution through varied selection of external façade finishes and façade treatment and articulation which results in less visual bulk than the original development.

Impacts on the Natural Environment

The site has been cleared under DA16-2016-557-1 and there is no material change to the impact to the natural environment resulting from the proposed modification.

CONSULTATION

Consultation with key stakeholders has been undertaken for the purposes of the assessment of the application, including consultation with the public through the notification and advertising process.

Internal

Consultation was undertaken with Development Engineering, Building and the Urban Design Panel (UDP). The referral comments have been considered as part of the Consultants Assessment Report (**ATTACHMENT 4**).

Developer Contributions

The proposal reduces the number of units from 16 to 9 from the original approval. The previous consent provided a credit for the existing 12 tourist and visitor accommodation units and calculated the condition relating to contributions based on an additional 4 units. Given there are now only 9 units, section 7.11 contributions do not apply.

External

The proposed modification was referred to the Rural Fire Service (RFS). The RFS advised that no objections were raised in relation to the proposed modification subject to the development achieving compliance with the previous terms of approval dated 20 December 2016.

Public Exhibition

The application was notified in accordance with Councils Community Engagement Strategy from 4 March 2022 to 18 March 2022. There were 18 submissions received relating to the proposed modification.

A detailed response to these submissions is provided in the Consultants Assessment Report in (**ATTACHMENT 4**).

OPTIONS

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

ATTACHMENTS

- 1) Recommended Conditions of Consent.
- 2) Call to Council Form.
- 3) Locality Plan.
- 4) Consultants Assessment Report.

COUNCILLORS ROOM

- 1) Development Plans.
- 2) Unredacted submissions.

Note: Any third party reports referenced in this report can be inspected upon request.

TABLED DOCUMENTS

Nil.



RECOMMENDED MODIFIED CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT

- 1A. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Development Plans	13533	DA00 to DA19	20 July 2022	EJE Architecture

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.

- 2. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
- 3. The development has been approved as a motel and shall not be utilised for permanent residency. No person may be accommodated for more than 60 consecutive days.



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**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION**

4. **Prior to the commencement of any works** (including demolition), erosion and sediment control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with *Managing Urban Stormwater – Soils and Construction, Volume 1* (Landcom, 2004). The controls are to be regularly maintained for the duration of works and until the surrounding land is stabilised to the satisfaction of Council.
5. **Prior to the commencement of any works**, a waste containment facility shall be provided on the construction site and is to be regularly serviced. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.
6. **Prior to the commencement of any works within a road reserve**, an approval is to be obtained from Council as the Roads Authority under the *Roads Act 1993*.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. CONDITION DELETED UNDER DA 16-2016-557-2.
8. **Prior to the issue of a Construction Certificate**, an acid sulfate soils management plan is to be prepared and submitted to the Certifying Authority for any works that exceed two metres below ground level.
- 9A. **Prior to the issue of a Construction Certificate**, full details of the driveway and access are to be submitted to the Certifying Authority, demonstrating that the vehicle driveways have a width to cater for design vehicle paths determined by Australian Standard AS2890 into and out of garage parking areas for ten (10) vehicle parking spaces onsite. This requirement will be met by providing vehicle swept paths utilising the 85th percentile turning circle as outlined in AS 2890.1: Off-street Car Parking.



10. **Prior to the issue of a Construction Certificate**, full details of driveway grading are provided to the Certifying Authority that demonstrate that the driveway and other ground level hardstand areas are graded to the street drainage network where practical, or graded so that water runoff is shed to the approved stormwater drainage system. All ground surface collected stormwater overflows shall be dispersed as sheet flow at ground level in a manner that does not create concentrated or nuisance flows for nearby buildings or neighbouring properties.
11. The following details of the stormwater drainage system piped to **Lillian Street**, are **required prior to the issue of any Construction Certificate**:
- a. A detailed on site infiltration plan shall be prepared by a suitably qualified and experienced engineer to adequately attenuate ground surface collected stormwater for all storm events up to and including the 1% Annual Exceedance Probability (AEP) event.
 - b. The design shall include details of the location (including levels), type and size of infiltration system, orifice, roof guttering (with gutter guards to prevent blockage), downpipes, pipes, pits and the boundary pit discharge point to the public drainage system.
 - c. Complete design calculations are to be provided demonstrating the system's capacity to contain/infiltrate and convey concentrated roof stormwater run-off, via guttering and downpipes suitably sized, into the **Lillian Street** kerb and gutter network.
 - d. Any charged system proposed must provide suitable head from roof gutters / tank overflow to the highest point (typically the property boundary) in the charged line to Council's satisfaction.
 - e. The stormwater quality treatment train shall treat storm water, prior to discharge, to PSC DCP 2014 targets. Small Scale Site Quality Model or MUSIC Modelling may be used to demonstrate how the following targets are met:
 - i. Total nitrogen retention post-development load: 45%
 - ii. Total phosphorus retention post-development load: 60%
 - iii. Total suspended solids post-development load: 90%
 - iv. Gross pollutants post-development load: 90%
12. **Prior to the issue of a Construction Certificate**, detailed engineering plans shall be submitted to the Certifying Authority that address the flood impacts on the site for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The details shall be in accordance with this consent, the BCA, Council's Design and Construction Specifications, policies and standards. The precautions shall include, but not be limited, to the following:
- a. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of Flood water velocity and debris
 - b. Flood warning signs / depth indicators for areas that may be inundated
 - c. On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level



- d. Specify the architectural and structural plans upon which the above recommendations have been incorporated.

12.1 The following information must be provided to the Certifying Authority with the Construction Certificate application:

- a) Updated landscape plans prepared in accordance with the approved plans and Council's Landscape Technical Specification.
- b) Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications, councils and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council) and:
 - Demonstrate post developed flows are restricted to pre developed flows (natural conditions) for all storm events up to and including the 1% AEP.
- c) The architectural plans must be updated to incorporate the acoustic treatment to the rooftop terrace in accordance with the acoustic assessment prepared by Reverb Acoustics, reference no. 22-2757-R1, dated June 2022.



CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES

13. All demolition work is to be carried out in accordance with the provisions of the Building Code of Australia and Australian Standard AS2601 – The Demolition of Structures. All waste materials are to be disposed of to an appropriately licenced facility.
14. Prior to demolition, all existing services are to be disconnected, sealed and made safe. The sewer, water and gas service is to be disconnected by a licensed plumber.
15. Any asbestos containing material encountered during works is to be handled and removed in accordance with the requirements of WorkCover NSW, and disposed of to a waste facility licenced to receive the material.
16. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
17. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:
 - Monday to Saturday, 7am to 5pm;
 - No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.
18. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
19. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
20. No plant equipment or machinery, including air conditioning units, hot water systems or the like, is to be installed between the eastern building façade and the eastern property boundary.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

21. Collected roof runoff stormwater shall be piped from the approved drainage system and connected to the **Lillian Street kerb and gutter** drainage network.
22. **Prior to the issue of any Occupation Certificate**, an approval under S138 of the Road Act is to be obtained for all works within the Road Reserve (including landscaping and footpaths). The final detail of landscaping features and species is to be provided to and agreed by Council as the Roads Authority for the purposes of the application under S138.



23. **Prior to issue of any Occupation Certificate**, all civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of Council or the Certifying Authority. The works are to include a reinforced concrete footpath with associated pram ramps adjacent to Lillian Street as shown on the approved plans.
24. **Prior to the issue of any Occupation Certificate**, Works-As-Executed plans and an accompanying report, prepared and certified by a suitability qualified hydraulic engineer confirming all stormwater drainage systems are constructed in accordance with the approved plan is to be submitted to the Principle Certifying Authority.

Minor variations can be accepted providing they are clearly identified in the report and the hydraulic engineer certifies that site flow up to the 1% annual exceedance probability (AEP) rainfall event are conveyed from all roof areas on site to the **Lillian Street kerb and gutter** drainage network.
25. **Prior to the issue of any Occupation Certificate**, reinforced concrete driveways are to be provided in accordance with the approved plans. A Driveway Construction Application must be made with Council, as the Roads Authority, prior to the commencement of vehicle footpath crossing works.
26. **Prior to the issue of any Occupation Certificate**, a sign is to be installed at the exit to the car park that restricts vehicles from turning left onto Lillian Street.
27. **Prior to the issue of any Occupation Certificate**, the applicant shall restore, replace or reconstruct any damaged sections of kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve which results from construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.
An Occupancy Certificate shall not be issued until all necessary remediation and repair works have been completed to the satisfaction of Council.
- 28A. Prior to the issue of any Occupation Certificate, ten (10) car parking spaces shall be line marked in accordance with the approved plans. The car parking spaces are to be maintained on the site in perpetuity.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS OF CONSENT.



29. **Prior to the issue of any Occupation Certificate**, a 1.8metre high fence is to be constructed along the full length of the eastern property boundary (excepting where the laundry/store wall is built to the boundary).
30. CONDITION DELETED UNDER DA 16-2016-557-2.
31. **Prior to the issue of a Final Occupation Certificate**, certification is to be provided from a registered surveyor that all electrical fittings and electrical outlets are installed not less than 500mm above the 100-year Average Recurrence Interval flood level. The fittings / outlets are to therefore be installed at a level of **RL 3.9m** Australian Height Datum or higher.
32. CONDITION DELETED UNDER DA 16-2016-557-2.
33. **Prior to the issue of a Final Occupation Certificate**, landscaping is to be installed in accordance with the approved landscaping plan.
- 33.1 **Prior to the issue of a Final Occupation Certificate**, an operational management plan will be submitted to Council for review and upon approval will be undertaken in compliance with Code of Conduct for the Short-term Rental Accommodation Industry. The operational management plan will specify that the hours of operation of the rooftop terrace will limited to the hours of 8:00AM to 10:00PM daily.
- 33.2 **Prior to the issue of a Final Occupation Certificate**, acoustic treatment to the rooftop terrace must be implemented in accordance with the acoustic assessment prepared by Reverb Acoustics dated June 2022.



CONDITIONS TO BE SATISFIED AT ALL TIMES

34. All ground surface collected stormwater overflows shall be dispersed as sheet flow at ground level in a manner that does not create concentrated or nuisance flows for nearby buildings or neighbouring properties.
35. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
36. Motor vehicles are only permitted to enter and leave the site in a forward direction. On site manoeuvring areas are to be kept clear for this purpose.
37. The storage of materials, placement of toilets and rubbish skips etc. within the road reserve is not permitted by this consent. Separate approval under the Roads Act is required to occupy, close or partially close the road reserve adjacent to the property.
38. All landscaping, including landscaping located within the road reserve, is to be maintained in perpetuity, or as otherwise agreed with Council.
39. CONDITION DELETED UNDER DA 16-2016-557-2.



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DX 21406 | **ABN** 16 744 377 876

Call to Council form

Development Application

DEVELOPMENT APPLICATION (DA) CALL TO COUNCIL REQUEST

We (Mayor/Councillor/s)

Name:	Arnott
Name:	Anderson
Name:	Francis
request that DA number:	16-2016-557-2
for DA description:	Motel
located at:	9 Shoal Bay Rd Shoal Bay

be reported to Council for determination.

REASON

Public interest

SIGNATURE OF APPLICANT/S

Signature		Date	4 / 3 / 2022
Signature		Date	7 / 3 / 2022
Signature		Date	7 / 3 / 2022

PRIVACY

Port Stephens Council is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy. **Purpose:** The purpose of this form is to enable Council to record the matter raised and taken appropriate action. **Intended recipients:** Council employees, contractors and other third parties where appropriate. **Supply:** Voluntary. **Consequence of Non Provision:** Council may not take action on the matter raised. **Storage and security:** This document will be placed on the relevant file and/or saved in Council's records management system in accordance with Council policy and relevant legislation. **Access:** Please contact Council on 02 4988 0255 to enquire how you can access information.

ITEM 1 - ATTACHMENT 3 LOCALITY PLAN.





**PORT STEPHENS
COUNCIL**

**S4.55(1A) MODIFICATION APPLICATION
ASSESSMENT REPORT**

APPLICATION DETAILS

Modification application no.	16-2016-557-2
Development description	Motel Accommodation – Redevelopment of Santa Catalina Motel including Demolition of Existing Building and Construction of Four Storey Building Comprising 16 Units and Associated Car Parking
Modification description	S4.55(1A) Modification to approved motel accommodation
Applicant	PARK & SHOP PTY LTD
Date of lodgement	21/02/2022

CONSULTANTS PRE-ASSESSMENT CHECKLIST

OWNERS CONSENT	YES / N/A
Check if S.4.55 to be reported to Council (original DA determined by Council)	Yes
Check whether consent is still valid (check lapse date).	Yes
NOTIFICATION	
S.4.55 application only - notify previous objectors.	Yes
REFERRALS	
S.4.55 Application only - Integrated referral bodies notified.	Yes

Modification proposal

The application proposes to modify the approved development. The proposed changes from the approved design are generally as follows:

- Revision of ground floor arrangement to create more efficient parking and vehicular access arrangements, including addition of a communal recreation room and a reduction in 1 car space;
- Upgrade of units from 'studio' style to two- and three-bedrooms resulting in a reduction of units from 16 to 9;
- Removal of approved roof and use of the space for communal outdoor recreation. Proposed rooftop terrace will accommodate the building's lift over-run which result in an increase in building height

ITEM 1 - ATTACHMENT 4 CONSULTANTS ASSESSMENT REPORT.

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- Update to façade treatment in line with contemporary practices and coastal character.

The conditions of consent proposed to be modified have been discussed in further detail below.

PROPERTY DETAILS	
Property address	9 Shoal Bay Road SHOAL BAY
Lot and DP	LOT: 11 DP: 25297
Zoning	R3 MEDIUM DENSITY RESIDENTIAL
Site constraints that affect the modification	Site is classified as Vegetation Buffer on bushfire prone land mapping.

ASSESSMENT SUMMARY	
Designated Development	The application is not designated development
Integrated Development	The application requires additional approvals listed under s.4.46 of the EP&A Act
Concurrence	The application requires the concurrence of another body, specifically the Rural Fire Service, as the development requires a bush fire safety authority as required under section 100B of the Rural Fires Act 1997.

Internal Referrals

The proposed modification was referred to the following internal specialist staff. The comments of the listed staff listed have been used to carry out the assessment against the S4.15 Matters for Consideration below.

Development Engineer – Internal referral comments were provided by Development Engineer which informed the revision of the applicant’s modified development design. The revised architectural plans prepared by EJE Architecture dated 20 July 2022 were reviewed by Council’s Development Engineer with no further objections noted.

Building Surveyor – No objections or additional conditions were specified. The Building Surveyor noted that the Construction Certificate (CC) will cover the entirety of BCA requirements, and will allow for performance solutions if needed.

Urban Design Panel – The Panel noted that the physical design had been amended to address the majority of issues raised by the Panel. The Panel raised operational issues required to be addressed in a Plan Of Management (PoM). The PoM should include how the facility would be managed out of hours to ensure interactions between residents and visitors could be managed without undue reliance on community services (Council, Police etc) to enforce noise and other controls. The Panel raised that design issues related to the accessible car park were to be addressed. These issues were addressed in the final design of the proposed modification.

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External Referrals

The proposed modification was referred to the following external agencies in accordance with clause 120 of the regulations:

RFS – The initial application was referred to the RFS as integrated development. The RFS response letter dated 6 April 2022 advised that no objections were raised in relation to the proposed modification subject to the development achieving compliance with the previous terms of approval dated 20 December 2016.

MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT – S4.55(1A)**S4.55(1A)(a) – Minimal Environmental Impact**

The modification has been sought under Section 4.55(1A) of the EP&A Act, on the basis that it is a modification involving minimal environmental impact. A request for additional information letter was issued to the applicant on 4 April 2022 requesting further justification as to how the effects of the proposed modification would result in minimal environmental impact.

The applicant provided a response to RFI letter dated 17 May 2022 addressing concerns related to potential overshadowing, noise and amenity impacts as follows:

- **Overshadowing:** The applicant provided updated shadow diagrams indicating that the modified building height which increases from 12.9 metres to 13.05 metres (accommodating the lift overrun) will not have a material adverse effect in overshadowing. The overshadowing effects will be substantially the same as the original development.
- **Noise:** The applicant provided an acoustic assessment to address the potential noise impacts generated by the rooftop terrace. The acoustic assessment report determined existing background noise levels and predicted the potential noise levels generated by the proposed modification, specifically noise associated with the use of the rooftop terrace. The acoustic assessment noted that existing average background Leq noise levels already impacting residential areas of the subject site are above the levels predicted to be generated by the proposal. As such, the assessment concluded that the proposed rooftop terrace will result in minimal environmental noise impact subject to recommended noise control measures which have been included in the recommended conditions of consent.
- **Amenity:** The applicant advised that the reduction of windows along the eastern façade will not adversely impact on the internal amenity of the development. The applicant notes that all proposed bedrooms along the eastern façade will have windows for daylight access and ventilation. This is achieved through an articulated façade, allowing all bedrooms to have either a northern or southern window. The applicant advised that reduction in windows along the eastern façade will also improve the visual privacy of neighbouring development at 7 Shoal Bay Road.

It is noted that the proposed modified development will reduce traffic generation compared to the development approved under 16-2016-557-1 as the quantity of units has decreased from 16 units to 9 units. The proposed modification will provide one carparking space per unit which will reduce on-street parking demand compared to the development for which consent was originally granted which had an onsite parking deficit.

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S4.55(1A)(b) – Substantially The Same Development

The modified development is substantially the same as the approved development for the following reasons:

- Both developments are for the same land use, being tourist and visitor accommodation, specifically motel accommodation, and comprises construction of a new four-storey building.
- Site access shall be the same for both developments where ingress shall be direct from Shoal Bay Road and egress shall be direct to Lillian Street.
- The carrying capacity is substantially the same, increased slightly from 18 to 21 bedrooms. The proposed number of units has decreased from 16 units to 9 units.
- Proposed quantity of car parking is substantially the same, reduced slightly from 11 spaces to 10 spaces.
- The proposed modification has substantially the same height as the approved development.

On this basis, the application is considered substantially the same.

S4.55(1A)(c) – Notification

The application has been notified in accordance with Councils Community Engagement Strategy. The application was notified from 4 March 2022 to 18 March 2022.

S4.55(1A)(d) – Submissions

There were 18 submissions received relating to the proposed modification. The matters raised in the submissions objecting to the development are discussed in the table below:

Objection	Comments
Exceedance of Port Stephens LEP 2013 Clause 4.3 height of buildings principal development standard.	The modified development has substantially the same height as the approved development with an increase to accommodate the lift over-run.
Compliance of the parking design and quantity of car parks provided.	The proposed modification satisfies the DCP parking requirement of one (1) carpark per unit as specified in Section B8.B of PSDCP 2014 for hotel or motel accommodation.
Impact to amenity of adjoining development associated with overshadowing.	The applicant has submitted shadow diagrams demonstrating that the resulting overshadowing will be substantially the same as the original development.
Impact to amenity of adjoining development associated with noise from proposed rooftop terrace.	The applicant provided an acoustic assessment to address the potential noise impacts generated by the rooftop terrace. The acoustic assessment report determined existing background noise levels and predicted the potential noise levels generated by the

ITEM 1 - ATTACHMENT 4 CONSULTANTS ASSESSMENT REPORT.

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	<p>proposed modification, specifically noise associated with the use of the rooftop terrace. The acoustic assessment noted that existing average background Leq noise levels already impacting residential areas of the subject site are above the levels predicted to be generated by the proposal. As such, the assessment concluded that the proposed rooftop will result in minimal environmental noise impact. Subject to implementing the recommended acoustic treatment and restriction to hours of use, the proposed rooftop was assessed to result in minimal noise impact on surrounding residential area.</p>
<p>Impact to desired amenity and character of Shoal Bay locality.</p>	<p>The proposed development is considered to be consistent with other development within the Shoal Bay waterfront comprised of tourist accommodation buildings, typically in apartment or manor house configuration and is located in an established urban area characterised by seasonal tourism. The proposed modification is considered to be consistent with the amenity and character of the Shoal Bay locality.</p>
<p>Insufficient justification for 'minimal environmental impact' for a Section 4.55(1A) modification application.</p>	<p>The applicant submitted a response to RFI letter dated 17 May 2022 supporting the application that the modification will result in minimal environmental impact. Refer to assessment above.</p>
<p>Set back of modified development from Shoal Bay Road.</p>	<p>The modified development proposes a reduction in the approved setback of 4 metres to 2.3 metres from the northern front property boundary, which is to Shoal Bay Road. The reduction in the front setback, is due to the inclusion of an articulated design into the building façade through use of balconies and other design features which provide visual relief and reduce effects of building massing to the Shoal Bay Road frontage.</p> <p>See DCP assessment of setback below for further detail.</p>
<p>Adequacy of proposed waste management and disposal.</p>	<p>The conditions of consent for the approved development specified demolition and construction waste management requirements. The proposed modification provides for four bins located in the ground floor carpark in a similar configuration to the</p>

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	approved development. There is no change to waste management impacts.
Legal commencement of original consent.	The original consent has been legally commenced.

S4.55(3) – S4.15(1) Assessment

s4.15(1)(a)(i) – The provisions of any EPI

State Environmental Planning Policy (Resilience and Hazards) 2021

The subject site is located on the Coastal Environment Area Map and the Coastal Use Area Map. As such, the proposed modification is subject to provisions of Chapter 2 Coastal Management in the Resilience and Hazards SEPP.

The applicant provided an assessment of the proposed modification against the provisions of Clause 2.10 and 2.11 of the SEPP. As the proposed modification is substantially the same as the development for which consent was originally granted and of minimal environmental impact, the development is not expected to cause adverse impact upon the local ecological environment and is not affected by coastal related hazards.

Port Stephens Local Environmental Plan 2013 (PSLEP 2013)

The relevant provisions of the PSLEP 2013 have been assessed in relation to the proposed modification.

Land Use

The proposed modification is for hotel or motel accommodation which is permitted with consent within the R3 Medium Density Residential zone.

Building Height

The modified development results in a slight increase in the building height from 12.9 metres to 13.05 metres to accommodate the lift over-run on the rooftop terrace. The building height is substantially the same as the approved development and remains consistent with the objectives of the R3 zone and PSLEP 2013, Clause 4.3 objectives.

s4.15(1)(a)(ii) – Any Draft EPI

		Notes (what draft EPI if needed and comments where not compliant)
	<input checked="" type="checkbox"/> There are no draft EPI's that are relevant to the proposed development	
	<input type="checkbox"/> A draft EPI is relevant to the proposed development however the application is consistent with	

ITEM 1 - ATTACHMENT 4 CONSULTANTS ASSESSMENT REPORT.

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	the aims and objectives of the document.	
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s4.15(1)(a)(iii) – Port Stephens Development Control Plan 2014

Chapter	Compliant	Notes (where needed or if not compliant)
B	<input checked="" type="checkbox"/> General Controls	<p>B3.C Noise</p> <p>The applicant provided an acoustic assessment to address the potential noise impacts generated by the rooftop terrace. The acoustic assessment report determined existing background noise levels and predicted the potential noise levels generated by the proposed modification, specifically noise associated with the use of the rooftop terrace. The acoustic assessment noted that existing average background Leq noise levels already impacting residential areas of the subject site are above the levels predicted to be generated by the proposal. As such, the assessment concluded that the proposed rooftop will result in minimal environmental noise impact. Subject to implementing the recommended acoustic treatment and restriction to hours of use, the proposed rooftop was assessed to result in minimal noise impact on surrounding residential area. Conditions noting the recommendations of the acoustic assessment have been included within the recommended conditions.</p>
B	<input checked="" type="checkbox"/> General Controls	<p>B8.B On-site Parking Provisions</p> <p>Under Section B8.B On-site Parking Provisions of the Port Stephens DCP 2014, the parking requirement for hotel or motel accommodation is as follows:</p> <ul style="list-style-type: none"> ▪ 1 car space for each accommodation unit ▪ 1 car space per 2 employees ▪ 1 accessible space per 20 parking spaces <p>The modified development provides 9 units and the applicant has advised that no staff are proposed to be based on site. The proposed modification provides 10 car parking spaces including one accessible space and meets the requirements of the DCP.</p>
B	<input checked="" type="checkbox"/> General Controls	<p>B8.C On-site Parking Access</p>

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		The proposed modification is considered to be Class B parking area which fronts onto local roads with less than 25 parking spaces. As such the driveways are identified as an ingress/Egress Category 1 meaning that the entry and exists are combined and the single maximum is 3m and double maximum is 4m. The modified development has driveway widths of 3 metres and complies with the DCP requirements.
C	<input checked="" type="checkbox"/> Development Types	<p>C5.C Setbacks</p> <p>No setback controls are specified in PSDCP 2014 for hotel or motel accommodation or residential flat buildings. Therefore, the most applicable setback provisions for the proposed modification are found in Section C5 Multi Dwelling Housing or Seniors Housing.</p> <p>The modification proposes a reduction in the approved setback of 4 metres to 2.3 metres from the front property boundary, which is Shoal Bay Road. The reduction in the front setback, is due to the inclusion of an articulated design into the building façade through use of balconies and other design features. This provides visual relief and reduces effects of building massing to the Shoal Bay Road frontage. In accordance with the setback objectives listed in Section C5.C of the PSDCP 2014, the proposal is considered to provide continuity and consistency to the public domain and maintain rhythm and built form along Shoal Bay Road, particularly in relation to existing development west of the site. The visual bulk of the building is reduced compared to the original development as the proposal incorporates increased building articulation. The reduction in front setback will not result in adverse impacts to amenity regarding privacy, solar access, acoustic control or natural ventilation.</p>
D	<input type="checkbox"/> Specific Areas	N/A

s4.15(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 93F

	Notes (where needed)
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<input checked="" type="checkbox"/> There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.	
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s4.15(1)(a)(iv) – The regulations

	Notes (where needed)
<input checked="" type="checkbox"/> There are no matters within the regulations that are relevant to the determination of the application.	The modification application was notified in accordance with the regulations.

s4.15(1)(b) – The likely impacts of the development

	Notes (where needed)
<input checked="" type="checkbox"/> Social and Economic Environment: There would be beneficial impacts as a result of the development.	<p>The proposed modification includes a rooftop terrace. The rooftop terrace will provide a positive social outcome by providing outdoor communal area for visitors and occupants of the building to use. Subject to implementing the recommended acoustic treatment and limited hours of operation, the development will mitigate potential noise impacts and impacts to amenity of adjoining development and residential dwellings.</p> <p>The proposed modification provides one parking space per unit meaning that the traffic and parking requirements generated by the development will be contained within the site.</p> <p>The modified development will continue operate as hotel or motel accommodation and will provide short stay accommodation to support the local tourism industry. There are no changes to the likely social and economic impacts, previously assessed.</p>
<input checked="" type="checkbox"/> Built Environment: The proposed development would not cause harm to the existing character.	<p>The proposed modification will have the substantially the same height as the development for which consent was originally granted and no adverse impacts in overshadowing will result on adjoining properties.</p> <p>The proposed modification provides a better design solution through varied selection of external façade finishes and façade treatment and articulation which results in less visual bulk</p>

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	than the original development. The other likely impacts on the built environment will be substantially the same as the original development.
<input checked="" type="checkbox"/> Natural Environment: There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.	The site has been cleared under DA16-2016-557-1 and there is no material change to the impact to the natural environment resulting from the proposed modification.

s4.15(1)(c) – The suitability of the site

The proposed modification is substantially the same as the development for which consent was originally granted. The site remains suitable for the proposed use as hotel or motel accommodation.

s4.15(1)(d) – Any submissions

Submissions received during the public notification period have been considered in the assessment of the modification application. Consideration of the issues raised in the submissions has been addressed above.

s4.15(1)(e) – The public interest

The proposed modification is considered to be substantially the same as the development for which consent was originally granted. The development remains permissible in the R3 Medium Density Residential zone and is consistent with the objectives of the zone. The likely environmental, economic and social impacts have been assessed above and the proposed modification remains in the public interest.

MODIFIED CONDITIONS

ITEM 1 - ATTACHMENT 4 CONSULTANTS ASSESSMENT REPORT.

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Existing condition					Modified condition				
<p>1. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:</p>					<p>1A. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:</p>				
Plan/Doc. Title	Plan Ref. No	Sheet	Date	Drawn by	Plan/Doc. Title	Plan Ref. No	Sheet	Date	Drawn by
Development Plans	16-48	DA01 to DA10	21 July 2016	Carste Studio Pty Ltd	Development Plans	13533	DA00 to DA19	20 July 2022	EJE Architecture
Stormwater Drainage Plans	16016	C01(rev 3) and C02 (rev 3)	29 November 2016	Fisher Consulting Engineers	Stormwater Drainage Plans	16016	C01(rev 3) and C02 (rev 3)	29 November 2016	Fisher Consulting Engineers
Landscaping Plans	-	1 of 3 and 2 of 3	16/7/2016	JK's Garden Creations	Landscaping Plans	-	1 of 3 and 2 of 3	16/7/2016	JK's Garden Creations
<p>In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.</p>					<p>In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.</p>				

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Existing condition			Modified condition																								
<p>7. Prior to the issue of a Construction Certificate, a monetary contribution is to be paid to Council for the provision of 4 additional tourist accommodation units, pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, Section 94 of the Environmental Planning and Assessment Act 1979, and Councils Section 94 Contribution Plan towards the provision of the following public facilities:</p> <table border="1"> <thead> <tr> <th>Facility</th> <th>Per lot/dwelling</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Civic Administration</td> <td>\$581.00</td> <td>\$2,324.00</td> </tr> <tr> <td>Public Open Space, Parks and Reserves</td> <td>\$1,265.00</td> <td>\$5,060.00</td> </tr> <tr> <td>Sports and Leisure Facilities</td> <td>\$3,414.00</td> <td>\$13,656.00</td> </tr> <tr> <td>Cultural and Community Facilities</td> <td>\$0.00</td> <td>\$0.00</td> </tr> <tr> <td>Road Works</td> <td>\$270.00</td> <td>\$1,080.00</td> </tr> <tr> <td>Fire & Emergency Services</td> <td>\$112.00</td> <td>\$448.00</td> </tr> <tr> <td></td> <td>Total</td> <td>\$22,568.00</td> </tr> </tbody> </table> <p>Note: The amount of contribution payable under this condition has been calculated at the time of determination and in accordance with the Port Stephens Section 94 contributions plan. The contribution amount is valid for twelve months from the consent date. Should payment take place after twelve months the contribution shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics.</p>			Facility	Per lot/dwelling	Total	Civic Administration	\$581.00	\$2,324.00	Public Open Space, Parks and Reserves	\$1,265.00	\$5,060.00	Sports and Leisure Facilities	\$3,414.00	\$13,656.00	Cultural and Community Facilities	\$0.00	\$0.00	Road Works	\$270.00	\$1,080.00	Fire & Emergency Services	\$112.00	\$448.00		Total	\$22,568.00	<p>Delete condition. The proposal reduces the amount of units from 16 to 9 units from the original approval. The previous consent provided a credit for the existing 12 tourist and visitor accommodation units and calculated the condition relating to contributions based on an additional 4 units. Given there are now only 9 units, it is considered that section 7.11 contributions do not apply.</p> <p>7. CONDITION DELETED UNDER DA 16-2016-557-2</p>
Facility	Per lot/dwelling	Total																									
Civic Administration	\$581.00	\$2,324.00																									
Public Open Space, Parks and Reserves	\$1,265.00	\$5,060.00																									
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	Total	\$22,568.00																									

ITEM 1 - ATTACHMENT 4 CONSULTANTS ASSESSMENT REPORT.

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Existing condition	Modified condition
<p>9. Prior to the issue of a Construction Certificate, full details of the driveway and access are to be submitted to the Certifying Authority, demonstrating that the vehicle driveways have a width to cater for design vehicle paths determined by Australian Standard AS2890 into and out of garage parking areas for eleven (11) vehicle parking spaces onsite. This requirement will be met by providing vehicle swept paths utilising the 85th percentile turning circle as outlined in AS 2890.1: Off-street Car Parking.</p>	<p>9A. Prior to the issue of a Construction Certificate, full details of the driveway and access are to be submitted to the Certifying Authority, demonstrating that the vehicle driveways have a width to cater for design vehicle paths determined by Australian Standard AS2890 into and out of garage parking areas for eleven (11) ten (10) vehicle parking spaces onsite. This requirement will be met by providing vehicle swept paths utilising the 85th percentile turning circle as outlined in AS 2890.1: Off-street Car Parking</p>
<p>28. Prior to the issue of any Occupation Certificate, eleven car parking spaces shall be line marked in accordance with the approved plans. The car parking spaces are to be maintained on the site in perpetuity.</p>	<p>28A. Prior to the issue of any Occupation Certificate, eleven ten (10) car parking spaces shall be line marked in accordance with the approved plans. The car parking spaces are to be maintained on the site in perpetuity.</p>
<p>30. Prior to the issue of any Occupation Certificate, a fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council, If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.</p>	<p>Delete condition. Requirements of Condition are mirrored in current legislation. 30. CONDITION DELETED UNDER DA 16-2016-557-2.</p>
<p>32. Prior to the issue of a Final Occupation Certificate, a 1metre wide privacy screen is to be installed on the southern end of each balcony façade that fronts onto Lillian Street.</p>	<p>Delete condition. Modified design has changed, it is proposed that this condition can be removed. 32. CONDITION DELETED UNDER DA 16-2016-557-2.</p>

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Existing condition	Modified condition
<p>39. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:</p> <p>a. The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and</p> <p>b. That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.</p>	<p>Delete condition. Requirements of Condition are mirrored in current legislation.</p> <p>39. CONDITION DELETED UNDER DA 16-2016-557-2.</p>
<p>New conditions</p>	

16-2016-557-2

Existing condition	Modified condition
	<p>CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN CONSTRUCTION CERTIFICATE</p> <p>12.1 The following information must be provided to the Certifying Authority with the Construction Certificate application:</p> <ul style="list-style-type: none"> a) Updated landscape plans prepared in accordance with the approved plans and Council's Landscape Technical Specification. b) Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications, councils and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council) and: <ul style="list-style-type: none"> • Demonstrate post developed flows are restricted to pre developed flows (natural conditions) for all storm events up to and including the 1% AEP. c) The architectural plans must be updated to incorporate the acoustic treatment to the rooftop terrace in accordance with the acoustic assessment prepared by Reverb Acoustics, reference no. 22-2757-R1, dated June 2022.
	<p>CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE</p> <p>33.1 Prior to the issue of a Final Occupation Certificate, an operational management plan will be submitted to Council for review and upon approval will be undertaken in compliance with Code of Conduct for the Short-term Rental Accommodation Industry. The operational management plan will specify that the hours of operation of the rooftop terrace will limited to the hours of 8:00AM to 10:00PM daily.</p>

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Existing condition	Modified condition
	<p>CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE</p> <p>33.2 Prior to the issue of a Final Occupation Certificate, acoustic treatment to the rooftop terrace must be implemented in accordance with the acoustic assessment prepared by Reverb Acoustics dated June 2022.</p>

DETERMINATION

The modification application is recommended to be approved by Council, subject to amended conditions as shown above.

MINUTES ORDINARY COUNCIL - 27 SEPTEMBER 2022

ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022 MOTION

260	Councillor Chris Doohan Councillor Giacomo Arnott It was resolved that Council adopt the recommendations of items 2 and 3 by multiple item adoption.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer, and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

ITEM NO. 2

FILE NO: 22/231931
EDRMS NO: PSC2009-02488

POLICY REVIEW: WORKPLACE SURVEILLANCE

REPORT OF: MELISSA RODWAY - ACTING ORGANISATION SUPPORT
SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note that the Workplace Surveillance Regulation 2017 (NSW) was repealed during the public exhibition period of the revised Workplace Surveillance Policy and was replaced with the Workplace Surveillance Regulation 2022 (NSW).
- 2) Adopt the revised Workplace Surveillance Policy as shown at **(ATTACHMENT 1)**.
- 3) Revoke the Workplace Surveillance Policy dated 11 August 2020, Minute No. 144.

ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022 MOTION

261	Councillor Chris Doohan Councillor Giacomo Arnott It was resolved that Council: 1) Note that the Workplace Surveillance Regulation 2017 (NSW) was repealed during the public exhibition period of the revised Workplace
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	<p>Surveillance Policy and was replaced with the Workplace Surveillance Regulation 2022 (NSW).</p> <p>2) Adopt the revised Workplace Surveillance Policy as shown at (ATTACHMENT 1).</p> <p>3) Revoke the Workplace Surveillance Policy dated 11 August 2020, Minute No. 144.</p>
--	--

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer, and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek Council's adoption of the revised Workplace Surveillance Policy (the policy) **(ATTACHMENT 1)**.

It is the intention of the policy to, where reasonably practicable, provide a safe and healthy workplace for its workers and others. The Workplace Surveillance Act 2005 (NSW) requires that workers and the community are made aware of surveillance undertaken by Port Stephens Council (Council). The policy will assist Council in complying with its legal obligations by informing workers and others of the surveillance devices used in our workplace in order to enhance safety outcomes for Council.

Council endorsed the revised Workplace Surveillance Policy for 28 days public exhibition at its meeting on 12 July 2022. The policy was exhibited from 19 July 2022 to 16 August 2022 and no submissions were received.

The policy is presented for Council's consideration due to the Workplace Surveillance Regulation 2017 (NSW) being repealed during the public exhibition period and replaced with the Workplace Surveillance Regulation 2022 (NSW).

The Workplace Surveillance Regulation (NSW) is referenced within the policy under clause 7.12 related documents. The amendments to the Workplace Surveillance Regulation 2022 (NSW) are minor in nature and do not change the content or intent of the policy.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications as a result of this policy review.

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

LEGAL, POLICY AND RISK IMPLICATIONS

It is a requirement of the Workplace Surveillance Act 2005 (NSW) (the Act) that a policy is in place informing staff and the community of Council's usage of surveillance technology.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without the appropriate policy and guidelines in place, Council would not be meeting its obligations under the Act.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Organisation Support Section in order to ensure that all employees and the community are aware of the objectives of the policy.

Internal

- The Executive Team has been consulted to seek management endorsement.
- The Consultative Committee has been previously consulted in order to seek feedback from the workforce.

External

In accordance with local government legislation the revised Workplace Surveillance Policy was placed on public exhibition at its meeting on 12 July 2022. The policy was exhibited from 19 July 2022 to 16 August 2022 and no submissions were received.

OPTIONS

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

ATTACHMENTS

- 1) Revised Workplace Surveillance Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Policy



FILE NO: PSC2009-02488
TITLE: WORKPLACE SURVEILLANCE POLICY
OWNER: ORGANISATION SUPPORT SECTION MANAGER

1. PURPOSE:

- 1.1 The Workplace Surveillance Act 2005 (NSW) requires that workers and the community are made aware of surveillance undertaken by Port Stephens Council (Council).
- 1.2 The purpose of this policy is to comply with Council's legal obligations by informing workers and others of the surveillance devices used in our workplace and to enhance safety outcomes for Council.

2. CONTEXT/BACKGROUND:

- 2.1 The rights of Council, its employees and others, as prescribed in workplace surveillance and privacy legislation, calls for management processes to ensure continued legislative compliance. This Workplace Surveillance Policy establishes the protocol to meet Council's legislative obligations.
- 2.2 Technology advances have made optical devices commonplace through camera and tracking capabilities being part of most mobile devices. Council, in the course of its business, uses these devices. Individual workers have similar capabilities within a Council supplied mobile device or their personal mobile device.

3. SCOPE:

- 3.1 Council recognises its obligations to ensure, where reasonably practicable, a safe and healthy workplace for its workers and others.
- 3.2 The use of certain devices has the potential through the:
 - a) provision of tracking devices, to identify the geographical location of a worker, if they are in need of emergency assistance.
 - b) provision of CCTV, and surveillance cameras to deter a possible assailant and reduce the safety risks associated with workers and others, to deter assault, vandalism and criminal activity, and/or to capture evidence for environmental investigations.
 - c) monitoring of inputs and outputs of data to manage the risks associated with non-compliance to Council's Code of Conduct and Work Health and Safety (WHS) requirements.

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Policy

- 3.3 Existing workers of Council shall be notified of the installation and intent of tracking devices, CCTV camera and data surveillance through the dissemination of this policy.
- 3.4 Workers yet to commence with Council shall be given notification of this policy as part of their offer of employment. By accepting employment with Council, the worker will be consenting to the conducting of surveillance in accordance with this policy, immediately upon the commencement of employment with Council.
- 3.5 Information stemming from the use of surveillance, as outlined in this policy, will not be used for the purposes below:
- a) as the sole and primary means of disciplinary action.
 - b) to target or victimise employees.
 - c) as a form of real time employee performance monitoring.
- 3.5.1 This means that surveillance information can be used for disciplinary purposes only to substantiate allegations stemming from other sources. This prevents victimisation in the workplace and prevents the potential abuse of power on part of those who have access to the surveillance information.
- 3.5.2 It has the secondary benefit of not viewing employees under surveillance in terms of Lowest Common Denominator thinking, in that Council expects the worst from their employees. Trust in the workplace is a vital component to increase productivity beyond that of doing merely the bare minimum.
- 3.6 From time to time staff **delegated under the Surveillance Devices Act 2007**, ~~who are required~~ as part of their role to assist with maintaining security and safety at Council owned facilities, may view CCTV vision to assist with these requirements of their role.
- 3.7 Tracking Devices
- 3.7.1 Council, at time, requires workers to work alone and in isolation to the general workplace. To reduce the risks associated with this, Council ~~may~~ **has** introduced tracking devices to identify the location of the worker, should any emergency response be required. Where tracking devices are utilised, surveillance will be continuous and ongoing.
- 3.7.2 Increasingly, Council's vehicle fleet has equipment that provides back to base, real time capability with regard to location, engine revolutions per minute (RPM), gear ratio and other performance data through in vehicle management systems (IVMS). This data is invaluable in informing our process improvement activities and for identifying obstacles to our teams that currently prevents them from doing an even better job than they do now. Where a vehicle is supplied with an IVMS or GPS device, the vehicle will display notification that a device is installed in the vehicle.

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Policy

- 3.7.3 Where there is provision of the device in the vehicle, a risk assessment process shall be completed to ascertain the need for such device. This will occur prior to any operation or function of such device. If the risk assessment deems it necessary to install a device, the vehicle will display notification that a device is installed in the vehicle.
- 3.7.4 For an 'on person' device, workers will be informed that they are required to carry such a device whilst at work based on a risk assessment identifying the need for such a device. This will occur prior to any operation or function of any such device.
- 3.7.5 A representative from the Work Health and Safety Team shall be involved throughout all risk assessments undertaken under this policy.
- 3.7.6 All Council issued mobile devices that have GPS functionality, can be tracked by Council's Information Communication and Technology unit.
- 3.8 Closed Circuit Television
 - 3.8.1 Council used CCTV surveillance cameras and overt/covert surveillance devices in and around various Council worksites and facilities. This camera surveillance monitors or records visual images of activities on premises or, in any other place. CCTV camera surveillance will be continuous and ongoing.
 - 3.8.2 Signs are located within each site/location to identify the areas affected by the camera surveillance, and are clearly visible at each entrance to that site or location. In the event where Council is conducting an operation in relation to environmental offences and/or investigations, Council will not display signage.
 - 3.8.3 Where Council intends to install new CCTV devices, workers will be notified prior to any operation or function of the new installations which occur after the date of acceptance of this policy by Council.
 - ~~3.8.4 From time to time staff who are required as part of their role to assist with maintaining security and safety at Council owned facilities may view CCTV vision to assist with these requirements to their role.~~
 - 3.8.4 Council may use licence plate recognition devices and software to manage site access points and maintain accurate logs of vehicles visiting Council sites.
- 3.9 Use of Surveillance Records – Tracking Devices and CCTV
 - 3.9.1 Council may use and disclose confidentially the surveillance records where that use or disclosure is for a purpose related to the matter raised below regarding workers and management of Council.
 - 3.9.2 Council may also use and disclose the surveillance records where that use or disclosure is related to Council's business activities including:

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- a) to a law enforcement agency in connection with an environmental offence or alleged environmental offence, a criminal offence or alleged criminal offence.
 - b) in connection with bona-fide legal proceedings.
 - c) as reasonably believed to be necessary to avert an imminent threat of serious violence or substantial damage to property.
- 3.9.3 Examples of instances in which use or disclose surveillance records might occur include but, are not limited to:
- a) allegations of breaches of Council's Code of Conduct.
 - b) allegations of poor performance or unacceptable behaviour.
 - c) allegations of illegal dumping or other environmental offences.
 - d) if there is an assault, or suspected assault of a person.
 - e) if theft of Council's property (or that of a related entity of Council) is suspected.
 - f) criminal damage to Council's equipment or facilities (or that of a related corporation of Council) has occurred.
 - g) a serious WHS incident as defined by the Work Health and Safety Act 2011 (NSW).
 - h) by request of a worker and union representative regarding any bona-fide investigation.
- 3.9.4 All surveillance records are now available under the Government Information (Public Access) Act 2009 (GIPA); however, persons wishing to access these records should be aware that there are provisions under GIPA that may override the release of the information.
- 3.9.5 Generally, CCTV surveillance records will not be used or disclosed unless that disclosure is:
- a) for a legitimate purpose related to employment of workers or legitimate business activities or functions of the employer.
 - b) to a member or officer of a law enforcement agency for use in connection with the detection, investigation or prosecution of a criminal offence.
 - c) for a purpose that is directly or indirectly related to the taking of criminal proceedings.
 - d) reasonably believed to be necessary to avert an imminent threat of serious violence to persons or of substantial damage to property.
- 3.10. Data Surveillance and Retrieval
- 3.10.1 The computer usage of workers is not routinely read or monitored, however, they are records of Council and shall be managed accordingly. At times, Council may retrieve or review electronic files, records and correspondence of workers. This applies to all Council's Information and Communication systems including telephones, mobile phones and mobile computing technology. Council also provides a number of software systems, which have the ability to track changes made to data.

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3.10.2 Designated workers of Council are also required to utilise a variety of security systems such as silkeys and alarm systems, which provide access to Council sites based on unique logins allocated to workers. Surveillance of workers' use of all of these systems and equipment is undertaken by Council on a continual basis.

3.11 Camera Devices

3.11.1 Council frequently uses camera devices to take pictures, or videos, eg for the safety of its employees, promotions, press releases, training applications or incident/environmental investigations. At times, this may require including workers, and/or others in the picture or video. To comply with the relevant legislations, the following shall apply:

- a) a Council worker authorised to operate a Council camera device shall obtain express, or implied, consent from workers and or others, prior to taking the photograph or video.
- b) workers wishing to take pictures or videos from their personal camera device shall respect a person's privacy and obtain express or implied consent from that person or persons prior to taking the picture or video. Council shall devise such policy and procedures to facilitate this approval. In the event where relevant legislation proves that Council is not required to obtain consent from the person or persons prior to taking the picture or video, Council will follow the requirements as outlined in the applicable legislative provisions.
- c) pictures or videos of Council processes, procedures or practices shall not be taken without first obtaining permission from the worker's manager.
- d) managers shall ensure that pictures or videos for a use, other than for internal purposes, shall be approved by the Communications & Customer Experience Section Manager prior to use.

3.12 Recordings of Conversations

3.12.1 On occasion, Council may wish to record conversations. Council will not record a private conversation without the consent, of the principal parties to the private conversation or the persons who took part in the activity, as per the requirements of the Surveillance Devices Act 2007.

3.12.2 If expressly agreed, when a recording of a conversation is made in relation to a Council worker who is participating in an investigation, the worker will be offered to receive a copy of the recording together with a transcript of the recording if they elect to. This recording cannot occur without the express permission of the worker involved. Council, at no stage, will apply any duress for any interview to be recorded.

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Policy

3.13 Confidentiality and Records

- 3.13.1 Council workers shall at all times exercise duty of confidentiality. Data shall only be released in compliance with the Workplace Surveillance Act 2005 (NSW) and on a need to know basis as prescribed by this policy or by a worker's request.
- 3.13.2 Non-compliance with duty of confidentiality requirements shall render a Council worker liable to disciplinary procedures which may include termination of employment.
- 3.13.3 All documents created in relation to this policy will be kept in accordance with the State Records Act 1998 (NSW) and Port Stephens Council's Records Management, Management Directive.
- 3.13.4 Members of the public can make applications to access Council's data in accordance with the Government Information Public Access (GIPA) Act 2009 and the Privacy and Personal Information Protection Act (PPIPA) 1998.
- 3.13.5 For the purposes of determining compliance to this policy, random audits will be undertaken of data generation and collection activities by Council's internal auditor. Audit results shall be reported to the relevant Group Manager for determination and the Consultative Committee for review.

3.14 Training

- 3.14.1 New workers shall be made aware of this policy during the induction process.
- 3.14.2 Record of worker's awareness of their internet obligations under this management directive shall be achieved by an on-screen declaration prior to internet access.
- 3.14.3 Record of under awareness and understanding of this management directive will be contained by the completion of toolboxing of the policy in accordance with the Toolbox Procedure and by publication on Council's Intranet and Internet Site.
- 3.14.4 Ongoing training and awareness of this policy shall be provided by Council management throughout the employment relationship.

3.15 Requesting access to information

- 3.15.1 All requests for information under this policy from members of the public will be assessed under the Government Information (Public Access) Act 2009.
- 3.15.2 All requests for data retrieval or review from workers (other than approved Information and Communication Technology workers) can only be approved by any 2 of the following workers, with the exception of the General Manager who may request data retrieval or review without the approval of another manager:

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Policy

- a) the General Manager.
- b) a Group Manager.
- c) a Section Manager.
- d) the Legal Services Manager.
- e) the Human Resources Manager.

3.15.3 Any request must specify the reason for data retrieval or review, the specific period to be accessed and the Approved Worker(s) undertaking the investigation.

3.15.4 All requests and approvals must be given in writing. This shall not apply to requests where any individual piece of data directly related to a task being undertaken by a worker is required. In such case a request to gain the individual piece of data shall require approval from the worker’s manager.

4. DEFINITIONS:

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

Worker	In this policy, a worker has the same meaning as worker under section 7 of the Work Health and Safety Act 2011, being: <ul style="list-style-type: none"> a) an employee. b) a contractor or subcontractor. c) an employee of a contractor or subcontractor. d) an employee of a labour hire company who has been assigned to work in the person’s business or undertaking. e) an outworker. f) an apprentice or trainee. g) a student gaining work experience. h) a volunteer. i) a person of prescribed class.
Council	Port Stephens Council.
WHS	Work Health and Safety.
HSR	Health and Safety Representative.
Workplace	Means premises, or any other place, where employees work, or any part of such premises or place.
GPS	Global Positioning System.
IVMS	In Vehicle Management System.

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Policy



5. STATEMENT:

5.1 Council recognises it has a number of electronic systems in place which are utilised for surveillance. The surveillance devices used by Council are primarily in place to assist Council to capture relevant data needed for the operation of Council's business, improve service delivery, enhance safety outcomes and ensure compliance with relevant legislative requirements.

6. RESPONSIBILITIES:

6.1 The Human Resources Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

7. RELATED DOCUMENTS:

- 7.1 Port Stephens Council Enterprise Agreement.
- 7.2 Code of Conduct.
- 7.3 Records Management Management Directive.
- 7.4 Information & Communication Technologies (ICT) Systems & Information Access & Cyber Security Management Directive.
- 7.5 Information & Communication Technologies (ICT) Assets Management Management Directive.
- 7.6 Information & Communication Technologies (ICT) Physical & Environmental Protection Management Management Directive.
- 7.7 Telecommunications Management Directive.
- 7.8 Toolbox Procedure.
- 7.9 State Records Act 1998 (NSW).
- 7.10 Local Government Act 1993 (NSW).
- 7.11 Workplace Surveillance Act 2005 (NSW).
- 7.12 Workplace Surveillance Regulation 2017 2022 (NSW).
- 7.13 Surveillance Devices Act 2007 (NSW).
- 7.14 Privacy and Personal Information Protection Act 1998 (NSW).
- 7.15 Government Information (Public Access) Act 2009 (NSW).
- 7.16 Industrial Relations Act 1996 (NSW).

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2009-02488	EDRMS record No.	TBA
Audience	Staff		
Process owner	Human Resources Manager Organisation Support Section Manager		

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Policy

Author	Human Resources Manager		
Review timeframe	2 3 years	Next review date	TBA
Adoption date	13 August 2013		

VERSION HISTORY:

Version	Date	Author	Details	Min No
1	13/08/2013	Human Resources Manager	Adopted.	228
2	12/07/2016	Human Resources Manager	The Workplace Surveillance Policy was reviewed and updated in the new policy template. Reference was changed to the Port Stephens Council Enterprise Agreement 2015. Policy reviewed and updated to ensure less duplication. Reference to Mobile Phones has been updated to Mobile Devices. Surveillance used for environmental investigations and offences has been included in this policy. Scope updated to clarify under what circumstances GPS surveillance will be used by Council.	115
3	11/08/20	Human Resources Manager	Updated into new template. 3.7.5 – removed Health and Safety Representative (HSR) and replaced with 'representative from the Work Health and Safety Team'. 3.12.2 – changed wording to state that the Council worker will be offered a copy of the recording and transcript. 3.15.2 d) – Remove position as no longer exists. 7.12 - Changed Act Year to 2017.	144

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Policy



Version	Date	Author	Details	Min No
4	TBA	Human Resources Manager	<p>3.6 – Deleted “who are required” and replaced with “delegated under the Surveillance Devices Act 2007”.</p> <p>3.7.1 – Deleted “may” and replaced with “has”.</p> <p>3.8.4 Deleted “From time to time staff who are required as part of their role to assist with maintaining security and safety at Council owned facilities may view CCTV vision to assist with these requirements to their role.</p> <p>3.8.4 - Replaced with “Council may use license plate recognition devices and software to manage site access points and maintain accurate logs of vehicles visiting Council sites.”</p> <p>3.11.1 – Minor grammatical correction.</p> <p>3.11.1 b) – Added “, Council will follow the requirements as outlined in the applicable legislative provisions”</p> <p>3.11.1 d) – Added “& Customer Experience” to reflect current naming convention.</p> <p>7.4 – Added “& Cyber Security”</p> <p>7.12 – Updated date for the Workplace Surveillance Regulation 2022 (NSW).</p> <p>Controlled document information:</p> <ul style="list-style-type: none"> • Updated process owner to Organisation Support Section Manager. • Amended review timeframe to 3 years in accordance with Council’s policy and management directive review timeframe. 	TBA

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ITEM NO. 3

**FILE NO: 22/140997
EDRMS NO: PSC2015-01072**

POLICY REVIEW: TOURISM POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Tourism Policy (**ATTACHMENT 1**) dated 9 June 2020, Minute No. 095.

**ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION**

261	Councillor Chris Doohan Councillor Giacomo Arnott It was resolved that Council revoke the Tourism Policy (ATTACHMENT 1) dated 9 June 2020, Minute No. 095.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer, and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to revoke the Tourism Policy (**ATTACHMENT 1**) (the policy) dated 9 June 2020, Minute No. 095.

The policy was adopted to outline Council's commitment to achieving a vibrant and sustainable Port Stephens by supporting local economic growth. This policy highlights the important role that tourism plays in the broader economy of Port Stephens.

Following a policy review by the Strategy and Environment Section, it has been determined that the policy can be repealed as the purpose of the Tourism Policy is now appropriately met by the updated Economic Development Policy and Economic Development Strategy 2021-2025.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2022
Strong Economy, Vibrant Businesses, Active Investment	Support and deliver services that attract sustainable visitation to Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

There is no direct financial implication for Council in relation to the revocation of the policy.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal, policy or risk implications associated with this report as the policy has become obsolete with the adoption of the Economic Development Policy and Economic Development Strategy 2021-2025.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that revoking of this Policy might be seen as a lessening of Council's commitment to tourism initiatives resulting in reputation damage.	Low	Adopt recommendation and communicate that other Council policies fulfil this role.	Yes

SUSTAINABILITY IMPLICATIONS

There are no social, economic or environmental implications associated with the recommendation made by this report.

CONSULTATION

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

Internal

The Executive Team has been consulted to seek management endorsement.

OPTIONS

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

ATTACHMENTS

- 1) Tourism Policy.

Policy



FILE NO: PSC2016-00354
TITLE: TOURISM POLICY
POLICY OWNER: STRATEGY AND ENVIRONMENT SECTION MANAGER

1. PURPOSE:

- 1.1 This policy outlines Councils commitment to and role in achieving a vibrant and sustainable place supporting local economic growth. This policy also outlines the critically important role that tourism plays in the broader economy of Port Stephens.
- 1.2 This policy supports the Port Stephens Community Strategic Plan to deliver processes and services which deliver benefit to tourism in Port Stephens and clarifies Councils commitment to working with the community, industry, and all layers of government to ensure an innovative and collaborative approach to sustainable tourism growth.

2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens Council recognises the economic, environmental and social benefits that a vibrant and sustainable tourism industry provides through increased employment, investment, and infrastructure. Council has a clear understanding of the broader context of the tourism industry and the significant impact it can have on both attracting visitors and delivering a high quality visitor experience.
- 2.2 Port Stephens is recognised as one of the key regional tourism destinations in NSW and attracts a broad range of domestic and international visitors each year. In 2018/2019, Port Stephens welcomed in excess of 2,500,000 domestic visitor nights, 917,000 day visitors and 175,000 international visitor nights. These visitors spend an estimated \$621 million (or almost \$1.7 million per day) across the LGA and directly employed approximately 2,140 people.
- 2.3 Tourism in Port Stephens is no longer looked at in terms of a single focus industry. The Visitor Economy takes into account broader economic activity than that which has historically has been defined as 'tourism and events'. It includes the direct and indirect impacts resulting from a visitor travelling outside their usual environment for a holiday, leisure, events, business, convention and exhibition, retail, education to visiting friends and relatives or for short term employment in NSW. It includes intrastate, interstate and international visitors (VEAP 2012).
- 2.4 This policy aligns with Federal and State government priorities which identify tourism as a key economic driver.

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Policy



2.5 Local Government has an integral role in supporting these strategies through the development of quality tourism experiences; the provision of local services and infrastructure; and providing leadership and direction to industry through effective collaborations and partnerships.

3. SCOPE:

3.1 Port Stephens Council will support and foster visitor economy partnerships between community, industry and government stakeholders. Council will act as the facilitator for industry driven change and innovation that aligns with council's values and vision. In order to achieve this, Council will:

- a) provide strategic and financial support to Destination Port Stephens.
- b) develop and implement strategic plans to guide the sustainable growth of the visitor economy.
- c) build trust and understanding in the strategic value of the visitor economy.
- d) build partnerships with Newcastle Airport, neighbouring councils and key stakeholders.
- e) encourage the development of high quality tourism products and experiences.
- f) attract and sponsor a diverse range of events which reduce seasonal fluctuations, promote the Port Stephens brand and create economic, social and environmental benefits across the LGA.
- g) plan for and provide quality infrastructure and facilities designed to meet the needs of visitors now and well into the future.

4. DEFINITIONS:

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

Visitor Economy	The visitor economy takes into account broader economic activity than that which has historically been defined as 'tourism and events'. It includes the direct and indirect impacts resulting from a visitor travelling outside their usual environment for a holiday, leisure, events, business, conventions and exhibitions, retail, education, to visit friends and relatives or for short-term employment in NSW. It includes intrastate, interstate and international visitors.
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5. POLICY STATEMENT:

5.1 Council will provide leadership and coordination to ensure that relevant stakeholders are effectively engaged and working together to deliver agreed actions and outcomes.

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Policy



5.2 Council will encourage a collaborative and strategic approach to the conservation of the natural assets on which the visitor economy depends whilst supporting investment in the development of quality tourism product which encourages overnight visitor spend, positively impact the visitor experience, promotes awareness of Port Stephens and drive investment in new and existing facilities and infrastructure.

6. POLICY RESPONSIBILITIES:

6.1 The Economic Development and Tourism Unit is responsible for monitoring, reviewing and providing advice on the policy across the organisation.

7. RELATED DOCUMENTS:

- 7.1 [Visitor Economy Action Plan](#)
- 7.2 Economic Development and Tourism Strategy
- 7.3 [Tourism 2020](#)
- 7.4 Sydney Surrounds North Destination Management Plan

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EDRMS container No	PSC2016-00354	EDRMS record No	20/193819
Audience	Community		
Process owner	Strategy and Environment Section Manager		
Author	Economic Development and Tourism Coordinator		
Review timeframe	Two years	Next review date	June 2022
Adoption date	11 July 2017		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	11/7/2017	Tourism and Events Coordinator	Original policy.	165

Policy

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Policy



2.0	9 June 2020	Economic Development and Tourism Coordinator	<p>1.1 - added 'place supporting local economic growth' and deleted 'tourism industry in Port Stephens'.</p> <p>1.2 - deleted 'to deliver on the communities' vision of a great lifestyle in a treasured environment.'</p> <p>2.2 - added '2018/2019' and deleted '2017'; added '2,500,000' and deleted '2,000,000'; added '917,000' and deleted '660,000'; added '175,000' and deleted '127,000'; added 'These visitors spend an estimated \$621 million (or almost \$17 million per day) across the LGA and' and deleted 'bringing over \$372 million in visitor spend and' and added 'employed' and deleted 'employing' and added '2140' and deleted 1,700.</p> <p>2.3 – Deleted 'and the relatively new term'.</p> <p>2.4 – Deleted 'Councils investment in building a diverse and resilient Visitor Economy links directly the Port Stephens Community and Strategic Plan objective 4.1.1: To Provide processes and services which deliver benefit to tourism in Port Stephens. This includes event sponsorship and licensing, destination marketing and visitor servicing.'</p> <p>3.1 added 'a) 'strategic and financial support to Destination Port Stephens' and deleted 'ongoing financial support to Destination Port Stephens to allow the organisation to undertake Destination Marketing activities, leverage grant funding</p>	095
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Policy

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Policy



			<p>and drive sustainable visitation and visitor spend' and added 'b) Develop and implement strategic plans to guide the sustainable growth of the visitor economy'; and added 'c) Build trust and understanding in the strategic value of the visitor economy'; and added 'd) Build partnerships with Newcastle Airport, neighbouring councils and key stakeholders'; and added 'e) Encourage the development of high quality tourism products and experiences'.</p> <p>Deleted bullet points - 'Administer an integrated event licensing process to reduce the complexity of process for event organisers and reduce costs, manage risk and manage reputation across Council.' And 'Deliver visitor servicing strategies aimed at increasing the quality of the visitor experience.' And 'Maintain productive relationships with Destination NSW, Tourism Australia, Tourism Hunter and the North Coast Destination Network.'</p> <p>5.1 Deleted 'role' and in the Destination Management Plan'.</p> <p>5.2 Deleted 'the construction of new, and upgrade of', and added 'investment in new and'.</p> <p>6.1 Added 'Economic Development and Tourism Unit' and deleted 'Tourism and Events Unit'.</p> <p>7. Related Documents – added 'Economic Development and Tourism Strategy' and deleted 'Economic Development</p>	
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Policy

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Policy



			Strategy'. Added 'Sydney Surrounds North Destination Management Plan' and deleted 'Port Stephens Destination Management Plan'.	
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Policy

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ITEM NO. 4

**FILE NO: 22/232168
EDRMS NO: PSC2005-2646**

POLICY REVIEW: BUS SHELTER POLICY

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Bus Shelter Policy shown at **(ATTACHMENT 1)**.
- 2) Place the revised Bus Shelter Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
- 3) Revoke the Bus Shelter policy dated 28 August 2020, Minute No. 162, should no submissions be received.

**ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION**

262	<p>Councillor Peter Kafer Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Bus Shelter Policy shown at (ATTACHMENT 1).2) Place the revised Bus Shelter Policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.3) Revoke the Bus Shelter policy dated 28 August 2020, Minute No. 162, should no submissions be received.
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Councillor Peter Francis left the meeting at 5:48pm.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is seek Council’s endorsement of the revised Bus Shelter Policy (policy) as shown in **(ATTACHMENT 1)** on public exhibition.

The intent of the policy is to allow community groups to provide bus shelters for the Port Stephens Council community and use revenue gained from advertising to maintain the structure.

The provision of shelters at bus stops plays an important part in increasing public transport patronage in Port Stephens while improving the comfort passengers. This policy seeks to ensure consistency and equity in the provision of bus shelters across the Local Government Area.

This policy requires that community groups enter into a formal agreement with Council. The agreement shall document who is responsible for the installation and ongoing maintenance of the shelter, who will benefit from the advertising rights and who will own the shelter at the end of the agreement. Each agreement will vary, depending on the needs and abilities of the organisation involved.

This review updates the existing policy into the current policy format to ensure conformity across Council's range of policy documents.

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

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Infrastructure and Facilities	Maintain the Council's civil and community infrastructure to support the community.

FINANCIAL/RESOURCE IMPLICATIONS

This policy review will not require any additional budget or resources for the provision of bus shelters. Requests for bus shelters under this policy are infrequent with costs able to be covered by the existing administration budget.

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

MINUTES ORDINARY COUNCIL - 27 SEPTEMBER 2022

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy impediments to accepting the recommendations.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will fail to meet legislative requirements for policy review resulting in community dissatisfaction.	Low	Adopt the recommendation.	Yes
There is a risk that bus shelters will not meet the requirements of the community in terms of type, safety, accessibility and placement resulting in reduced public transport patronage.	Low	Adopt the recommendation. Ensure that all new bus shelters meet Council's Infrastructure Specifications.	Yes
There is a risk that the community group fail to maintain the bus shelters resulting in unsafe shelters for bus users.	Low	Adopt the recommendation. The agreement between Council and community group specifies who is responsible for maintenance and documents the expectation. Council also monitors the condition of all bus shelters.	Yes
There is a risk that the advertising on the bus shelter is considered inappropriate to the community leading to reputation damage to Council.	Low	Adopt the recommendation. The agreement between Council and community group specifies the type of advertising to ensure that is not offensive or against the vision or values of the organisation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The continuing provision of bus shelters funded by community groups increases the number of transport assets for our community and visitors. This in turn improves passenger comfort and safety.

Community owned assets have been historically well maintained as the community group have pride and ownership in the asset.

CONSULTATION

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

Internal

- Traffic Engineer.
- Civil Assets Manager.
- Civil Infrastructure Engineer.

External

In accordance with local government legislation the revised Bus Shelter Policy will be placed on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Bus Shelter Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



Policy

FILE NO: PSC2005-2646
TITLE: BUS SHELTER POLICY
OWNER: ASSETS SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of the Bus Shelter Policy (policy) purpose is to provide the guidelines for Council to enter into an agreement with allow community groups to enable the provision of to provide bus shelters for the community and public transport patrons, and assist Council to maintain the shelter.
 - a) The community group will be responsible for the installation, maintenance, cleaning, replacement or removal and care of the shelter structure.
 - b) The community group will be able to advertise on bus shelters they install to generate an income source to provide this the ongoing cleaning and maintenance service.
- 1.2 This policy and related documents will also allow the display of advertising on bus shelters in accordance with Council's document, Bus Shelter Advertising Application Form – Terms & Conditions. Advertising on Bus Shelters in Port Stephens – Term of Agreement These terms and conditions seeks to provide a source of funding which can be invested back into maintaining and providing bus shelter infrastructure ensure consistency and equity in the provision of bus shelters across the Local Government Area.
- 1.3 The community group will be responsible for the installation, maintenance, and care of the shelter structure.
- 1.4 The community group will be able to advertise to generate income to provide this service.

2. CONTEXT/BACKGROUND:

- 2.1 The provision of shelters at bus stops plays an important part in increasing public transport patronage in Port Stephens providing shelter and comfort of bus passengers. This policy seeks to ensure consistency and equity in the provision of bus shelters across the Local Government Area.
- 2.2 Installation of the privately funded shelters has generally been initiated by community groups and has resulted in more shelters being installed in the local area.

3. SCOPE:

- 3.1 Council is responsible for controlling and monitoring activities being undertaken in its road reserves.

Policy

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ITEM 4 - ATTACHMENT 1 REVISED BUS SHELTER POLICY.



Policy

- 3.2 Community groups can assist Council in the provision of bus shelter infrastructure within the road reserve in accordance with Council requirements.
- 3.3 Council will have clear and consistent guidelines regarding the provision of transport related infrastructure by other bodies or organisations.

4. DEFINITIONS:

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

Bus Shelter A roofed structure for people to wait in at a bus stop.

5. STATEMENT:

- 5.1 Council's intent is to allow community groups to provide bus shelters for the Port Stephens community and to use the revenue gained from advertising on the shelters to pay for the capital and ongoing maintenance costs.
- 5.2 Priority for the provision of transport infrastructure shall be determined based on an assessment of the existing standard of transport infrastructure in the vicinity.
- 5.3 Once priorities are confirmed, expressions of interest for the supply and erection of appropriately designed bus shelter structures will be sought through Council's normal procurement process.
- 5.4 Community groups will retain ownership and associated advertising rights of any bus shelters constructed by them and will be required to enter into a formal agreement with Council.
- 5.5 From time to time Council will purchase bus shelters. Council will retain the ownership and associated advertising rights of any bus shelters constructed by them.
- 5.6 Council reserves the right to favour offers from external providers that will promote community involvement and enhance community ownership of public infrastructure.
- 5.7 Bus shelters shall conform to Council Design requirements and shall be compliant with the Commonwealth Disability Discrimination Act 1992.

6. RESPONSIBILITIES:

- 6.1 The key position responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy is the Civil Assets Manager.

7. RELATED DOCUMENTS:

- 7.1 Roads Act 1993.
- 7.2 Local Government Act 1993.
- 7.3 Code of Conduct.
- 7.4 Information and Direction Signs in Road Reserves Policy.

Policy

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Policy

- 7.5 Sustainable Procurement.
- 7.6 Public Arts Policy and Guidelines.
- 7.7 Commonwealth Disability Discrimination Act 1992.
- 7.8 Disability Standards for Accessible Public Transport 2002.
- 7.9 **Bus Shelter Advertising Application Form – Terms & Conditions.**

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2005-2646	EDRMS record No.	TBA
Audience	Community, Assets Section, Civil Assets, Staff and General Manager		
Process owner	Assets Section Manager		
Author	Civil Assets Manager		
Review timeframe	3 years	Next review date	TBA
Adoption date	25 Nov 2014		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	25 Nov 2014	Civil Assets Planning Manager	Adopted	319
2	28 Aug 2018	Civil Assets Planning Manager	Created in New Policy Template & Global Review with following changes 1.2 & 1.2 – Reworded to improve purpose. 2.1 – Removal of sentence. 7.1, 7.2 & 7.6 - Additional Related Documents. 7.3 – Removal of Related Document. Adopted By Council.	270

Policy

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Policy

3	28 Aug 2020	Civil Infrastructure Engineer and Civil Assets Manager	<p>Updated to 2019 Policy Template including global review of policy and following changes:</p> <p>1.1 & 1.2 – Reworded to improve sentence structure.</p> <p>1.3 & 1.4 – Addition of two new purposes.</p> <p>2.1 – Removal of words ‘and’ and ‘existing’.</p> <p>2.2 – Reworded to improve sentence structure.</p> <p>3.2 – Deleted previous Clause 3.2 – no longer relevant.</p> <p>3.3 - Replaced with digits 3.2 to align with correct formatting and deleted wording ‘as mutually agreeable’ and replaced with ‘in accordance with Council requirements’.</p> <p>3.4 – Replaced with digits 3.3 to align with correct formatting.</p> <p>4.1 – Formatting update to new template. Removed word ‘under’, replaced with ‘in’.</p> <p>5.1 – Removal of word ‘for’ replaced with ‘to allow’ and removal of word ‘cost’ in sentence.</p> <p>5.2 - Deleted as no longer relevant</p> <p>5.3 – Replaced with digits 5.2 to align with correct formatting. Point ‘a.’ removed and point ‘b.’ now forming part of the sentence following 5.2.</p> <p>5.4 – Replaced with digits 5.3 to align with correct formatting.</p> <p>5.5 – Replaced with digits 5.4 to align with correct formatting.</p> <p>5.6 – Replaced with digits 5.5 to align with correct formatting and new sentence added.</p> <p>5.7 – Addition of the year the Act was executed ‘1992’.</p>	162
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Policy

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Policy

Version	Date	Author	Details	Minute No.
			6.1 – Removal of sentence and replaced with updated version and position title. 7.7 & 7.8 – Additional Related Documents.	
4		Civil Assets Manager	Created in New Policy Template & Global Review with following changes 1.1, 1.2 - Reworded to improve purpose. 1.3, 1.4 – Deleted. 1.2 – Reworded to match current reference document. 7.4 – Updated name of document. 7.6 – Updated name of document. 7.9 – Added “Bus Shelter Advertising Application Form – Terms & Conditions”	

Policy

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ITEM NO. 5

**FILE NO: 22/218337
EDRMS NO: PSC2017-00180**

355C COMMITTEES ANNUAL FINANCIAL SUMMARY 2021

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive the 355c Committees Annual Financial Statements for the period 1 January 2021 to 31 December 2021.
 - 2) Note that eligible 355c Committees will receive the 2022 annual operating subsidy.
-

**ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION**

263	<p>Councillor Chris Doohan Councillor Matthew Bailey</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Receive the 355c Committees Annual Financial Statements for the period 1 January 2021 to 31 December 2021.2) Note that eligible 355c Committees will receive the 2022 annual operating subsidy.
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Councillor Peter Francis returned to the meeting at 5:50pm.

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to provide Council with the 355c Committees Annual Financial Statements for the period 1 January 2021 to 31 December 2021, and to note the disbursement of the 2022 annual operating subsidies to eligible committees and sports councils.

MINUTES ORDINARY COUNCIL - 27 SEPTEMBER 2022

The 355c Committees Annual Financial Statements have been typically presented to Council for the calendar year reporting period. It is appropriate and logical to reposition this to the financial year in line with Council's other financial reporting obligations. A subsequent report to Council will be prepared to request endorsement for this proposed suggestion.

Additionally, the responsibility for reporting the finances of the 355c Committees has been transferred from the Community Services Section to the Financial Services Section. This has been deemed appropriate as Financial Services ultimately holds responsibility for all of Council's financial reporting.

For the period 1 January 2021 to 31 December 2021, a summary of the total opening balance (including investment accounts) and closing balance of all 355c Committees is shown at **(ATTACHMENT 1)**. This summary also shows payment of the 2022 annual operating subsidy to eligible 355c Committees and the retaining of funds for use by park and cemetery group operation.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Financial Management	Maintain strong financial sustainability.

FINANCIAL/RESOURCE IMPLICATIONS

The total amount of funds held by the Committees as at 31 December 2021 was \$631,172.75.

- 10 Committees held over \$20,000 (total value of \$511,866.79).
- 6 Committees held between \$10,000 and \$20,000 (total value of \$88,518.68).
- 5 Committees held less than \$10,000 (total value \$30,787.28).

The use of committee funds should be in line with Council's strategic directions and be committed to the objectives of each Committee's appendix to the 355c Committee Terms of Reference. A focus on maintenance, renewal and rehabilitation of facilities and reserves will ensure the long term sustainability of these community assets.

Financial resources are available to support the establishment and operation of volunteer groups working in parks, reserves, natural areas and cemeteries. Their activities may include vegetation planting and management, mulching, weed control, facility maintenance and improvements, and educational initiatives to enhance the experience of users and guests.

Additionally, Council's Assets Section works with Committees and sports councils to allocate committee funds to projects that assist in maintaining or upgrading Council's assets. For example, in the 2021 calendar year, the following large investments by committees included:

Mallabula Community Centre

\$1833.00 – New Oven.

Salt Ash Sports Ground

\$764.50 – Plumber to alter stormwater drains.

Tanilba Bay Foreshore Hall Committee

\$1782.27 – Air Conditioner cages.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	Yes	\$631,172.75	Total funds held in bank accounts by 355c Committees / sports councils as at 31 December 2021.

LEGAL, POLICY AND RISK IMPLICATIONS

Section 355c of the Local Government Act 1993 allows Council to delegate certain functions. A section 355c Committee is an entity of Port Stephens Council and as such is subject to the same legislation, accountability and probity requirements as Council.

All funds and assets held by the Committees belong to Council and each Committee is responsible for the care and control of these funds. Funds administered by 355c Committees must meet Council's standards of compliance, management and transparency. Committees are required to comply with standard record keeping practices, including submission of financial reporting requirements by due dates.

355c Committees use a cash book style financial record keeping system. The cash book is completed monthly (or alternative reporting cycle if approved) and the totals of each month are entered into the Annual Summary Reporting page.

This system was developed in line with recommendations of Council's auditors to provide a uniform format and transparent auditing of committee financial transactions, which meet the requirements for accountability and GST reporting. The system provides Committees with a simplified financial process and staff support.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that funds held in 355c Committee bank accounts may be subject to fraudulent acts resulting in legal, financial and reputation damage.	Medium	<p>This risk will be reduced by ensuring Council is noted on individual Committee bank account names and there are 2 Council staff as signatories / authorised officers to Committee accounts.</p> <p>The 355c Committee Terms of Reference and Appendix clearly outlines Committee responsibilities with regard to recording and reporting on Committee funds.</p> <p>Additional information has been provided to Committees and is available on Council's website and includes meeting guidelines and templates, financial record keeping guide and purchasing guide.</p> <p>Financial training is also offered to relevant committee executive members.</p>	Yes
There is a risk that funds held in 355c Committee bank accounts are not used to contribute to the cost of asset renewal resulting in greater drain on ratepayer revenue.	Low	<p>This risk will be reduced as staff work with Committees to combine asset and community input to develop asset management plans with agreed funding contributions from the facility income.</p>	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Volunteers provide strong social and community benefits including an avenue for communication, planning, strategic planning, community consultation as well as community capacity building and strong social networks for the community. A high

rate of participation in community activities is an indicator of a well-functioning community.

Council utilises 355c Committees to provide a link between Council and the community, and to assist in the management of facilities and delivery of community services and events. This is part of Council's commitment to community partnerships and provides opportunities for the community to be involved with the management of the facilities they use.

Volunteer park and cemetery groups are an avenue through which members of the community can come together to work on Council land and have meaningful engagement in their local community. The setup and management of these groups under Council enables volunteers to undertake activities in a safe and proficient manner, while being supported by Council and adhering to Council's requirements.

Committees and volunteer groups provide assistance often where funding is not available. Their activities are value adding with a large number of the facilities and services provided in the local government area enhanced through the direct involvement of volunteers.

The provision of financial support to Council's 355c Committees and volunteer groups is provided within current resources. The annual operating subsidy is a direct budget item (\$58,500 in 2022-2023).

Volunteers operate under direction from Council staff to ensure their activities are performed in accordance with recognised environmental practices. Projects and activities relating to the environment are encouraged and supported and often provide long term benefits to the environment.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Financial Services Section to ensure the provision of relevant and accurate information.

Internal

- Finance Reporting Coordinator.
- Community Services Section Manager.
- Volunteers Support Project Officer.
- Community Asset Services Officer.

External

- 355c Committees and sports councils.

OPTIONS

- 1) Accept the recommendations.

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

ATTACHMENTS

- 1) Annual Financial Statement for 1 January 2021 to 31 December 2021.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 5 - ATTACHMENT 1 ANNUAL FINANCIAL STATEMENT FOR 1 JANUARY 2021 TO 31 DECEMBER 2021.

ATTACHMENT 1

355c Committees Annual Financial Statement Summary - 1 January to 31 December 2021

	355c Committee	Opening Balance inc. investments 01/01/2021	Closing balance inc. investments 31/12/21	Annual Operating Subsidy July 2022
1.	Anna Bay/Birubi Hall Committee	\$23,633.43	\$22,368.91	NA
2.	Corlette Hall Committee	\$11,553.43	\$17,386.09	\$1,000
3.	Fern Bay Community Centre Committee	\$18,442.26	\$25,920.91	\$1,000
4.	Hinton School of Arts Committee	\$5,244.87	\$5,284.71	\$1,000
5.	Karuah Community Hall Committee	\$8,115.10	\$8,867.47	\$1,000
6.	Lemon Tree Passage Old School Centre Committee	\$17,321.17	\$19,053.95	\$1,000
7.	Mallabula Community Centre Committee	\$25,060.39	\$48,867.84	NA
8.	Medowie Community Centre Committee	\$26,421.47	\$14,152.09	NA
9.	Medowie Sports Council	\$72,610.72	\$93,170.78	\$9,000
10.	Nelson Bay Australia Day Committee	\$1,349.84	\$14,572.84	NA
11.	Nelson Bay Community Hall Committee	\$34,429.20	\$46,227.27	\$1,000
12.	Port Stephens Sister Cities Committee	\$11,326.41	\$10,805.03	\$1,000
13.	Raymond Terrace Senior Citizens Hall Committee	\$37,425.45	\$35,121.96	\$1,000
14.	Salt Ash Community Hall Committee	\$24,250.59	\$29,363.11	\$1,000
15.	Salt Ash Sports Ground Committee	\$3,070.48	\$5,201.47	\$1,000
16.	Seaham Park and Wetlands Committee	\$5,035.85	\$6,535.85	\$1,500
17.	Tanilba Foreshore Hall Committee	\$7,030.24	\$4,897.78	\$1,000
18.	Tilligerry Sports Council	\$23,052.49	\$38,655.11	\$9,000
19.	Tomaree Sports Council	\$34,240.90	\$48,502.60	\$9,000
20.	West Ward Sports Council	\$129,915.82	\$123,668.30	\$18,000
21.	Williamstown Hall Committee	\$9,875.73	\$12,548.68	\$1,000
	Total	\$529,405.84	\$631,172.75	\$58,500

Note: Committees showing 'NA' in the Annual Operating Subsidy column will not be provided with funding this year due to being dissolved.

Note: The annual allocation to West Ward Sports Council is correct. This allocation was part of an agreement, for the amalgamation of the previous Raymond Terrace and West Ward Sports Councils.

ITEM 5 - ATTACHMENT 1 ANNUAL FINANCIAL STATEMENT FOR 1 JANUARY 2021 TO 31 DECEMBER 2021.

Volunteer Group Operating Budget (Former subsidy payments now retained with Council)		
1.	Anna Bay Landcare Group	\$1,500
2.	Boat Harbour Volunteers Group	\$1,500
3.	Corlette Reserves and Landcare Group	\$1,500
4.	Fingal Bay Parks Group	\$1,500
5.	Fly Point Nature Reserve Group	\$1,500
6.	Gan Gan Lookout Group	\$1,500
7.	Karuah Landcare Group	\$1,500
8.	Lemon Tree Passage Parks Reserves and Landcare Group	\$1,500
9.	Mallabula Parks and Environment Group	\$1,500
10.	Mambo Wanda Wetlands Reserves and Landcare Group	\$1,500
11.	Medowie Tidy Towns Group	\$1,500
12.	Nelson Bay West Landcare Volunteers Group	\$1,500
13.	Raymond Terrace Parks and Tidy Towns Group	\$1,500
14.	Shoal Bay Landcare Group	\$1,500
15.	Shoal Bay West Landcare Group	\$1,500
16.	Soldiers Point – Salamander Bay Landcare Group	\$1,500
17.	Tanilba Foreshore Parks Group	\$1,500
18.	Tilligerry Landcare Group	\$1,500
19.	West Ward Cemeteries Group	\$1,500
	Total	\$28,500

Notes

1. The Annual Operating Subsidy payments that previously would have been made to these former 355c committees is being retained by Council for use by the volunteer groups to undertake their projects and activities.

ITEM NO. 6

**FILE NO: 22/238169
EDRMS NO: PSC2006-1032**

FERN BAY HALL 355C COMMITTEE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Dissolve the Fern Bay 355c Hall Committee as of 30 September 2022, and close related committee bank accounts.
- 2) Acknowledge past achievements of the Committee members and thank them for their dedication.

**ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION**

264	<p>Councillor Chris Doohan Councillor Giacomo Arnott</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Dissolve the Fern Bay 355c Hall Committee as of 30 September 2022, and close related committee bank accounts.2) Acknowledge past achievements of the Committee members and thank them for their dedication.
------------	--

Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to recommend that Council dissolve the Fern Bay 355c Hall Committee and acknowledge past achievements of the outgoing committee members.

MINUTES ORDINARY COUNCIL - 27 SEPTEMBER 2022

The Fern Bay 355c Hall Committee held an Extraordinary meeting on Tuesday 30 August 2022, where all office bearers were in attendance. The Avenue Group recently advised of their intention to cease managing the financials and bookings for regular users of the hall on behalf of Fern Bay 355c Committee from 31 August 2022.

At the meeting, a motion was passed for the Fern Bay 355c Hall Committee to dissolve, returning full management of the facilities to Council. All assets and unspent funds associated with the Fern Bay 355c Hall Committee will return to Council and the bank account closed. Council's Community Services Section will take over coordination of bookings and financial management of Fern Bay Hall.

Our volunteers are highly valued and will be supported to maintain their representation as an active volunteer group that will continue to participate in the operation and caring for the facility.

Council will arrange an event for the outgoing committee members to acknowledge their achievements and thank them for all their hard work. Council staff will continue to engage with interested volunteers in order to maintain their involvement in caring for the facility.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2022-2026
Community Wellbeing	Develop and implement the Community Wellbeing strategy to provide services and support for a diverse community

FINANCIAL/RESOURCE IMPLICATIONS

The bank account held by the Fern Bay 355c Hall Committee will be closed prior to 30 September 2022, with remaining funds to be transferred to Council and used for continued hall management purposes.

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

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy impediments to accepting the recommendations. Council is able to endorse changes to the 355c committees under section 355c of the Local Government Act 1993.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the community will have no access to the facility if Council does not take over management.	Low	Adopt the recommendations	Yes
There is a risk to Council's reputation if community assets remained unutilised.	Low	Adopt the recommendations	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no sustainability implications resulting from the dissolution of this 355c Committee.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Community Services Section. Consultation both within Council and with the community is vital for key governance documents such as this to ensure requirements are met in the operation of community volunteers under the Local Government Act 1993.

Internal

- Executive Team.
- Facilities and Services Group.
- Governance Section.
- Community Services Section.

External

- Fern Bay 355c Hall Committee members

OPTIONS

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

3) Reject the recommendations.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 7

**FILE NO: 22/224491
EDRMS NO: A2004-0370**

MEMBERSHIP OF COMMITTEES AND GROUPS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominates membership to Council Committees, 355(c) committees and regional committees and groups memberships to the next local government election in September 2024 (**ATTACHMENT 1**).
 - 2) Disband the following Committees/Groups:
 - a. Anna Bay Hall Committee
 - b. Mallabula Community Centre Committee
 - c. Holiday Parks Advisory Panel
 - d. Property Advisory Panel; and
 - e. Local Infrastructure Contributions Panel
 - f. Medowie Planning Strategy Implementation Panel
 - g. Nelson Bay Strategy Implementation Panel
 - h. Raymond Terrace and Heatherbrae Strategy Implementation Panel
 - 3) The Deputy Mayor, the General Manager and the Financial Services Manager be appointed as delegates to Newcastle Airport Partnership Company No. 3 Pty Ltd.
 - 4) The Deputy Mayor, the General Manager and the Financial Services Manager be appointed as delegates to Newcastle Airport Partnership Company No. 4 Pty Ltd.
 - 5) The General Manager be appointed as a delegate to Newcastle Airport Partnership.
 - 6) The General Manager be appointed as a delegate to Greater Newcastle Aerotropolis Partnership.
 - 7) The Deputy Mayor be appointed as Port Stephens Council Shareholder Representative proxy and the General Manager as Port Stephens Council appointed Director to Newcastle Airport Pty Limited.
 - 8) The Deputy Mayor be appointed as Port Stephens Council Shareholder Representative proxy and the General Manager as Port Stephens Council appointed Director to Greater Newcastle Aerotropolis Pty Limited.
 - 9) Determine a fee payable (if any) to Port Stephens Council representatives on the Hunter and Central Coast Regional Planning Panel.
-

**ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION**

265	<p>Councillor Giacomo Arnott Councillor Leah Anderson</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Nominates membership to Council Committees, 355(c) committees and regional committees and groups memberships to the next local government election in September 2024 (ATTACHMENT 1).2) Disband the following Committees/Groups:<ol style="list-style-type: none">a. Anna Bay Hall Committeeb. Mallabula Community Centre Committeec. Holiday Parks Advisory Paneld. Property Advisory Panel; ande. Local Infrastructure Contributions Panelf. Medowie Planning Strategy Implementation Panelg. Nelson Bay Strategy Implementation Panelh. Raymond Terrace and Heatherbrae Strategy Implementation Panel3) The Deputy Mayor, the General Manager and the Financial Services Manager be appointed as delegates to Newcastle Airport Partnership Company No. 3 Pty Ltd.4) The Deputy Mayor, the General Manager and the Financial Services Manager be appointed as delegates to Newcastle Airport Partnership Company No. 4 Pty Ltd.5) The General Manager be appointed as a delegate to Newcastle Airport Partnership.6) The General Manager be appointed as a delegate to Greater Newcastle Aerotropolis Partnership.7) The Deputy Mayor be appointed as Port Stephens Council Shareholder Representative proxy and the General Manager as Port Stephens Council appointed Director to Newcastle Airport Pty Limited.8) The Deputy Mayor be appointed as Port Stephens Council Shareholder Representative proxy and the General Manager as Port Stephens Council appointed Director to Greater Newcastle Aerotropolis Pty Limited.9) Cr Leah Anderson replace Cr Giacomo Arnott as the Council nominated delegate on the General Manager's Performance Review Panel, as Cr Arnott will now attend in the capacity of Deputy Mayor.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

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

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

Council adopted the delegates at the first Council meeting of this term on 11 January 2022. This report will now align the appointment of delegates with the local government election cycle.

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 40 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 required to report on a monthly basis as is required of Council.

Council has in excess of 20 355(c) committees with over 600 members in total.

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

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

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

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

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

Regional Committees and Groups

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

The Sydney District and Regional Planning Panels Operational Procedures make provision for Council to determine any fees payable to Council Panel members. The remuneration is for travel and subsistence allowances. Any fees payable would need to be funded by Council. As an indication, a number of Sydney councils set their fee at around \$600 per meeting.

The payment of fees to Council delegates to the Panel is discretionary. In the past, payment for travel has been included as part of the normal travel reimbursement for Councillor representation.

The relevant committee is shown at (item 32 of **ATTACHMENT 1**).

The Newcastle Airport companies have been removed from the listing and included as a resolution given the nature of the appointments. This is consistent with the previous appointment of the Mayor to the various Newcastle Airport companies.

Committees to be dissolved

The Mallabula Community Centre is now managed by contract and the committee is no longer responsible for the day to day booking system/centre management.

MINUTES ORDINARY COUNCIL - 27 SEPTEMBER 2022

The Anna Bay Hall Committee has dissolved and management returned to Council.

Council has undertaken a review of a number of internal panels and determined that the Holiday Parks Advisory Panel, Property Advisory Panel and the Local Infrastructure Contributions Panel are no longer required in the current format. Council will now be informed on matters related to these functions through the Two Way Conversation Program and/or reports to Council.

The Medowie Planning Strategy Implementation Panel, the Nelson Bay Strategy Implementation Panel and the Raymond Terrace and Heatherbrae Strategy Implementation Panel will now be replaced with Town Teams or similar as part of Council's new approach to Place Planning and activation.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

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

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the Local Government Act 1993, if it fails to appoint the committees/groups/organisations as listed in (ATTACHMENT 1) .	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

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

ATTACHMENTS

- 1) 355c committees and regional groups for September 2022 to September 2024.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS FOR SEPTEMBER 2022 TO SEPTEMBER 2024.

355C COMMITTEES AND REGIONAL COMMITTEES AND GROUPS SEPTEMBER 2022 TO SEPTEMBER 2024

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Delegates
1	Aboriginal Strategic Committee	To exchange information between the Aboriginal community and Council on issues affecting Aboriginal people. To promote mutual awareness and respect for the cultures of both Aboriginal and non-Aboriginal communities.	Quarterly	Development Services	As resolved by Council	Mayor Palmer Cr Anderson Cr Francis Cr Kafer
2	Audit Committee	The Audit Committee is an advisory committee of Council comprising of two Councillor representatives and three independent external representatives. 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.	At least four times a year or when necessary	General Manager's Office	2 Councillors	Cr Anderson Cr Doohan <u>Alternate</u> Cr Dunkley Office of Local Government guidelines preclude the Mayor from being a member of the Committee.
3	Corlette Hall Committee	To assist Council in the management of Corlette Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Anderson Cr Bailey
4	Fern Bay Community Centre Committee	To assist Council in the management of Fern Bay Community Centre	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Arnott Cr Francis Cr Kafer

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS FOR SEPTEMBER 2022 TO SEPTEMBER 2024.

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Delegates
5	Hinton School of Arts Committee	To assist Council in the management of Hinton School of Arts.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Arnott Cr Francis Cr Kafer
6	Karuah Community Hall Committee	To assist Council in the management of Karuah Community Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Doohan Cr Tucker Cr Wells
7	Lemon Tree Passage Old School Centre Committee	To assist Council in the management of Lemon Tree Passage Old School Centre and surrounds.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Doohan Cr Tucker Cr Wells
8	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.	Meets every 3 months- February, May, August, November. 1st Monday of the month	Facilities & Services	As resolved by Council	Cr Doohan Cr Wells
9	Nelson Bay Community Hall Committee	To assist Council in the management of Nelson Bay Community Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Anderson Cr Bailey
10	Port Stephens Australia Day Committee	To co-ordinate the annual celebration of Australia Day in Port Stephens in line with recommendations from Australia Day Council.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Development Services	1 Councillor from each ward	Mayor Palmer Cr Anderson Cr Arnott Cr Doohan Cr Dunkley Cr Francis

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS FOR SEPTEMBER 2022 TO SEPTEMBER 2024.

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Delegates
11	Port Stephens Sister Cities Committee	To promote and have ongoing relationships between international communities providing opportunities for cultural exchange.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	General Manager's Office	Mayor and all councillors	Mayor and all Councillors
12	Raymond Terrace Senior Citizens Hall Management Committee	To assist Council in the management of the Raymond Terrace Senior Citizens Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Arnott Cr Francis Cr Kafer
13	Salt Ash Community Hall	To assist Council in the management of Salt Ash Community Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	C Doohan Cr Tucker Cr Wells
14	Salt Ash Sports Ground Committee	To assist Council in the management, maintenance and improvements to Salt Ash Sports Ground.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Doohan Cr Tucker Cr Wells
15	Seaham Park & Wetlands Committee	To assist Council in the management, maintenance and improvements to the park and wetlands.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Development Services	As resolved by Council	Cr Arnott Cr Francis Cr Kafer
16	Strategic Arts Committee	To provide input into Port Stephens Council strategic policy, plans and programs relating to culture and the arts. To assist Council identify the existing and future requirements for arts and cultural facilities across Port Stephens.	Quarterly	Development Services	As resolved by Council	Mayor Palmer Cr Francis Cr Kafer Cr Tucker

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS FOR SEPTEMBER 2022 TO SEPTEMBER 2024.

Ref	Committee Name	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Delegates
17	Tanilba Foreshore Hall Committee	To assist Council in the management of Tanilba Bay Foreshore Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Tucker Cr Wells
18	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.	Every 4 months— February, June, October 3rd Monday	Facilities & Services	As resolved by Council	Mayor Palmer Cr Doohan Cr Tucker Cr Wells
19	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.	Committee meets on the 4th Wednesday of February, May, August, November	Facilities & Services	As resolved by Council	Mayor Palmer Cr Anderson Cr Bailey Cr Dunkley
20	West Ward Sports Council	To facilitate communication between the sporting public and Council in order to ensure that the existing and future needs and requirements of those persons participating and administrating sports are accurately identified and brought to the attention of Council.	Every 4 months— February, June, October 2nd Monday	Facilities & Services	As resolved by Council	Mayor Palmer Cr Arnott Cr Francis Cr Kafer
21	Williamstown Hall Committee	To assist Council in the management of Williamstown Hall.	Committees are required to hold at least three meetings per year at a time to be decided by the committee	Facilities & Services	As resolved by Council	Cr Arnott Cr Francis Cr Kafer

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS FOR SEPTEMBER 2022 TO SEPTEMBER 2024.

REGIONAL COMMITTEES AND GROUPS

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Delegates
22	AGL Newcastle Gas Storage Facility Community Dialogue Group	The purpose of a Community Consultative Committee is to provide a forum for discussion between a proponent and representatives of the community, stakeholder groups and the local council on issues directly relating to a specific State significant project.	Quarterly – March, June, September, December	General Manager's Office	Mayor	Mayor Palmer
23	Brandy Hill Quarry Community Consultative Committee	The purpose of a Community Consultative Committee is to provide a forum for discussion between a proponent and representatives of the community, stakeholder groups and the local council on issues directly relating to a specific State significant project.	Quarterly - February, May, August and November	General Manager's Office	1 Councillor	Cr Arnott <u>Alternate</u> Cr Kafer <u>Alternate, as required</u> Assets Section Manager/ Strategy & Environment Section Manager
24	Birubi Point Cultural Heritage Advisory Panel	To advise Port Stephens Council on the management plan required to protect the Worimi cultural and spiritual heritage and enhance the environment of the Birubi Point Crown Reserve and Birubi Point Aboriginal Place.	Meets 3 times per year	Development Services	1 Councillor	Cr Wells
25	Cabbage Tree Road Community Consultative Committee	The purpose of the committee is to provide an advisory forum of community representatives to meet requirements of the development consent.	Quarterly	Corporate Services	1 Councillor	Cr Kafer <u>Alternate</u> Cr Arnott
26	Comprehensive Koala Plan of Management Implementation Committee	Responsible for overseeing the implementation of the Port Stephens Council Comprehensive Koala Plan of Management.	Meets quarterly	Development Services	1 Councillor	Cr Anderson <u>Alternate</u> Cr Kafer
27	Community Support Fund Formerly Community Funding Program	To make recommendations to Council on applications received through the Grants process.	Annual	Development Services	Mayor 1 Councillor from each Ward	Mayor Palmer Cr Arnott Cr Doohan Cr Dunkley <u>Alternate</u> Cr Anderson - East Ward Cr Wells - Central Ward

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS FOR SEPTEMBER 2022 TO SEPTEMBER 2024.

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Delegates
28	General Manager Performance Review Panel	To conduct evaluation of the performance of the General Manager.	At least annual	Mayor's Office	Mayor Deputy Mayor 1 Councillor nominated by Council 1 Councillor nominated by the General Manager	Mayor Palmer Cr Tucker Cr Arnott (nominated by the Council) Plus a Councillor nominated at the time by the General Manager
29	Hunter Joint Organisation	The Hunter Joint Organisation is a collaborative body that brings together the 10 councils in the region to provide a united and local voice for our communities. As the hub for local intergovernmental collaboration, the organisation's statutory mandate includes identifying key regional strategic priorities, advocating for these priorities, and building collaborations around these priorities with other levels of government, industry and community.	Bi-monthly	General Manager's Office	Mayor	Mayor Palmer
30	Local Government Community Safety & Crime Prevention Network NSW Note: This is a Committee of the Port Stephens Local Area Command. Membership is by invitation from the Local Area Commander. Council's delegate is the Mayor.	To provide a forum for local community members, service providers, businesses and the police to discuss issues and appropriate strategies relating to crime and community safety. **Attendees will be by invitation only, one representative will be invited by the Police from each peak body/organisation e.g. Hunter Water / Housing NSW). Council will hold two positions, one will be Community Engagement Officer, and the other will be the Mayor or his representative if unable to attend.	Meets quarterly	Facilities & Services	Mayor	Mayor Palmer

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS FOR SEPTEMBER 2022 TO SEPTEMBER 2024.

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Delegates
31	Customer and Community Advisory Group (CCAG)	This committee is an advisory committee to Hunter Water Corporation.	Meets quarterly	General Manager's Office	1 Councillor	Cr Francis <u>Alternate</u> Cr Kafer
32	Hunter and Central Coast Regional Planning Panel	To consider development applications referred to the Panel under the legislation for development applications for the Port Stephens Local Government area. The Panel comprises of 3 State members and 2 Councillors. The term is for 3 years for each Panel member.	As required	Development Services	2 elected members	Mayor Palmer Cr Arnott <u>Alternates</u> Cr Anderson Cr Tucker Assets Section Manager and Strategy & Environment Section Manager
33	Local Traffic Committee	This is an RTA-based committee which allows Council to have delegated authority to install or remove regulatory sign posting on public roads.	Meets 1 st Tuesday of the month	Facilities & Services	1 Councillor	Mayor Palmer Cr Anderson <u>Alternate</u> Cr Kafer
34	Lower Hunter Bushfire Management Committee	The committee is a legislative requirement and is to discuss direction across local government areas and across agencies in regard to bushfire management.	Meets quarterly	Facilities & Services	2 Councillors	Cr Arnott Cr Kafer
35	Lower Hunter Community Advisory Group	The Group is managed by Hunter Local Land Services (HLLS). The purpose is to provide an opportunity the HLLS to engage with stakeholders on a range matters, including strategic direction and programs.	Meets annual	General Manager's Office	1 Councillor	Cr Francis
36	Marine Parks Advisory Panel Ministerial Appointment	Community Consultative Committee regarding the proposed Marine Park in Port Stephens.	Meets a minimum of twice a year	Development Services	1 Councillor	Cr Anderson
37	NSW Public Libraries Association (Central East Zone)	The purpose of the Association is to champion the public library cause, strengthen the public library network, advocate effectively, foster cooperation and collaboration, build trust and support, initiate partnerships and share relevant information	Meets 3 times per year	Facilities & Services	As resolved by Council	Cr Wells

ITEM 7 - ATTACHMENT 1 355C COMMITTEES AND REGIONAL GROUPS FOR SEPTEMBER 2022 TO SEPTEMBER 2024.

Ref	Name of Organisation	Purpose of Committee	Meeting cycle	Group	Number of elected members required	Delegates
38	Port Stephens Economic Development Advisory Panel	Act as a communication and advisory mechanism to Council on relevant Economic Development issues. Oversee the implementation of the Economic Development Strategy.	Quarterly	Development Services	Mayor 1 councillor from each Ward	Mayor Palmer Cr Anderson Cr Doohan Cr Dunkley Cr Francis Cr Tucker
39	Port Stephens Floodplain Advisory Panel	To provide advice on flood/floodplain management studies/plans	As required	Facilities & Services	1 Councillor	Cr Francis <u>Alternate</u> Cr Arnott
40	Port Stephens/Myall Lakes Estuary and Coastal Zone Management Committee	This Committee includes representatives from Great Lakes Council and is responsible for long term planning for the estuary and the coastline.	As required	Development Services	1 Councillor	Cr Bailey <u>Alternate</u> Cr Anderson
41	Salt Ash Sand Project Community Consultative Committee	The purpose of a Community Consultative Committee is to provide a forum for discussion between a proponent and representatives of the community, stakeholder groups and the local council on issues directly relating to a specific State significant project.	As required	General Manager's Office	1 Councillor	Cr Doohan <u>Alternate</u> Cr Wells
42	RFS District Liaison Committee	To review the progress of the service level agreement between Port Stephens Council and NSW Rural Fire Service in the local government area.	As set by RFS	Facilities & Services	1 Councillor	Cr Arnott <u>Alternate</u> Mayor Palmer
43	Williamstown Consultative Committee Forum	To provide a forum for the residents of Williamstown area to discuss relevant issues with Federal, State and Local Government elected members and agencies.	Annually	General Manager's Office	Mayor	Mayor Palmer (General Manager)
44	Worimi Conservation Lands Board of Management Ministerial Appointment	To oversee the management of the lands owned by the Aboriginal owners and leased back to the NSW Government.	Meets 4 times a year	General Manager's Office	1 Councillor and an alternate	Cr Bailey <u>Alternate</u> Cr Anderson Cr Francis

ITEM NO. 8

**FILE NO: 22/210344
EDRMS NO: A2004-0984**

CODE OF CONDUCT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Code of Conduct and the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2020, **(ATTACHMENTS 1 AND 2)**.
- 2) Place the Code of Conduct **(ATTACHMENT 1)**, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, as amended, without a further report to Council.
- 3) Revoke the Code of Conduct adopted on 22 September 2022, Minute No.193, should no submissions be received.

**ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION**

266	<p>Councillor Leah Anderson Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the Code of Conduct and the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2020, (ATTACHMENTS 1 AND 2).2) Place the Code of Conduct (ATTACHMENT 1), on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, as amended, without a further report to Council.3) Revoke the Code of Conduct adopted on 22 September 2022, Minute No.193, should no submissions be received.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

The purpose of this report is to seek the endorsement of the Code of Conduct (the Code) (**ATTACHMENT 1**) and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2020 (the Procedures) (**ATTACHMENT 2**). The revised Code is in accordance with the prescribed Model Code of Conduct.

Council adopted the current Code of Conduct at its meeting on 22 September 2020.

Pursuant to section 440(7)(h) of the Local Government Act 1993 (the Act), Council must adopt a code of conduct within 12 months after each ordinary election.

Council may include supplementary information in the Code without diluting the requirements of the Model Code of Conduct. Should Council not adopt the Code within the 12 month timeframe, the Model Code of Conduct will apply.

The Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW 2020 are set by the Office of Local Government and therefore do not require public exhibition.

No changes are proposed in the revised Code of Conduct.

COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

Pursuant to section 440(7)(h) of the Local Government Act 1993 (the Act), Council must adopt a code of conduct within 12 months after each ordinary election.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of Section 440 of the Local Government Act 1993 should it not adopt a Code of Conduct within 12 months after the ordinary election.	Low	Adopt the recommendations.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Code sets the minimum standards of conduct for all Council officials to ensure they act with integrity and to act in a way that enhances public confidence in Council.

CONSULTATION

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

Internal

- General Manager.

External

- Following Council adoption, the Code will be placed on public exhibition for 28 days.

OPTIONS

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

ATTACHMENTS

- 1) Revised Code of Conduct.
- 2) Procedures for the Administration of the Model Code of Conduct for Local Council in NSW 2020.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.



Revised Code of Conduct 2022

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ITEM 8 - ATTACHMENT 1 REVISED CODE OF CONDUCT.

The Port Stephens Council has adopted the Model Code of Conduct developed by the Department of Local Government. This Code enhances the Model Code providing Councillors, staff and other council officials with the requirements of Council to ensure Council's commitment to transparency and accountability is maintained in the Port Stephens local government area.

PART 1 INTRODUCTION

This Model Code of Conduct for Local Councils in NSW ("the Model Code of Conduct") is made under section 440 of the Local Government Act 1993 ("LGA") and the Local Government (General) Regulation 2005 ("the Regulation").

The Model Code of Conduct sets the minimum standards of conduct for council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "council officials" for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

A council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council's or joint organisation's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

Councillors, administrators, members of staff of councils, delegates of councils, (including members of council committees that are delegates of a council) and any other person a council's adopted code of conduct applies to, must comply with the applicable provisions of their council's code of conduct. It is the personal responsibility of council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the LGA. The LGA provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with a council's code of conduct may give rise to disciplinary action.

PRINCIPLES FOR LOCAL GOVERNMENT

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

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

Guiding principles for Council**1) Exercise of functions generally**

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

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

2) Decision-making

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

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

3) Community participation

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

Principles of sound financial management

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

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

Integrated planning and reporting principles that apply to Council

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

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

COUNCIL VALUES

	<p>RESPECT</p> <p>Creating a unique, open and trusting environment in which each individual is valued and heard</p>	<p>Expected Behaviours</p> <ul style="list-style-type: none"> • Being fair and courteous to each other. • Acknowledging individual contributions and differences. • Listening to our customers and keeping them involved. • Embracing the complexities of local government. 	<p>Unacceptable Behaviours</p> <ul style="list-style-type: none"> • Making promises we know we can't keep. • Tolerating a blame culture. • Gossiping. • Disregarding the differing views of the community.
	<p>INTEGRITY</p> <p>Being honest and inspiring trust by being consistent, matching behaviours to words and taking responsibility for our actions.</p>	<p>Expected Behaviours</p> <ul style="list-style-type: none"> • Doing what we say we are going to do. • Leading by example and setting a positive direction. • Making the right choices, not just the easy ones. • Being present and actively listening. 	<p>Unacceptable Behaviours</p> <ul style="list-style-type: none"> • Making excuses for not delivering what is expected of us. • Doing the bare minimum just to get by. • Allowing personal interest to affect our judgement. • Giving different messages to different people.
	<p>TEAMWORK</p> <p>Working together as one Council, supporting each other to achieve better results for everyone.</p>	<p>Expected Behaviours</p> <ul style="list-style-type: none"> • Tapping into the knowledge and experience of our people. • Helping each other and provide support to a workmate in need. • Communicating clearly and often. • Acknowledging and celebrate work well done. 	<p>Unacceptable Behaviours</p> <ul style="list-style-type: none"> • Working in isolation or pursuing personal agendas. • Taking credit for the work of others. • Being negative about our workmate behind their back. • Acting in a way that impacts negatively on others.
	<p>EXCELLENCE</p> <p>Improving the way we work, to meet the challenges of the future.</p>	<p>Expected Behaviours</p> <ul style="list-style-type: none"> • Working according to the business excellence principles. • Basing all decisions on data and experience. • Seeking feedback to continuously improve what we do. • Encouraging ideas and suggestions and empowering people to develop new approaches. 	<p>Unacceptable Behaviours</p> <ul style="list-style-type: none"> • Resisting change because 'we have always done it this way'. • Taking unnecessary risks when trying new things. • Avoiding responsibility for negative outcomes. • Using jargon over plain English.
	<p>SAFETY</p> <p>Providing a safety focused workplace culture to ensure the wellbeing of staff, their families and the community</p>	<p>Expected Behaviours</p> <ul style="list-style-type: none"> • Working safely at all times. • Taking responsibility for the safety of others as well as ourselves. • Speaking up and reporting unsafe acts. • Using our risk management system to create an even safer workplace. 	<p>Unacceptable Behaviours</p> <ul style="list-style-type: none"> • Continuing with a job or task if we feel unsafe. • Using equipment that we aren't trained to use. • Taking short cuts because we are busy, or pressed to do so • Taking risks that compromise the safety and welfare of staff, volunteers, contractors and/or members of the public.



PART 2 DEFINITIONS

In this code the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of "council committee"
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
conduct	includes acts and omissions
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns

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environmental planning instrument	has the same meaning as it has in the Environmental Planning and Assessment Act 1979
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
LGA	Local Government Act 1993
local planning panel	a local planning panel constituted under the Environmental Planning and Assessment Act 1979
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to

PART 3 GENERAL CONDUCT OBLIGATIONSGeneral conduct

- 3.1 You must not conduct yourself in a manner that:
- a) is likely to bring the council or other council officials into disrepute
 - b) is contrary to statutory requirements or the council's administrative requirements or policies
 - c) is improper or unethical
 - d) is an abuse of power
 - e) causes, comprises or involves intimidation or verbal abuse
 - f) involves the misuse of your position to obtain a private benefit
 - g) constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.
- 3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act. (section 439).
- 3.3 A Code of Conduct declaration must be signed by all Council officials stating that they have received, read and understand their obligations under the Code of Conduct at the completion the Code of Conduct training.

Fairness and equity

- 3.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.6 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.4 or 3.5.

Harassment and discrimination

- 3.7 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- 3.8 For the purposes of this code, "harassment" is any form of behaviour towards a person that:

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- a) is not wanted by the person
- b) offends, humiliates or intimidates the person, and
- c) creates a hostile environment.

Bullying

3.9 You must not engage in bullying behaviour towards others.

3.10 For the purposes of this code, "bullying behaviour" is any behaviour in which:

- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
- b) the behaviour creates a risk to health and safety.

3.11 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:

- a) aggressive, threatening or intimidating conduct
- b) belittling or humiliating comments
- c) spreading malicious rumours
- d) teasing, practical jokes or 'initiation ceremonies'
- e) exclusion from work-related events
- f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- g) displaying offensive material
- h) pressure to behave in an inappropriate manner.

3.12 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- a) performance management processes
- b) disciplinary action for misconduct
- c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
- d) directing a worker to perform duties in keeping with their job
- e) maintaining reasonable workplace goals and standards
- f) legitimately exercising a regulatory function
- g) legitimately implementing a council policy or administrative processes.

Work health and safety

- 3.13 All council officials, including councillors, owe statutory duties under the Work Health and Safety Act 2011 (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety
 - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
 - c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the council to ensure workplace health and safety
 - d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
 - e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations
 - f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

- 3.14 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 3.15 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

Binding caucus votes

- 3.16 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.17 For the purposes of clause 3.16, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.18 Clause 3.16 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or

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committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.

- 3.19 Clause 3.16 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

Obligations in relation to meetings

- 3.20 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.21 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.22 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.23 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
 - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
 - c) deliberately seek to impede the consideration of business at a meeting.

PART 4 PECUNIARY INTERESTSWhat is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will 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 you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
 - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your "relative" is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
 - (b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
 - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

ITEM 8 - ATTACHMENT 1 REVISED CODE OF CONDUCT.What interests do not have to be disclosed?

4.6 You do not have to disclose the following interests for the purposes of this Part:

- (a) your interest as an elector
- (b) your interest as a ratepayer or person liable to pay a charge
- (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
- (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code
- (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- (f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
- (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- (h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
- (i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
 - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
 - ii) security for damage to footpaths or roads
 - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
- (j) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
- (k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the LGA,
- (l) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
- (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person

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- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
 - (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.
- 4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

What disclosures must be made by a designated person?

4.8 Designated persons include:

- (a) the general manager
- (b) other senior staff of the council for the purposes of section 332 of the LGA
- (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.10.

4.10 A designated person must disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

4.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.

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4.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council staff other than designated persons?

4.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.

4.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council advisers?

4.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.

4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

What disclosures must be made by a council committee member?

4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.

4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council who is a member of the committee.

What disclosures must be made by a councillor?

4.20 A councillor:

- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

Disclosure of interests in written returns

- 4.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- (a) becoming a councillor or designated person, and
 - (b) 30 June of each year, and
 - (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- (a) they made and lodged a return under that clause in the preceding 3 months, or
 - (b) they have ceased to be a councillor or designated person in the preceding 3 months.
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.25 Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009, the Government Information (Public Access) Regulation 2009 and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.29 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:

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- (a) at any time during which the matter is being considered or discussed by the council or committee, or
 - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
 - (b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or

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- (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
- (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
- (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.

4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:

- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
- (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.

4.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- (b) that it is in the interests of the electors for the area to do so.

4.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

PART 5 NON-PECUNIARY CONFLICTS OF INTERESTWhat is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.

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- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
- a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
 - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
 - c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
 - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
 - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of

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interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.

- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

Political donations

- 5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) the major political donor has a matter before council,

you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.

- 5.17 For the purposes of this Part:
- a) a "reportable political donation" has the same meaning as it has in section 6 of the Electoral Funding Act 2018
 - b) "major political donor" has the same meaning as it has in the Electoral Funding Act 2018.
- 5.18 Councillors should note that political donations that are not a "reportable political donation", or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.

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5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

Loss of quorum as a result of compliance with this Part

5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:

- a) the matter is a proposal relating to:
 - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
 - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
- b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
- c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.

5.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so.

5.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 5.21, the councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Other business or employment

5.23 The general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.

5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the general manager in writing of the

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employment, work or business and the general manager has given their written approval for the staff member to engage in the employment, work or business.

- 5.25 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.
- 5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:
- a) conflict with their official duties
 - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
 - c) require them to work while on council duty
 - d) discredit or disadvantage the council
 - e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with council

- 5.28 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 5.29 You must undertake any personal dealings you have with the council in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.

ITEM 8 - ATTACHMENT 1 REVISED CODE OF CONDUCT.**PART 6 PERSONAL BENEFIT**

- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not include:
- a) items with a value of \$10 or less
 - b) a political donation for the purposes of the Electoral Funding Act 2018
 - c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
 - d) a benefit or facility provided by the council to an employee or councillor
 - e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
 - f) free or subsidised meals, beverages or refreshments provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
 - i) the discussion of official business
 - ii) work-related events such as council-sponsored or community events, training, education sessions or workshops
 - iii) conferences
 - iv) council functions or events
 - v) social functions organised by groups, such as council committees and community organisations.

Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

How are offers of gifts and benefits to be dealt with?

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
 - b) seek gifts or benefits of any kind
 - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
 - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9

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- e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
 - f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
 - g) personally benefit from reward points programs when purchasing on behalf of the council.
- 6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager, or general manager must ensure that, at a minimum, the following details are recorded in the council’s gift register:
- a) the nature of the gift or benefit
 - b) the estimated monetary value of the gift or benefit
 - c) the name of the person who provided the gift or benefit, and
 - d) the date on which the gift or benefit was received.
- 6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

Gifts and benefits of token value

- 6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$100. They include, but are not limited to:
- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
 - b) gifts of alcohol that do not exceed a value of \$100
 - c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
 - d) prizes or awards that do not exceed \$100 in value.

Gifts and benefits of more than token value

- 6.9 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.
- 6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

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- 6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.
- 6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

“Cash-like gifts”

- 6.13 For the purposes of clause 6.5(e), “cash-like gifts” include, but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

Improper and undue influence

- 6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.
- 6.15 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALSObligations of councillors and administrators

- 7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 7.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the mayor or administrator exercising their functions under section 226 of the LGA
 - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
 - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
 - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the mayor or administrator exercising their functions under section 226 of the LGA.
- 7.3 Despite clause 7.2, councillors may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement committee to effectively perform their functions.

Obligations of staff

- 7.4 Under section 335 of the LGA, the role of the general manager includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the council and ensuring that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.5 Members of staff of council must:
- a) give their attention to the business of the council while on duty
 - b) ensure that their work is carried out ethically, efficiently, economically and effectively
 - c) carry out reasonable and lawful directions given by any person having authority to give such directions

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- d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

Inappropriate interactions

7.6 You must not engage in any of the following inappropriate interactions:

- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
- d) councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
- e) councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor or administrator has a right to be heard by the panel at the meeting
- f) councillors and administrators being overbearing or threatening to council staff
- g) council staff being overbearing or threatening to councillors or administrators
- h) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCESCouncillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the Government Information (Public Access) Act 2009 (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

Councillors and administrators to properly examine and consider information

- 8.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

Refusal of access to information

- 8.8 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The

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general manager or public officer must state the reasons for the decision if access is refused.

Use of certain council information

- 8.9 In regard to information obtained in your capacity as a council official, you must:
- a) subject to clause 8.14, only access council information needed for council business
 - b) not use that council information for private purposes
 - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with council
 - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 8.11 In addition to your general obligations relating to the use of council information, you must:
- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
 - b) protect confidential information
 - c) only release confidential information if you have authority to do so
 - d) only use confidential information for the purpose for which it is intended to be used
 - e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
 - f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body
 - g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

Personal information

- 8.12 When dealing with personal information you must comply with:
- a) the Privacy and Personal Information Protection Act 1998
 - b) the Health Records and Information Privacy Act 2002
 - c) the Information Protection Principles and Health Privacy Principles
 - d) the Council's privacy management plan
 - e) the Privacy Code of Practice for Local Government

Use of council resources

- 8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
 - b) the representation of employees with respect to grievances and disputes
 - c) functions associated with the role of the local consultative committee.
- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- 8.19 You must not convert any property of the council to your own use unless properly authorised.

Internet access

- 8.20 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the council's reputation.

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- 8.21 You must not use social media to post comments, photos, sound recordings or other information that:
- a) compromises your capacity to perform your official duties in an unbiased manner
 - b) has the potential to have a negative impact on your working relationships within the Council or with external parties
 - c) is offensive, humiliating, threatening or intimidating to other Council officials or those that deal with the Council
 - d) has the capacity to damage the Council's reputation or contains content about the Council that may be misleading or deceptive
 - e) divulges confidential Council information
 - f) breaches the privacy of other Council officials or those that deal with Council
 - g) contains allegations of suspected breaches of this code or information about the consideration of a matter under this code, or
 - h) could be perceived to be an official comment on behalf of the Council where you have not been authorised to make such comment.

Council record keeping

- 8.22 You must comply with the requirements of the State Records Act 1998 and the council's records management policy.
- 8.23 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the State Records Act 1998 and the council's approved records management policies and practices.
- 8.24 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.
- 8.25 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the State Records Act 1998.

Councillor access to council buildings

- 8.26 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.

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- 8.27 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.

- 8.28 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.

PART 9 MAINTAINING THE INTEGRITY OF THIS CODEComplaints made for an improper purpose

- 9.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.
- 9.2 For the purposes of clause 9.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another council official
 - b) to damage another council official's reputation
 - c) to obtain a political advantage
 - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
 - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
 - f) to avoid disciplinary action under the Procedures
 - g) to take reprisal action against a person for making a complaint alleging a breach of this code
 - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
 - i) to prevent or disrupt the effective administration of this code under the Procedures.

Detrimental action

- 9.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.
- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 9.5 For the purposes of clauses 9.3 and 9.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
 - b) intimidation or harassment
 - c) discrimination, disadvantage or adverse treatment in relation to employment
 - d) dismissal from, or prejudice in, employment
 - e) disciplinary proceedings.

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Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.

Disclosure of information about the consideration of a matter under the Procedures

- 9.9 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.10 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.11 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.12 You must not disclose information about a complaint you have made alleging a breach of this code or any other matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the Public Interest Disclosures Act 1994.

Complaints alleging a breach of this Part

- 9.14 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.
- 9.15 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.

SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21Part 1: PreliminaryDefinitions

1. For the purposes of the schedules to this code, the following definitions apply:

address means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

de facto partner has the same meaning as defined in section 21C of the Interpretation Act 1987.

disposition of property means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

gift means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

interest means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or

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- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the Corporations Act 2001 of the Commonwealth) in securities issued or made available by the corporation.

listed company means a company that is listed within the meaning of section 9 of the Corporations Act 2001 of the Commonwealth.

occupation includes trade, profession and vocation.

professional or business association means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

property includes money.

return date means:

- a) in the case of a return made under clause 4.21(a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.21(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.21(c), the date on which the councillor or designated person became aware of the interest to be disclosed.

relative includes any of the following:

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

travel includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

2. *Interests etc. outside New South Wales:* A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
3. *References to interests in real property:* A reference in this schedule or in schedule 2 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.

4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

Part 2: Pecuniary interests to be disclosed in returns

Real property

5. A person making a return under clause 4.21 of this code must disclose:
 - a) the street address of each parcel of real property in which they had an interest on the return date, and
 - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
 - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
 - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
 - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

Gifts

9. A person making a return under clause 4.21 of this code must disclose:
 - a) a description of each gift received in the period since 30 June of the previous financial year, and
 - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
 - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
 - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
 - c) the donor was a relative of the donee, or
 - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

ITEM 8 - ATTACHMENT 1 REVISED CODE OF CONDUCT.Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
 - b) the dates on which the travel was undertaken, and
 - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
 - b) was made by a relative of the traveller, or
 - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
 - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
 - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the Electoral Funding Act 2018, or
 - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
 - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
 - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
 - c) the nature of the interest, or the position held, in each of the corporations, and
 - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.

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16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
 - a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
 - b) required to apply its profits or other income in promoting its objects, and
 - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

Interests as a property developer or a close associate of a property developer

19. A person making a return under clause 4.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.
20. For the purposes of clause 19 of this schedule:

close associate, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the Electoral Funding Act 2018.

property developer has the same meaning as it has in Division 7 of Part 3 of the Electoral Funding Act 2018.

Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:
 - a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
 - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
 - c) a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

ITEM 8 - ATTACHMENT 1 REVISED CODE OF CONDUCT.Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

Sources of income

26. A person making a return under clause 4.21 of this code must disclose:
 - a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
 - b) each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
 - a) in relation to income from an occupation of the person:
 - (i) a description of the occupation, and
 - (ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
 - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
 - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
 - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.

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29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
 - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
 - (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
 - (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
 - b) the person was liable to pay the debt to a relative, or
 - c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
 - d) in the case of a debt arising from the supply of goods or services:
 - (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
 - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
 - e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.21

Office Use only: Date Received: _____ Received by: _____

Code of Conduct**Schedule 2 Form of return—disclosure of interest****'Disclosures by councillors and designated persons' return**

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

Important information

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 4.23 of the Model Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary

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action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the general manager in a register of returns. The general manager is required to table all returns at a council meeting.

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009, the Government Information (Public Access) Regulation 2009 and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

Disclosure of pecuniary interests and other matters by [full name of councillor or designated person]

as at [return date]

in respect of the period from [date] to [date]

[councillor's or designated person's signature]

[date]

A. Real Property

Street address of each parcel of real property in which I had an interest at the return date/at any time since 30 June	Nature of interest

B. Sources of income

1 Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from an occupation at any time since 30 June

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)

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2 Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee
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3 Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June

Sources of other income I received at any time since 30 June

[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]

C. Gifts

Description of each gift I received at any time since 30 June	Name and address of donor
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D. Contributions to travel

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken
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E. Interests and positions in corporations

Name and address of each corporation in which I had an interest (if interest or held a position at the return date/at any time since 30 June)	Nature of any	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
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F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)

G. Positions in trade unions and professional or business associations

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June	Description of position
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H. Debts

Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June

I. Dispositions of property

1 Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time

2 Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property

J. Discretionary disclosures

SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.37

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

Important information

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

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

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

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

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

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

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

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

which is to be considered at a meeting of the *[name of council or council committee (as the case requires)]*

to be held on the day of 20 .

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

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

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

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

[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]

CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website www.portstephens.nsw.gov.au			
EDRMS container No	A2004-0984	EDRMS record No	20/372937 TBC
Audience	Elected Council, administrators, council employees, volunteers and contractors		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Four 3 years	Next review date	September 2022 30 September 2025
Adoption date	26 March 2019		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	26 March 2019	Governance Section Manager	New model code of conduct release by the Office of Local Government.	058

ITEM 8 - ATTACHMENT 1 REVISED CODE OF CONDUCT.

2.1	22 September 2020	Governance Section Manager	<p>A revised Model Code of Conduct has been released by the Office of Local Government.</p> <p>Definitions updated in include Council's audit, risk and improvement committee.</p> <p>3.7 – updated to reflect more contemporary standards.</p> <p>3.10 – insert a comma.</p> <p>3.13 – delete WH&S and insert WHS.</p> <p>6.2a) – insert items with a value of \$10 or less</p> <p>6.2d) – insert benefit or facility provided by the council to an employee or councillor.</p> <p>6.8, 6.9, 6.10, 6.11 – replace \$50 with \$100.</p> <p>6.13 – insert a comma after the word include.</p> <p>7.6e) – insert the word 'or administrator after the word councillor.</p> <p>9.9 – delete "Where you are a Councillor or the General</p>	193
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ITEM 8 - ATTACHMENT 1 REVISED CODE OF CONDUCT.

Version	Date	Author	Details	Minute No.
			<p>Manager, you must comply with any Council resolution requiring you to take action as a result of a breach of this code.”</p> <p>9.12 – delete “a” after the word or and insert “any other”.</p>	
2.2		Governance Section Manager	<p>The Code of Conduct has been reviewed and no amendments have been made, which the exception of updating the version control.</p> <p>The review has been conducted to satisfy section 440(7) of the Local Government Act 1993.</p>	



Code of Conduct

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Procedures for the
Administration of

The Model Code of Conduct

for Local Councils in NSW

2020



ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

2020

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Part 1:

Introduction

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

These procedures (“the Model Code Procedures”) are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* (“the Model Code of Conduct”).

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* (“the LGA”) and the *Local Government (General) Regulation 2005* (“the Regulation”). Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

The Model Code Procedures are made under section 440AA of the LGA and the Regulation. Section 440AA of the LGA requires every council (including county councils) and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils and joint organisations may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

Note: References in these procedures to councils are also to be taken as references to county councils and joint organisations.

Note: In adopting the Model Code Procedures, joint organisations should adapt them to substitute the terms “board” for “council”, “chairperson” for “mayor”, “voting representative” for “councillor” and “executive officer” for “general manager”.

Note: In adopting the Model Code Procedures, county councils should adapt them to substitute the term “chairperson” for “mayor” and “member” for “councillor”.

Note: Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the mayor) or the general manager.

Part 2:

Definitions

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

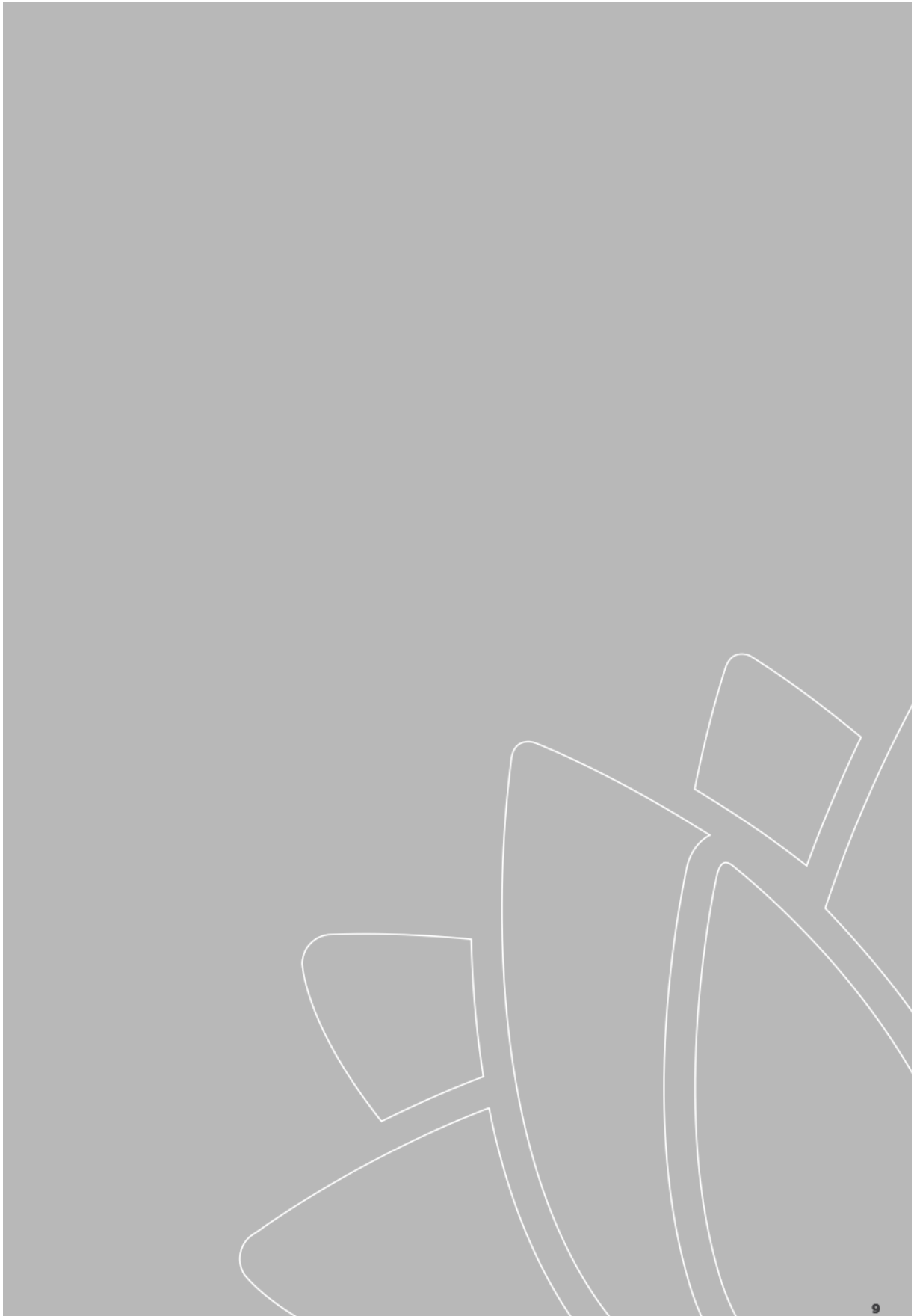
In these procedures the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
council official	any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
external agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
general manager	includes the executive officer of a joint organisation

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ICAC	the Independent Commission Against Corruption
joint organisation	a joint organisation established under section 4000 of the LGA
LGA	the <i>Local Government Act 1993</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to

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Part 3:
Administrative
Framework

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

The establishment of a panel of conduct reviewers

- 3.1 The council must establish a panel of conduct reviewers.
- 3.2 The council may enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
 - a) an understanding of local government, and
 - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
 - c) knowledge and experience of one or more of the following:
 - i) investigations
 - ii) law
 - iii) public administration
 - iv) public sector ethics
 - v) alternative dispute resolution, and
 - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
 - a) a councillor, or
 - b) a nominee for election as a councillor, or
 - c) an administrator, or
 - d) an employee of a council, or
 - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.
- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.

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- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

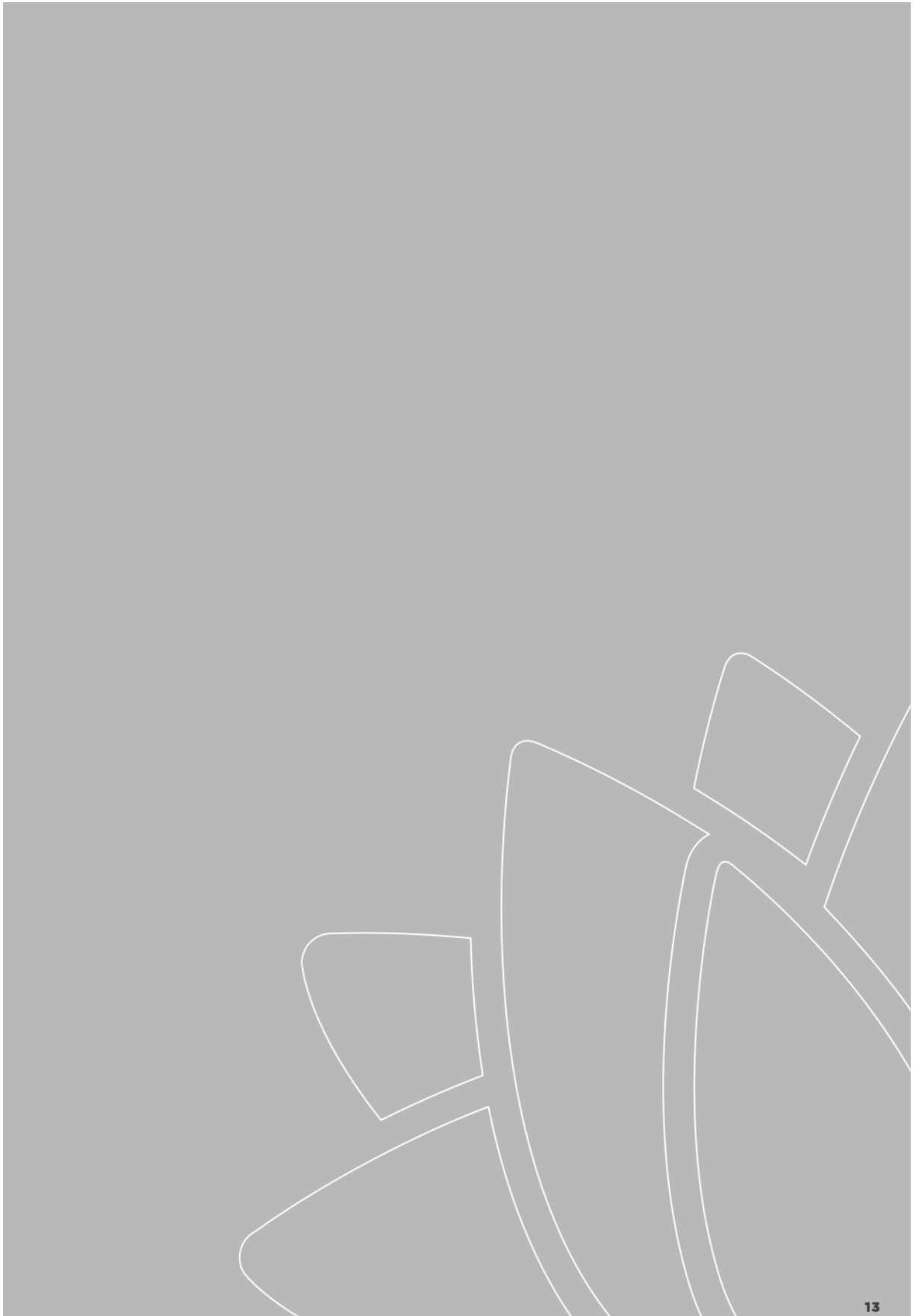
The appointment of an internal ombudsman to a panel of conduct reviewers

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.
- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.
- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

The appointment of complaints coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The general manager must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
- coordinate the management of complaints made under the council's code of conduct
 - liaise with and provide administrative support to a conduct reviewer
 - liaise with the Office, and
 - arrange the annual reporting of code of conduct complaints statistics.

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Part 4:

**How May Code of Conduct
Complaints be Made?**

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
- a) complaints about the standard or level of service provided by the council or a council official
 - b) complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
 - c) complaints about the policies or procedures of the council
 - d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under the council's routine complaints management processes.

When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within 3 months of the alleged conduct occurring or within 3 months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the general manager or their delegate, or, in the case of a complaint about the general manager, the mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct.

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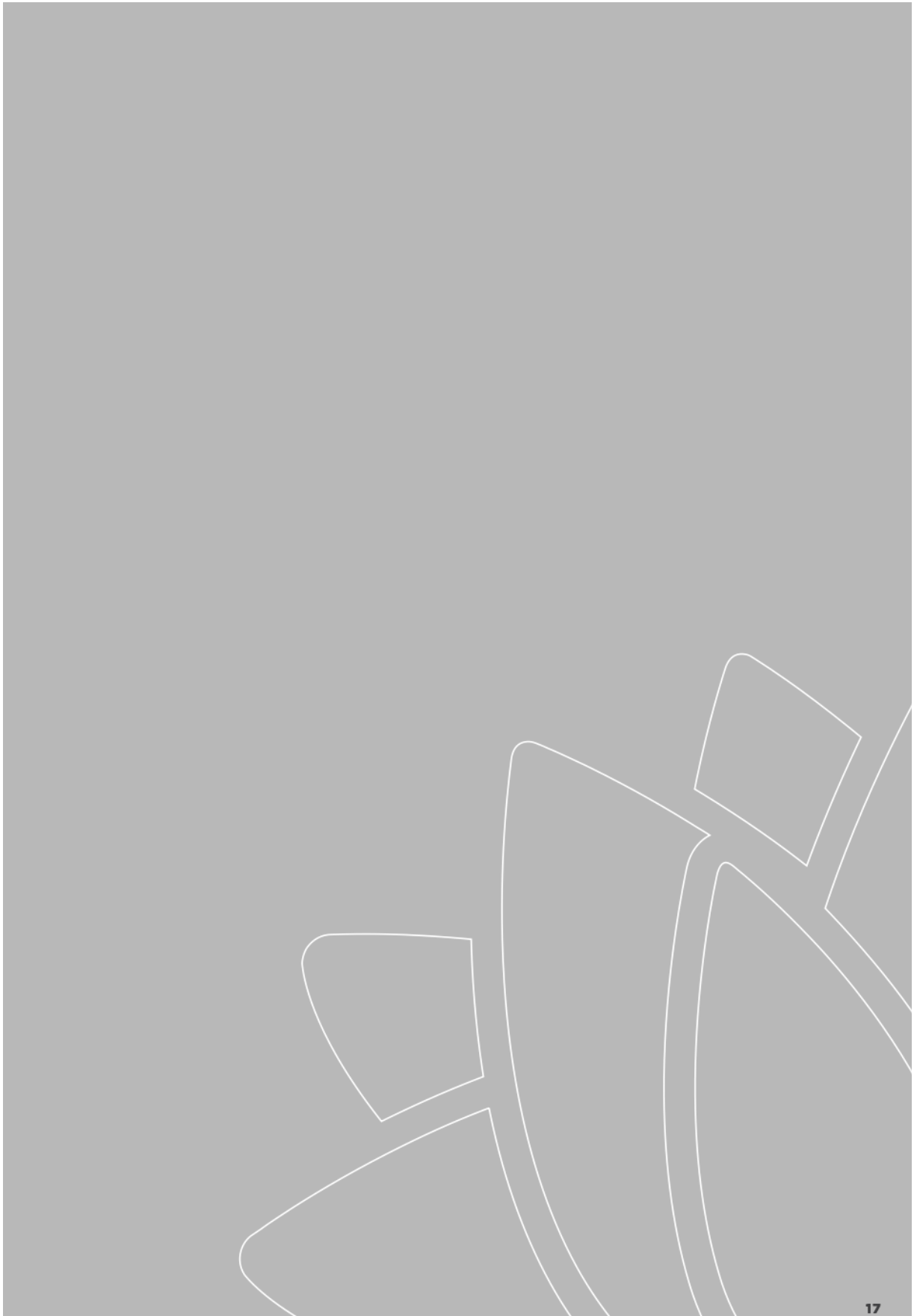
How may a code of conduct complaint about a council official other than the general manager be made?

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The general manager or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the general manager becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

How may a code of conduct complaint about the general manager be made?

- 4.11 Code of conduct complaints about the general manager are to be made to the mayor in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The mayor or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.15 Notwithstanding clauses 4.11 and 4.12, where the mayor becomes aware of a possible breach of the council's code of conduct by the general manager, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

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Part 5:

**How are Code of Conduct
Complaints to be Managed?**

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

Delegation by general managers and mayors of their functions under this Part

5.1 A general manager or mayor may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the general manager or mayor are also to be taken to be references to their delegates.

Consideration of complaints by general managers and mayors

5.2 In exercising their functions under this Part, general managers and mayors may consider the complaint assessment criteria prescribed under clause 6.31.

What complaints may be declined at the outset?

5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:

- a) is not a code of conduct complaint, or
- b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
- c) is trivial, frivolous, vexatious or not made in good faith, or

- d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
- e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

How are code of conduct complaints about staff (other than the general manager) to be dealt with?

5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.

5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.

5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.

5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.

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- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are code of conduct complaints about delegates of council, council advisers and council committee members to be dealt with?

- 5.10 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is warranted in relation to the complaint.

- 5.13 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the general manager resolves a code of conduct complaint under clause 5.14 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
 - a) censure
 - b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
 - c) prosecution for any breach of the law

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- d) removing or restricting the person's delegation
- e) removing the person from membership of the relevant council committee.

5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:

- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
- b) the person must be given an opportunity to respond to the allegation, and
- c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

How are code of conduct complaints about administrators to be dealt with?

5.18 The general manager must refer all code of conduct complaints about administrators to the Office for its consideration.

5.19 The general manager must notify the complainant of the referral of their complaint in writing.

How are code of conduct complaints about councillors to be dealt with?

5.20 The general manager must refer the following code of conduct complaints about councillors to the Office:

- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
- b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)
- c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
- d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.

5.21 Where the general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.

5.22 The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.

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- 5.23 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

How are code of conduct complaints about the general manager to be dealt with?

- 5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
 - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
 - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.
- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.

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5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.

5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.

5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

How are complaints about both the general manager and the mayor to be dealt with?

5.34 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:

- a) delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager where the allegation is not serious, or to a person external to the council, or
- b) refer the matter to the complaints coordinator under clause 5.26 and clause 5.33.

Referral of code of conduct complaints to external agencies

5.35 The general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.

5.36 The general manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.

5.37 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.

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5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.

Disclosure of the identity of complainants

5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:

- a) the complainant consents in writing to the disclosure, or
- b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
- c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
- d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
- e) it is otherwise in the public interest to do so.

5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.

5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.

5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.

5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.

5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

5.46 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.

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5.47 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the general manager or the mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

Special complaints management arrangements

5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.

5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:

- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
- b) impeded or disrupted the effective administration by the council of its code of conduct, or
- c) impeded or disrupted the effective functioning of the council.

5.50 A special complaints management arrangement must be in writing and must specify the following:

- a) the code of conduct complaints the arrangement relates to, and
- b) the period that the arrangement will be in force.

5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.

5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.

5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.

5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the general manager, review the arrangement to determine whether it should be renewed or amended.

5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.

Part 6:

Preliminary Assessment of Code of Conduct Complaints About Councillors or the General Manager by Conduct Reviewers

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Councillors or the General Manager by Conduct Reviewers

Referral of code of conduct complaints about councillors or the general manager to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
 - b) a panel of conduct reviewers established by an organisation approved by the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
 - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
 - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.

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- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
- a) comply with these procedures in their consideration of the matter, or
 - b) comply with a lawful and reasonable request by the complaints coordinator, or
 - c) exercise their functions in a timely or satisfactory manner.
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

Preliminary assessment of code of conduct complaints about councillors or the general manager by a conduct reviewer

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- a) to take no action
 - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - d) to refer the matter to an external agency
 - e) to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.

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Councillors or the General Manager by Conduct Reviewers

- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
 - b) that the alleged conduct is sufficiently serious to warrant the formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment if it were to be proven, and
 - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
 - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
 - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
 - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

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Referral back to the general manager or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
- a) whether the complaint is a code of conduct complaint for the purpose of these procedures
 - b) whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's code of conduct
 - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
 - d) whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
 - e) whether the complaint raises issues that would be more appropriately dealt with by an external agency
 - f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
 - g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour

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Councillors or the General Manager by Conduct Reviewers

- h) whether the issue/s giving rise to the complaint have previously been addressed or resolved
- i) any previous proven breaches of the council's code of conduct
- j) whether the conduct complained of forms part of an ongoing pattern of behaviour
- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

Part 7:

Investigations of Code of Conduct Complaints About Councillors or the General Manager

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What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or do not arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
 - a) disclose the substance of the allegations against the respondent, and
 - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
 - c) advise of the process to be followed in investigating the matter, and

- d) advise the respondent of the requirement to maintain confidentiality, and
 - e) invite the respondent to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice, and
 - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
 - 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
 - 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within a period of not less than 14 days specified by the investigator in the amended notice.
 - 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:

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- a) advise them of the matter the investigator is investigating, and
- b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
- c) invite the complainant to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice.

- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.

How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

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Referral or resolution of a matter after the commencement of an investigation

7.20 At any time after an investigator has issued a notice of investigation and before they have issued their final report, an investigator may determine to:

- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
- b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
- c) refer the matter to an external agency.

7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.

7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.

7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.

7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.

7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.

7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.

7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.

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7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.

7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.

7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.

7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

7.33 Where an investigator issues a notice of investigation, they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.

7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.

7.35 The investigator's final report must:

- a) make findings of fact in relation to the matter investigated, and,
- b) make a determination that the conduct investigated either,
 - i) constitutes a breach of the code of conduct, or
 - ii) does not constitute a breach of the code of conduct, and
- c) provide reasons for the determination.

7.36 At a minimum, the investigator's final report must contain the following information:

- a) a description of the allegations against the respondent
- b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
- c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
- d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
- e) a description of any attempts made to resolve the matter by use of alternative means
- f) the steps taken to investigate the matter
- g) the facts of the matter
- h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
- i) the investigator's determination and the reasons for that determination
- j) any recommendations.

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- 7.37 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may recommend:
- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
 - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
 - c) in the case of a breach by a councillor, that the council resolves as follows:
 - i) that the councillor be formally censured for the breach under section 440G of the LGA, and
 - ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.38 Where the investigator proposes to make a recommendation under clause 7.37(c), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.
- 7.39 Where the investigator has determined that there has been a breach of the code of conduct, the investigator may, in addition to making a recommendation under clause 7.37, recommend that the council revise any of its policies, practices or procedures.
- 7.40 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may recommend:
- a) that the council revise any of its policies, practices or procedures
 - b) that a person or persons undertake any training or other education.
- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - b) the investigator's determination and the reasons for that determination
 - c) any recommendations, and
 - d) such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation under clause 7.37, the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

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7.45 Where it is apparent to the complaints coordinator that the council will not be able to form a quorum to consider the investigator's report, the complaints coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the council under clause 7.44.

Consideration of the final investigation report by council

7.46 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.37.

7.47 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.

7.48 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.

7.49 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation.

7.50 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.

7.51 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.

7.52 Prior to imposing a sanction, the council may by resolution:

- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
- b) seek an opinion from the Office in relation to the report.

7.53 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.

7.54 The investigator may make additional enquiries for the purpose of preparing a supplementary report.

7.55 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.

7.56 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.

7.57 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.

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- 7.58 A council may by resolution impose one of the following sanctions on a respondent:
- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
 - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
 - c) in the case of a breach by a councillor:
 - i) that the councillor be formally censured for the breach under section 440G of the LGA, and
 - ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.59 Where the council censures a councillor under section 440G of the LGA, the council must specify in the censure resolution the grounds on which it is satisfied that the councillor should be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the council considers may be relevant or appropriate.
- 7.60 The council is not obliged to adopt the investigator's recommendation. Where the council proposes not to adopt the investigator's recommendation, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 7.61 Where the council resolves not to adopt the investigator's recommendation, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

Part 8:

Oversight and Rights of Review

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

The Office's powers of review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.
- 8.2 The Office may direct any person, including the council, to defer taking further action in relation to a matter under consideration under the council's code of conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the complaints coordinator and any other affected persons, of the outcome of the review.

Complaints about conduct reviewers

- 8.4 The general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

Practice rulings

- 8.7 Where a respondent and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.9 Where the Office makes a practice ruling, all parties must comply with it.
- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

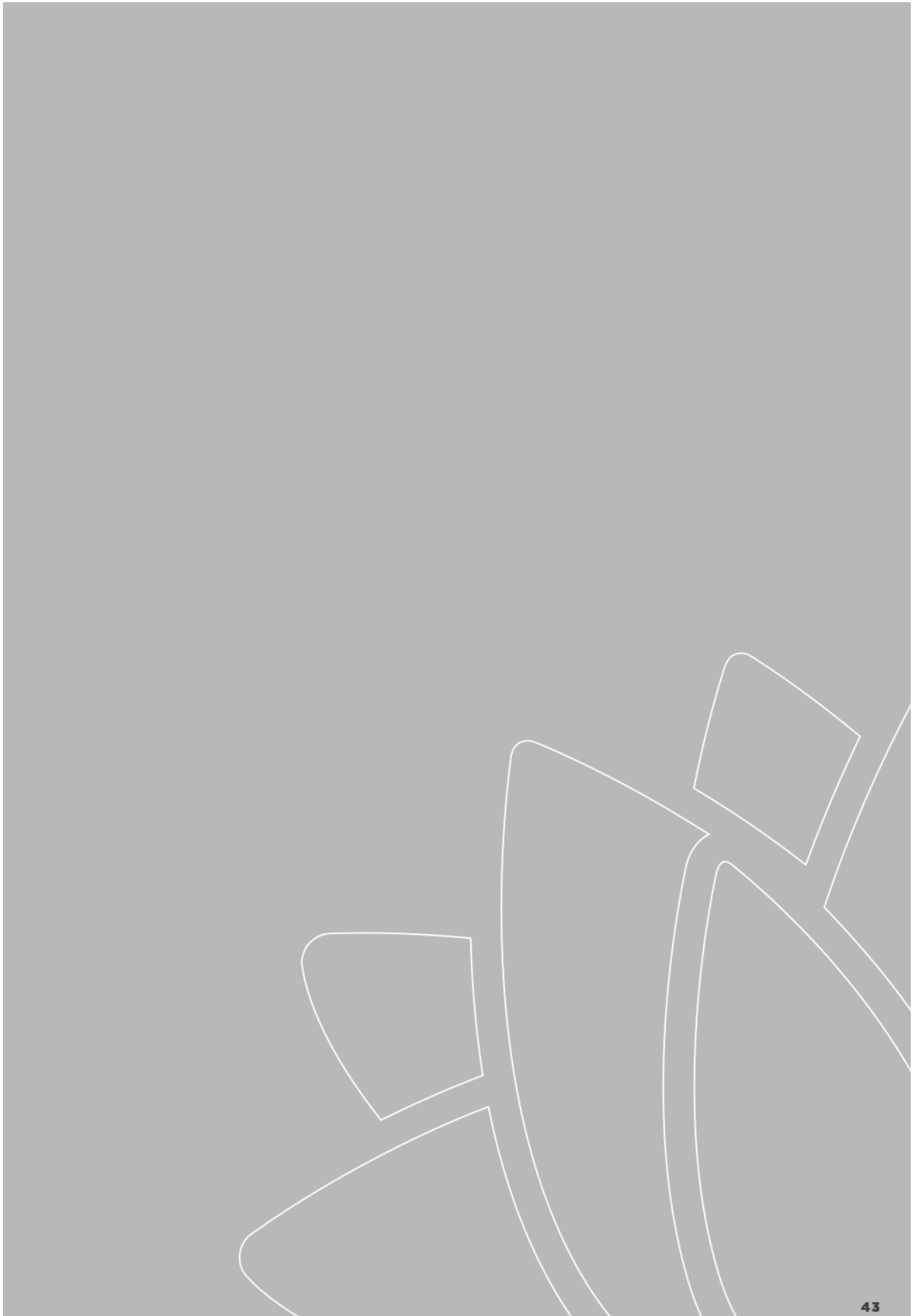
Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.58, paragraph (c), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
 - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
 - c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed. Where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
 - b) the council must:
 - i) review its decision to impose the sanction, and
 - ii) consider the Office's recommendation in doing so, and
 - iii) resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 8.20 Where, having reviewed its previous decision in relation to a matter under clause 8.19(b), the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.



Part 9:

Procedural Irregularities

**ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF
THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.**

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- a) the non-compliance is isolated and/or minor in nature, or
 - b) reasonable steps are taken to correct the non-compliance, or
 - c) reasonable steps are taken to address the consequences of the non-compliance.

Part 10: Practice Directions

**ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF
THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.**

- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

Part 11:

**Reporting Statistics on Code
of Conduct Complaints
About Councillors and the
General Manager**

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

- 11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
 - b) the number of code of conduct complaints referred to a conduct reviewer during the reporting period
 - c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
 - d) the number of code of conduct complaints investigated by a conduct reviewer during the reporting period
 - e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
 - f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
 - g) the total cost of dealing with code of conduct complaints made about councillors and the general manager during the reporting period, including staff costs.
- 11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.

Part 12:

Confidentiality

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.

- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within a period of not less than 14 days specified by the general manager or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant
 - b) the complaints coordinator
 - c) the Office, and
 - d) any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.

ITEM 8 - ATTACHMENT 2 PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCIL IN NSW 2020.



Councillor Peter Kafer left the meeting at 5:52pm.

ITEM NO. 9

FILE NO: 22/245175
EDRMS NO: PSC2021-04206

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral and Ward funds to the following:-
 - a. Wahroonga Aboriginal Corporation – Mayoral fund - \$9727.54 donation towards rent to continue lease at Sturgeon Street, Raymond Terrace.
 - b. Meals on Wheels Tomaree – Cr Matthew Bailey – Rapid response - \$500 donation towards assisting volunteers in the preparation and delivery of meals for the community.

ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION

267	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the Local Government Act 1993 from Mayoral and Ward funds to the following:-</p> <ol style="list-style-type: none">a. Wahroonga Aboriginal Corporation – Mayoral fund - \$9727.54 donation towards rent to continue lease at Sturgeon Street, Raymond Terrace.b. Meals on Wheels Tomaree – Cr Matthew Bailey – Rapid response - \$500 donation towards assisting volunteers in the preparation and delivery of meals for the community.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

BACKGROUND

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

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

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

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

The requests for financial assistance are shown below:

MAYORAL FUNDS – Mayor Palmer

Wahroonga Aboriginal Corporation	Wahroonga Aboriginal Corporation is an Indigenous organisation that is owned and operated by local people which endeavours to work with its clients through a range of programs.	\$9727.54	Donation towards rent to continue lease at Sturgeon Street, Raymond Terrace.
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WARD FUNDS

Meals on Wheels Tomaree	Meals on Wheels is a volunteer service which deliver meals to the elderly and vulnerable.	\$500	Donation towards assisting volunteers in the preparation and delivery of meals for the community.
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COMMUNITY STRATEGIC PLAN

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

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

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

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

MINUTES ORDINARY COUNCIL - 27 SEPTEMBER 2022

Councillor Peter Kafer returned to the meeting at 5:54pm.

ITEM NO. 10

FILE NO: 22/242101
EDRMS NO: PSC2022-02308

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 27 September 2022.

No:	Report Title	Page:
1	August 2022 Cash and Investments	219
2	Hydrogen and Electric Vehicles in Council's Fleet	222
3	Delegations Report	224
4	Council Resolutions	229

ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION

268	Councillor Leah Anderson Councillor Matthew Bailey It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 27 September 2022. <hr/> No: Report Title 1 August 2022 Cash and Investments 2 Hydrogen and Electric Vehicles in Council's Fleet 3 Delegations Report 4 Council Resolutions
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

INFORMATION PAPERS

ITEM NO. 1

FILE NO: 22/191731
EDRMS NO: PSC2017-00180**AUGUST 2022 CASH AND INVESTMENTS**REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 August 2022.

The invested funds are set aside for:

Unexpended grant funds	12,935,000	
Developer contributions	18,022,000	
Domestic waste	3,535,000	
Crown	1,754,000	
Commercial properties	8,555,000	
Fleet	3,478,000	
Asset rehabilitation	1,704,000	
Information technology	1,032,000	
Deposits, bonds	731,000	
Other	2,247,000	
General revenue	<u>14,007,000</u>	68,000,000

ATTACHMENTS

1) Cash and Investments - August 2022.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 CASH AND INVESTMENTS - AUGUST 2022.

Cash and Investments Held as at 31 August 2022

ISSUER	Broker	Rating*	Type	Yield (%)	Term (days)	Maturity Date	Amount Invested	Market Value
BNK Bank	Laminar	NR	TD	0.77%	376	14-Sep-22	875,000	875,000
Southern Cross Credit Union	Curve	NR	TD	2.50%	95	27-Sep-22	1,000,000	1,000,000
Judo Bank	Laminar	BBB	TD	0.80%	390	28-Sep-22	875,000	875,000
National Australia Bank	Curve	AA-	TD	1.20%	181	11-Oct-22	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	2.86%	131	26-Oct-22	1,000,000	1,000,000
Arab Bank	Laminar	NR	TD	0.86%	369	8-Nov-22	1,000,000	1,000,000
Illawarra Credit Union	Laminar	BBB	TD	2.92%	111	21-Nov-22	1,000,000	1,000,000
Australian Unity Bank	Laminar	BBB	TD	3.50%	159	14-Dec-22	1,000,000	1,000,000
Illawarra Credit Union	Laminar	BBB	TD	3.10%	123	19-Dec-22	1,000,000	1,000,000
Mutual Bank	Curve	NR	TD	1.10%	397	3-Jan-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	1.57%	271	10-Jan-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	A	TD	3.40%	169	24-Jan-23	1,000,000	1,000,000
Judo Bank	Laminar	BBB	TD	0.99%	368	31-Jan-23	470,000	470,000
Bank of Queensland	BOQ	BBB	TD	0.80%	382	14-Feb-23	955,000	955,000
Westpac	Westpac	AA-	TD	0.95%	391	14-Mar-23	1,000,000	1,000,000
Australian Unity Bank	Laminar	BBB	TD	3.80%	257	22-Mar-23	1,000,000	1,000,000
Australian Unity Bank	Laminar	BBB	TD	3.80%	264	29-Mar-23	1,000,000	1,000,000
AMP Bank	IAM	BBB	TD	3.80%	230	12-Apr-23	1,000,000	1,000,000
AMP Bank	IAM	BBB	TD	3.80%	242	24-Apr-23	1,000,000	1,000,000
Judo Bank	Curve	BBB	TD	1.05%	425	26-Apr-23	650,000	650,000
Commonwealth Bank of Australia	CBA	AA	TD	3.17%	365	9-May-23	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.12%	454	16-May-23	1,000,000	1,000,000
Mutual Bank	Curve	NR	TD	1.25%	551	6-Jun-23	1,000,000	1,000,000
Bank of Queensland	BOQ	BBB	TD	3.40%	389	26-Jun-23	1,500,000	1,500,000
AMP Bank	Laminar	AA	TD	4.20%	332	30-Jun-23	825,000	825,000
Macquarie Bank	Curve	A+	TD	0.95%	487	4-Jul-23	1,000,000	1,000,000
Defence Bank	IAM	BBB	TD	4.38%	379	5-Jul-23	1,000,000	1,000,000
Illawarra Credit Union	Laminar	NR	TD	3.52%	403	11-Jul-23	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.30%	517	18-Jul-23	1,000,000	1,000,000
AMP Bank	IAM	NR	TD	4.15%	340	24-Jul-23	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	3.28%	424	1-Aug-23	1,000,000	1,000,000
Maitland Mutual	Curve	NR	TD	3.40%	438	14-Aug-23	1,000,000	1,000,000
AMP Bank	Laminar	BBB	TD	4.45%	382	15-Aug-23	1,000,000	1,000,000
AMP Bank	Laminar	AA	TD	4.45%	384	21-Aug-23	825,000	825,000
AMP Bank	IAM	AA	TD	4.25%	361	21-Aug-23	500,000	500,000
Australian Unity Bank	Curve	BBB+	TD	3.40%	468	12-Sep-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.39%	467	27-Sep-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.41%	481	11-Oct-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.42%	495	25-Oct-23	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.48%	629	7-Nov-23	1,000,000	1,000,000
Commonwealth Bank of Australia	CBA	AA	TD	4.45%	524	23-Nov-23	1,000,000	1,000,000
ING Bank	ING	A	TD	4.22%	531	7-Dec-23	1,000,000	1,000,000

ITEM 1 - ATTACHMENT 1 CASH AND INVESTMENTS - AUGUST 2022.

Cash and Investments Held as at 31 August 2022

ISSUER	Broker	Rating*	Type	Yield (%)	Term (days)	Maturity Date	Amount Invested	Market Value
Commonwealth Bank of Australia	CBA	AA	TD	4.48%	552	21-Dec-23	1,000,000	1,000,000
ING Bank	ING	A	TD	4.33%	559	4-Jan-24	1,000,000	1,000,000
ING Bank	ING	A	TD	4.35%	566	16-Jan-24	1,000,000	1,000,000
Westpac	Westpac	BBB	TD	4.00%	532	22-Jan-24	1,000,000	1,000,000
Westpac	Westpac	NR	TD	4.00%	539	29-Jan-24	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.53%	732	30-Jan-24	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.53%	746	13-Feb-24	1,000,000	1,000,000
Westpac	Westpac	AA-	TD	1.72%	741	27-Feb-24	1,000,000	1,000,000
Bank of Queensland	BOQ	BBB	TD	2.60%	727	26-Mar-24	900,000	900,000
Suncorp	Suncorp	AA-	TD	2.71%	735	8-Apr-24	1,000,000	1,000,000
Judo Bank	IAM	BBB	TD	3.35%	732	23-Apr-24	825,000	825,000
Judo Bank	IAM	BBB	TD	3.35%	746	7-May-24	825,000	825,000
WESTPAC	Westpac	BBB	TD	4.35%	685	8-Jul-24	1,000,000	1,000,000
WESTPAC	Westpac	NR	TD	4.35%	692	15-Jul-24	1,000,000	1,000,000
Australian Military Bank	Curve	AA	TD	4.40%	704	29-Jul-24	1,000,000	1,000,000
Total Term Deposits (\$)							55,025,000	55,025,000
Macquarie Bank	Laminar	A+	At Call	1.95%			3,000,000	3,010,323
Total Investments (\$)							58,025,000	58,035,323
Cash at Bank (\$)							10,666,180	10,666,180
Total Cash and Investments (\$)							68,691,180	68,701,503
Cash at Bank Interest Rate	1.95%							
3 month BBSW	2.31%							
Average Investment Rate of Return on TD's	2.98%							
TD = Term Deposit								
*Standard & Poors Long Term Rating								
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								
Tim Hazell								
Financial Services Section Manager								

ITEM NO. 2

**FILE NO: 22/204194
EDRMS NO: PSC2019-05143**

HYDROGEN AND ELECTRIC VEHICLES IN COUNCIL'S FLEET

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

BACKGROUND

The purpose of this paper is to provide information regarding the use of hydrogen fuel in Council's fleet as requested in the Notice of Motion (**ATTACHMENT 1**) Council meeting on 13 July 2021, Minute No. 177.

Council will trial the use of hydrogen fuel in 2 council owned heavy vehicles. This trial involves supplementing 30% diesel use with hydrogen gas. This trial is a hybrid system that can be fitted to any modern diesel engine without exorbitant capital costs in engine conversions. As regional NSW does not currently have any commercial hydrogen refuelling stations, the selected system uses exchangeable tanks that are directly fitted to the vehicle. There are 2 national primary suppliers of hydrogen gas that have commercial cylinder exchange available in the Newcastle region.

The initial installation of the hydrogen systems will cost approximately \$9000 per unit. Assuming current fuel and hydrogen costs, the diesel cost savings will recover the installation costs within 1.5 years. After this 1.5 year payback period, diesel savings are estimated to be up to \$7500 per year and have an estimated reduced carbon footprint of 8804kg of CO2 emissions per year per vehicle.

Other vehicles and alternatives to diesel fuel have been reviewed, though the benefits are not positive for either sustainability or economic measures.

Council Workshop technical staff will be trained in the installation and maintenance of the systems including the periodical exchange of tanks.

The Fleet Management reserve will fund the initial costs of trialling this system.

As hydrogen has a dangerous goods classification of H220 (extremely flammable gas) additional training and certification will be implemented to ensure the safe and secure handling and storage of hydrogen gas on site.

Electric vehicles for high kilometre use vehicles, such as pool cars, are still being trialled in other Councils with a mixture of success. While electric vehicles are becoming more common for domestic users and low use commercial vehicles, Council is not in a position right now to operate electric vehicles. Though it should be noted that the new Raymond Terrace depot will have the provisions for an electric vehicle charging station. This will allow for future Council owned electric vehicles to be purchased and charged while stationed at work.

ATTACHMENTS

- 1) Council Resolution - Hydrogen and Electric Vehicles in Council's Fleet - Minute No, 177 - Council Meeting 13 July 2021.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 2 - ATTACHMENT 1 COUNCIL RESOLUTION - HYDROGEN AND ELECTRIC VEHICLES IN COUNCIL'S FLEET - MINUTE NO, 177 - COUNCIL MEETING 13 JULY 2021

MINUTES ORDINARY COUNCIL - 13 JULY 2021

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 21/176060

EDRMS NO: PSC2017-00019

HYDROGEN AND ELECTRIC VEHICLES IN COUNCIL'S FLEET

MAYOR: RYAN PALMER

THAT COUNCIL:

- 1) Staff investigate the future use of hydrogen and electric vehicles in its fleet including commuter vehicles, garbage trucks and plant.
- 2) Staff report back to Council on an estimated timeline of changeover, costs associated and carbon reduction, with a switch to new technologies in Council's fleet.
- 3) Staff investigate the needs of the community in regards to recharging stations over the coming 10 year period and make recommendations to meet these.

**ORDINARY COUNCIL MEETING - 13 JULY 2021
MOTION**

177	<p>Mayor Ryan Palmer Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) The General Manager investigate the future use of hydrogen and electric vehicles in its fleet including commuter vehicles, garbage trucks and plant.2) The General Manager report back to Council on an estimated timeline of changeover, costs associated and carbon reduction, with a switch to new technologies in Council's fleet.3) The General Manager investigate the needs of the community in regards to recharging stations over the coming 10 year period and make recommendations to meet these.
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The motion was carried.

ITEM 2 - ATTACHMENT 1 COUNCIL RESOLUTION - HYDROGEN AND ELECTRIC VEHICLES IN COUNCIL'S FLEET - MINUTE NO, 177 - COUNCIL MEETING 13 JULY 2021**MINUTES ORDINARY COUNCIL - 13 JULY 2021****BACKGROUND REPORT OF: ANDREW BEHRENS, ACTING ASSETS SECTION MANAGER****BACKGROUND**

The purpose of this report is to advise Council of the potential future use of hydrogen and electric vehicles in its fleet including commuter vehicles, garbage trucks and plant.

As the technology and supporting infrastructure for alternative fuels continues to emerge and evolve, industry experts suggest that market users will buy what they consider suits their purpose, governments will legislate as required (eg emissions targets, safety) and manufacturers will build what suits their market position.

Council's current fleet contains vehicles in the following categories:

- Cars
- Utilities
- Mid-size trucks
- Heavy trucks
- Plant

There are a wide range of considerations that need to be taken into account in determining the appropriate alternative fuel type vehicle for a particular use such as vehicle availability, travel distance, weight limits, location of appropriate charging infrastructure, recharge timeframes, purchase price, whole of life costs, and compatibility. The industry currently suggests that the following alternative fuel types best suit the following class of vehicles:

- Electric - best suits light vehicles
- Hydrogen - mid-large size vehicles
- Electric - heavy long haul vehicles

At the present, there is a range of light vehicles available as electric vehicles including hybrid versions in Australia. There are very few mid-large size vehicles available in an affordable price range with most being in the luxury category. Some heavy vehicles are available via aftermarket kit or as European imports at a premium price.

There are also various levels of charging available for electric vehicles. The level of charging required influences the vehicle recharge timeframe and the extent of infrastructure required. Currently there are several different types of charge connection plugs dependent on the vehicle manufacturer. At present hydrogen refuelling is very limited in regional areas.

ITEM 2 - ATTACHMENT 1 COUNCIL RESOLUTION - HYDROGEN AND ELECTRIC VEHICLES IN COUNCIL'S FLEET - MINUTE NO, 177 - COUNCIL MEETING 13 JULY 2021**MINUTES ORDINARY COUNCIL - 13 JULY 2021**

Given the availability of appropriately priced and whole of life cost alternative fuel vehicles the passenger car class is the most appropriate to be considered at present given the relatively limited charging infrastructure presently in place within the local government area. At present the switch to alternative fuel vehicles for utilities, trucks and plant is considered cost prohibitive.

Council staff will continue to keep abreast of this evolving industry and continue to investigate and test the suitability of incorporating hydrogen and electric vehicles into Council's Fleet.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

Nil.

ITEM NO. 3

**FILE NO: 22/247446
EDRMS NO: PSC2009-00965**

DELEGATIONS REPORT

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

BACKGROUND

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

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

ATTACHMENTS

1) Delegations Report to Council.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 3 - ATTACHMENT 1 DELEGATIONS REPORT TO COUNCIL.

MAYOR AND GENERAL MANAGER DELEGATION REPORT

Date exercised	Delegations exercised	Purpose	Role exercising delegation	Reported to Council
7 September 2022	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of RFQ - Supply of 4 x 72" side discharge zero turn mowers	General Manager	27 September 2022
9 September 2022	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of tender for the provision of surf lifesaving services.	General Manager	27 September 2022
9 September 2022	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of tender for the upgrades for the King Park and Tomaree Sports Amenities.	General Manager	27 September 2022
12 September 2022	Code of Meeting Practice	Approval of 2 Public Access applications for 13 September 2022 - Item 5 DA - Church Street, Nelson Bay Refusal of 1 Public Access application for 13 September 2022 - Item 5 - DA - Church Street, Nelson Bay Approval of 1 Public Access application for 13 September 2022 - Tilligerry Place Plan	Mayor	27 September 2022
13 September 2022	Clause 178 of the Local Government (General) Regulation 2021	Acceptance of tenders to form a panel of service providers for the supply and delivery of concrete.	General Manager	27 September 2022

ITEM NO. 4

**FILE NO: 22/227233
EDRMS NO: PSC2017-00106**

COUNCIL RESOLUTIONS

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

BACKGROUND

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

The General Manager's Office has no outstanding resolutions.

ATTACHMENTS

- 1) Corporate Services Group Council resolutions.
- 2) Development Services Group Council resolutions.
- 3) Facilities & Services Group Council resolutions.
- 4) General Manager's Office resolutions.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 CORPORATE SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Corporate Services **Date From:** 27/08/2013
Committee: **Date To:** 13/09/2022
Officer:
Action Sheets Report **Printed:** Thursday, 15 September 2022

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

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 243	Ordinary Council 27/08/2013	Pattison, Zoe	Campvale Drain	30/12/2022		
14 Sep 2022						
Two private owners, Hunter Water Corporation and National Parks and Wildlife Service (NPWS). Matter ongoing.						

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

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 2 090	Ordinary Council 13/04/2021	Pattison, Zoe	PROPOSED CLOSURE AND SALE OF PATHWAY IN BOAT HARBOUR	30/06/2023	14/04/2021	21/96728
14 Sep 2022						
Matter progressing.						

ITEM 4 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Development Services **Date From:** 14/09/2021
Committee: **Date To:** 13/09/2022
Officer: **Printed:** Thursday, 15 September 2022

Action Sheets Report

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/09/2022	Lamont, Brock	Draft Local Infrastructure Contributions Plan 2020 – Amendment No. 2	29/11/2022	14/09/2022	
8		Peart, Steven				22/251340
14 Sep 2022						
Port Stephens Local Infrastructure Contributions Plan - Amendment No. 2 will be place on public exhibition for a 28 day period, from 9am Thursday 15 September 2022 to 5pm Thursday 13 October 2022. On completion of the public exhibition period a report will drafted, before returning to Council for final endorsement.						

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

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

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/09/2022	Drinan, Kate	Anna Bay Resort Site - 74 - 84 Gan Gan Road, Anna Bay	28/09/2022	14/09/2022	
1		Peart, Steven				22/251340
15 Sep 2022						
To be actioned in accordance with the recommendations provided.						

ITEM 4 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Development Services **Date From:** 14/09/2021
Committee: **Date To:** 13/09/2022
Officer: **Printed:** Thursday, 15 September 2022

Action Sheets Report

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 23/08/2022	Lamont, Brock	Homelessness in Port Stephens	28/10/2022	24/08/2022	
1		Pear, Steven				22/225860
14 Sep 2022						
Preparing a report and letters following the recommendation per its meeting on 23 August 2022, Minute No. 229. Meetings with key stakeholders have commenced to discuss the key objectives.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 12/10/2021	Whitfield, Hannah	Carbon Neutrality	30/10/2022	13/10/2021	
2		Pear, Steven				21/274186
275						
14 Sep 2022						
Following the amendment to business paper deadlines, report scheduled to go to Council on 25 October 2022, stepping through the roadmap to achieving carbon neutrality by 2025.						

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

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 14/06/2022	Gardner, Janelle	Communications & Engagement Strategy	18/11/2022	16/06/2022	
8		Pear, Steven				22/155619
14 Sep 2022						
Submissions received from public Exhibition. Report being drafted for 8 November 2022 Council Meeting.						

ITEM 4 - ATTACHMENT 2 DEVELOPMENT SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Development Services **Date From:** 14/09/2021
Committee: **Date To:** 13/09/2022
Officer: **Printed:** Thursday, 15 September 2022

Action Sheets Report

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 22/02/2022	Gardner, Janelle	Newspaper Notices	13/12/2022	25/02/2022	
2055		Peart, Steven				22/57049
14 Sep 2022						
Report on hold awaiting decision from the Financial Sustainability PCG.						

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/09/2022	Drinan, Kate	Development Application 16-2021-703-1 for a Residential Flat Building at 11 to 15 Church Street, Nelson Bay	27/09/2022	14/09/2022	
5		Peart, Steven				22/251340
14 Sep 2022						
In accordance with Council's resolution of 13 September 2022, Development Application No. 16-2021-703-1 will be deferred to allow for conversations between Council staff and the proponent, with the aim of reducing the building height by one floor so the infraction against the building height limit is negligible.						

ITEM 4 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Facilities & Services **Date From:** 09/02/2021
Committee: **Date To:** 13/09/2022
Officer: **Printed:** Wednesday, 14 September 2022

Action Sheets Report

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

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 26/04/2022	Maretich, John	Lakeside Leisure Centre	31/01/2023	28/04/2022	
2 114		Kable, Gregory				22/109684
14 Sep 2022 Report to be prepared to go back to Council						

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

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

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

ITEM 4 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Facilities & Services **Date From:** 09/02/2021
Committee: **Date To:** 13/09/2022
Officer: **Printed:** Wednesday, 14 September 2022

Action Sheets Report

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

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

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

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

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

ITEM 4 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Facilities & Services **Date From:** 09/02/2021
Committee: **Date To:** 13/09/2022
Officer: **Printed:** Wednesday, 14 September 2022

Action Sheets Report

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

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report 2 177	Ordinary Council 13/07/2021	Newall, Charlette Kable, Gregory	Hydrogen and Electric Vehicles in Council's Fleet	31/10/2022		21/190429
14 Sep 2022						
Staff are currently in consultation with suppliers on how to introduce new fuel sources for our vehicles.						

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

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

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

ITEM 4 - ATTACHMENT 3 FACILITIES & SERVICES GROUP COUNCIL RESOLUTIONS.



Division: Facilities & Services **Date From:** 09/02/2021
Committee: **Date To:** 13/09/2022
Officer: **Printed:** Wednesday, 14 September 2022
Action Sheets Report

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

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

ITEM 4 - ATTACHMENT 4 GENERAL MANAGER'S OFFICE RESOLUTIONS.



Action Sheets Report	Division: General Manager's Office	Date From: 13/09/2022
	Committee:	Date To: 13/09/2022
	Officer:	Printed: Wednesday, 14 September 2022

Type	Meeting	Officer/Director	Subject	Est. Compl.	Emailed	Completed
Report	Ordinary Council 13/09/2022	Wickham, Tony	POLICY REVIEW: ACCESS TO INFORMATION	31/10/2022	14/09/2022	
13		Crosdale, Tim				22/251340

14 Sep 2022
The policy is on public exhibition until 14 October 2022.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 22/164843

EDRMS NO: PSC2021-04195

NSW ELECTRIC VEHICLE STRATEGY

COUNCILLOR: CHRIS DOOHAN

THAT COUNCIL:

- 1) Recognises the increase in Electric Vehicles (EV's) of local residents and visitors being used in our LGA and notes potential visitors may not come to Port Stephens due to a lack of public EV charging infrastructure.
 - 2) Supports the NSW Government's Electric Vehicle Strategy.
 - 3) Requests that the General Manager prepares a report identifying local planning and infrastructure responses that can be undertaken to support the delivery of the NSW Electric Vehicle Strategy.
-

**ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2022
MOTION**

269	<p>Councillor Chris Doohan Councillor Peter Francis</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Recognises the increase in Electric Vehicles (EV's) of local residents and visitors being used in our LGA and notes potential visitors may not come to Port Stephens due to a lack of public EV charging infrastructure.2) Supports the NSW Government's Electric Vehicle Strategy.3) Requests that the General Manager prepares a report identifying local planning and infrastructure responses that can be undertaken to support the delivery of the NSW Electric Vehicle Strategy.
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Those for the Motion: Mayor Ryan Palmer, Crs Leah Anderson, Giacomo Arnott, Matthew Bailey, Chris Doohan, Peter Francis, Peter Kafer and Steve Tucker.

Those against the Motion: Nil.

The motion was carried.

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

The NSW Electric Vehicle Strategy is the NSW Government’s plan to accelerate the State’s vehicle fleet of the future (**ATTACHMENT 1**). It outlines the government’s commitments to increasing the uptake of electric vehicles (EV’s) to ensure New South Wales shares in the benefits.

Through the Strategy, the NSW Government is targeting key areas of action to make New South Wales the easiest place to buy and use an EV in Australia. The Strategy includes rebates, phased removal of stamp duty for EVs, targets for NSW Government fleet, incentives for council and private fleets and major investment to ensure widespread, world-class EV charging coverage.

The Strategy is intended to increase EV sales to 52% by 2030–2031 and help New South Wales achieve net-zero emissions by 2050.

Council is currently exhibiting the Integrated Planning and Reporting Framework documents for 2022 to 2032. Support for the NSW Electric Vehicle Strategy aligns with Council’s Community Strategic Plan actions for:

- E2 – E2.2 – Support renewable energy and alternative fuel use.
- E3 – E3.1 – Support community resilience to climate change including coastal and waterways hazards - Achieving Carbon Neutrality for Council by 2025.

Support for the NSW Electric Vehicle Strategy also aligns with aims and objectives within Council’s adopted Local Strategic Planning Statement (LSPS), Smart City Blueprint and Economic Development Strategy.

FINANCIAL/RESOURCE IMPLICATIONS

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

ATTACHMENTS

- 1) NSW Electric Vehicle Strategy.



NSW Electric Vehicle Strategy

environment.nsw.gov.au



Ministers' foreword



The Hon. Andrew Constance MP
Minister for Transport and Roads



The Hon. Matt Kean MP
Minister for Energy and Environment

Australia is a nation that loves to travel.

From young adults saving up to buy their first car, right through to retirees hitting the road to explore Australia's vast countryside, travelling is central to Australia's way of life.

Over past decades, vehicle technology has improved significantly, allowing Australians to travel faster, more safely and in greater comfort. Technologies like airbags and ABS have saved countless lives, while transitioning from leaded to unleaded fuels has helped to reduce deadly air pollution.

Over the coming decades, vehicle technologies like hydrogen and autonomous vehicles are again set to transform the way Australians move. In the more immediate future, electric vehicle (EV) technology will revolutionise the use of Australia's roads.

EVs are high performing vehicles that are cheaper to run, quieter on the road and do not emit tailpipe air pollution or greenhouse gas emissions. They also stand to dramatically improve health outcomes for communities, particularly pregnant women and babies, people with chronic illnesses, and the elderly, through reduced toxic exhaust emissions. Most of the biggest manufacturers across the world are introducing more EVs into their fleets, creating a big opportunity for the people of New South Wales to also benefit from the technology.

New South Wales must act decisively to capture this opportunity. The world is moving to decarbonise in response to climate change and Australia is one of 191 countries that have committed to keeping global temperature rises to well below 2°C under the Paris Agreement. Failing to act could see our State miss out on better quality, cheaper EVs which do not make it to New South Wales because policy settings are better overseas.

The Electric Vehicle Strategy is our plan to make New South Wales the easiest and most affordable place to buy and use an EV in Australia. It is also a critical element of NSW's multi-faceted approach to revolutionising our road and transport network. Under this strategy, stamp duty on EVs will be slashed, drivers will have access to a world-class road network of ultra-fast charging stations and motorists will be supported to make their next vehicle an EV. It is a bold plan, designed to drive record numbers of EVs onto our roads and accelerate our fleet of the future.

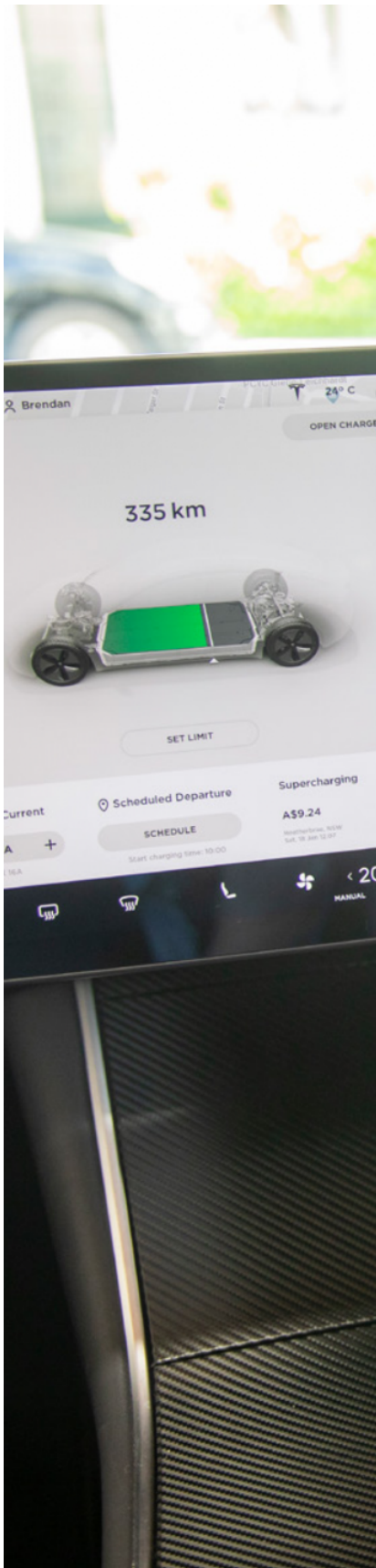
The Hon. Andrew Constance MP
Minister for Transport and Roads

The Hon. Matt Kean MP
Minister for Energy and Environment



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Introduction

Communities, businesses and governments around the world are adopting new technologies and innovations that improve our way of life and create a more prosperous future. This is particularly so for the transport sector, where advances in technology are transforming the way people travel. Improvements in the road safety features of cars, real-time information and digital ticketing for public transport, and on-demand rideshare apps, are just some examples of how technology has improved transport.

The same is true for technology advances in the vehicle fleet itself, with the reduced environmental and health impacts, falling cost and high-quality driving experience of electric vehicles (EVs) making them an increasingly attractive option for motorists. Global demand for EVs has increased dramatically, with total stock reaching over 10 million in 2020 compared to less than 20,000 in 2010, with battery electric models driving the expansion (International Energy Agency, 2020). Ambitious government policies in some of the world's biggest economies like the US and UK, new companies like Tesla, as well as EV commitments from some of the world's biggest car makers including Volkswagen, Hyundai, General Motors, Toyota and Ford, are also accelerating this change.

New South Wales is well placed to embrace the EV opportunity. New South Wales:

- has strong geological prospects for several of the minerals crucial in the manufacture of EV batteries
- has a highly skilled workforce capable of contributing to the production and installation of EV infrastructure
- regularly trials and adopts world-leading technologies across the transport sector to modernise our road network and services, and
- has vast renewable energy sources ready to provide cheap electricity to fuel EV fleets allowing New South Wales to bring home jobs in the renewable electricity that powers these vehicles, unlike most jobs in the petrol and diesel supply chain that are interstate or overseas.

The NSW Government is committed to increasing the uptake of EVs, allowing more people to benefit from their cheaper running costs and a cleaner, quieter and more sustainable transport network. Currently, battery EVs make up only about 0.68% of new car sales in New South Wales. This compares to international market leader, Norway, where battery EVs made up 55% of new vehicle sales in 2020 and plug-in hybrid and battery EV sales combined made up 75% of sales. In the UK, battery EVs made up 7% of new vehicle sales in 2020.

The EV Strategy is the NSW Government's plan to accelerate the State's vehicle fleet of future. The Strategy is expected to increase EV sales to 52% by 2030-31 and the NSW Government's objectives are to achieve that goal and see the vast majority of new car sales being EVs by 2035.

NSW Government



Background

What is an electric vehicle?

There are a number of different types of EVs.



Battery EVs

Full EV powered entirely by electricity. Battery EVs produce no tailpipe emissions.



Hydrogen fuel cell EVs

Use a fuel cell instead of a battery and yet to achieve market breakthrough.



Plug-in hybrid EVs

Have both a small battery and petrol or diesel engine and can be run both on fuel and electricity.

The NSW Electric Vehicle Strategy mainly provides support for battery and hydrogen fuel cell EVs which produce no tailpipe exhaust emissions and have the capacity to be zero emissions when powered by renewable energy.

Electric vehicle trends

International context

According to the International Energy Agency, global demand for EVs increased by 43% in 2020 compared to 2019, with three million new EVs registered in 2020 (IEA, 2020). The increase in demand is driven in large part by the growth of new EV policies in international jurisdictions.



International electric vehicle policies

- The US under the Biden Administration plans to spend \$174 billion to drive EV uptake and upgrade its 640,000 Government fleet of vehicles to EVs
- Norway plans to end sales of new petrol and diesel vehicles by 2025
- The UK plans to ban the sale of new petrol and diesel vehicles by 2030
- Sweden offers a grant for up to 25% of the purchase price of low emissions vehicles and 50% of the price for home charging points
- Japan plans to end the sale of petrol and diesel cars by the mid-2030s
- France will spend €1.3 billion to drive the uptake of EVs before prohibiting the sale of petrol and diesel vehicles by 2040
- Germany plans to put 10 million EVs on the road and install 1 million charging stations by 2030
- China requires all automakers and car importers to manufacture or import at least 12% EVs
- Canada will spend CAD\$600 million to incentivise the uptake of EVs and develop a coast-to-coast fast charging network
- Singapore has a plan to ensure all vehicles in the country are low-emissions or zero emissions vehicles by 2040
- New Zealand plans to invest NZ\$300 million in electric vehicles and upgrade its Government fleet to be emission-free by 2025-26

Car makers

Many car makers are responding to the growing demand for EVs by committing to electrifying their fleets and retooling their production lines towards EVs.



Car maker electric vehicle commitments

- Toyota will produce 5.5 million EVs per year by 2030
- Volvo will be a fully electric car company by 2030
- Ford will phase out internal combustion engines in Europe by 2030
- General Motors will phase out internal combustion engines in light duty vehicles by 2035
- Hyundai will phase out internal combustion engines by 2040
- BMW will offer electric models across 90% of its range by 2023 and plans for 50% of global deliveries to be electric by 2030
- Honda will only sell EVs in Europe by the end of 2022
- Jaguar Land Rover will only sell EVs through its Jaguar brand from 2025 and through its Land Rover brand from 2036 globally
- Stellantis will offer EVs across 100% of its range by 2030
- Volkswagen will spend over US\$30 billion to develop EVs by 2023, and intends electric models to make up 40% of its fleet by 2030

Table 1 Announcements by car makers related to electric light-duty vehicles (battery EVs and plug-in hybrid EVs) (IEA, 2020).

Original equipment manufacturer	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
BMW Group			25		15-25%					10
BAIC Group	2				1.3					50%
Changan Automobile (Group)					33					
Daimler		10			25%					50%
Dongfeng Motor Co.	1	30%	1		1				1	1
FAW					40%					60%
Ford		40					100%*			
GM Group			22		30	1				1
Honda										40%†
Hyundai-Kia					1					
					29					
Mazda		1								5%
Renault-Nissan		20								
		20%								
Maruti Suzuki	1									1.5
SAIC					30%					30
Stellantis					38%*					70%*
					31%**					35%**
Toyota Group	1				15					>1
					20%					70%*
Volkswagen			1		3				26	
					75					50%**
Volvo (Geely Group)	1	1	1	1	50%					100%*

 % of sales electric
 Annual sales (million)
 Cumulative sales (million)
 New EV models (number)
 * European market only
 ** Chinese and US markets only
 † Includes both EVs and fuel cell EVs



NSW Context

In 2019, the NSW Government released its Electric and Hybrid Vehicle Plan (the Plan). The Plan has helped to kick-start the EV market in New South Wales and build critical EV infrastructure in the State.

Under the Plan, the NSW Government:

- is supporting at least 20 fast chargers in regional New South Wales and is trialling chargers in commuter carparks in Greater Sydney
- added 36 battery EVs, 23 plug-in hybrid EVs and 2741 hybrid EVs to the NSW Government fleet between January 2019 and March 2021
- has delivered an online NSW EV guide which provides information on available EV models, benefits of EVs, EV charging, and a total cost of ownership calculator.

The NSW Government has also committed to transitioning the State's 8000 buses to zero emissions technology. Over 50 electric buses were rolled out across Sydney in early 2021 in the first phase of this work, helping to reduce air pollution and greenhouse gas emissions. The transition to zero emissions buses also provides opportunities for local industry and manufacturing businesses, and supports the development of skills which can be utilised across other areas of the transport network including freight vehicles and light passenger vehicles.

In addition to this, the NSW Government has announced a target of net zero emissions from electricity used to run Sydney Trains and NSW TrainLink by 2025, which will be achieved progressively over the next four years, starting by offsetting all emissions from our stations' electricity use by 2022.

In March 2021 there were 7135 light battery EVs registered in New South Wales, making up about 0.1% of light vehicles on NSW roads. In 2020, battery EVs made up 0.68% of new light vehicle sales in New South Wales.

The NSW Government has also set carbon emissions reduction objectives of net zero by 2050 and 35% by 2030 and has set out its emissions reduction plan for the next decade in the Net Zero Plan Stage 1: 2020-2030.

Benefits of electric vehicles

There are a range of benefits of increasing EV uptake in New South Wales.

Lower running costs

Switching to an electric vehicle can save about

\$1000

in running costs a year



EVs have lower running costs and require less maintenance than petrol and diesel cars. An average NSW driver is likely to save around \$1000 in running costs per year by switching to an EV.

These savings are even higher for vehicles that are on the road more often, including taxis, buses, freight and rideshare vehicles. For example, a taxi driver can save up to around \$4500 per year by switching from a hybrid petrol car to a battery EV or even more if switching from a traditional petrol vehicle. For buses, the recent trial in Sydney found that the State can achieve reductions in operating and maintenance costs by switching from diesel to electric buses, with a full fleet transition estimated to achieve between \$1.1 and \$1.9 billion in environmental cost savings.

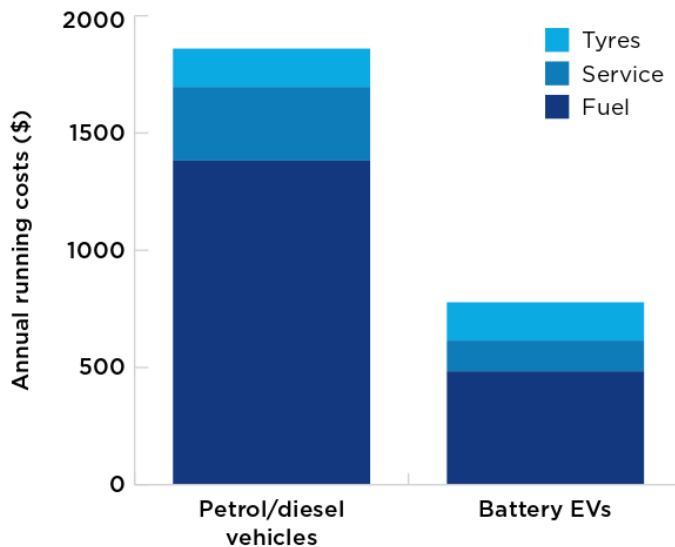


Figure 1 Comparison of annual running costs for small and medium passenger petrol/diesel vehicles and battery electric vehicles.



Cleaner air and health benefits

While all vehicles contribute to air pollution through road, brake and tyre wear, battery and fuel cell EVs do not produce tailpipe emissions of particle and gaseous air pollutants like petrol and diesel vehicles. Road transport air emissions are released near the ground and frequently within communities resulting in relatively high population exposure.

Statistics show that motor vehicles account for 62% of Sydney's nitrogen oxides (NOx) emissions, 24% of volatile organic compound (VOC) emissions and 14% of particulate matter (PM2.5) emissions (EPA, 2012) - all of which have direct and indirect effects on health of our communities. Motor vehicles are also a significant contributor to fine particle and ozone pollution in the Sydney basin area. Moreover, about 70 premature deaths each year are associated with long term exposure to vehicle pollution in the NSW Greater Metropolitan Region with vehicle exhaust emissions contributing 69% of the fine particle exposures associated with these deaths (Broome et al, 2020).

Reducing tailpipe emissions from vehicles can deliver significant health benefits for New South Wales, particularly for people living with, or more susceptible to, cardiovascular and respiratory health conditions like asthma and reduce other secondary health impacts caused by these emissions.

New job opportunities

Increasing the uptake of EVs in New South Wales presents an opportunity to create new jobs in the EV industry. These jobs could occur across many parts of the EV market, from manufacturing EV components through to installing, managing and maintaining EV infrastructure like chargers. There will also be new jobs created in the electricity industry to generate electricity needed to power EVs.

Improved fuel security

Australia currently relies heavily on international imports for our liquid fuels. The light passenger vehicle fleet uses 57% of the total liquid fuels used by the transport sector. Increasing the uptake of EVs in New South Wales reduces the State's reliance on imported liquid fuels, improving fuel security by relying on electricity generated in Australia.

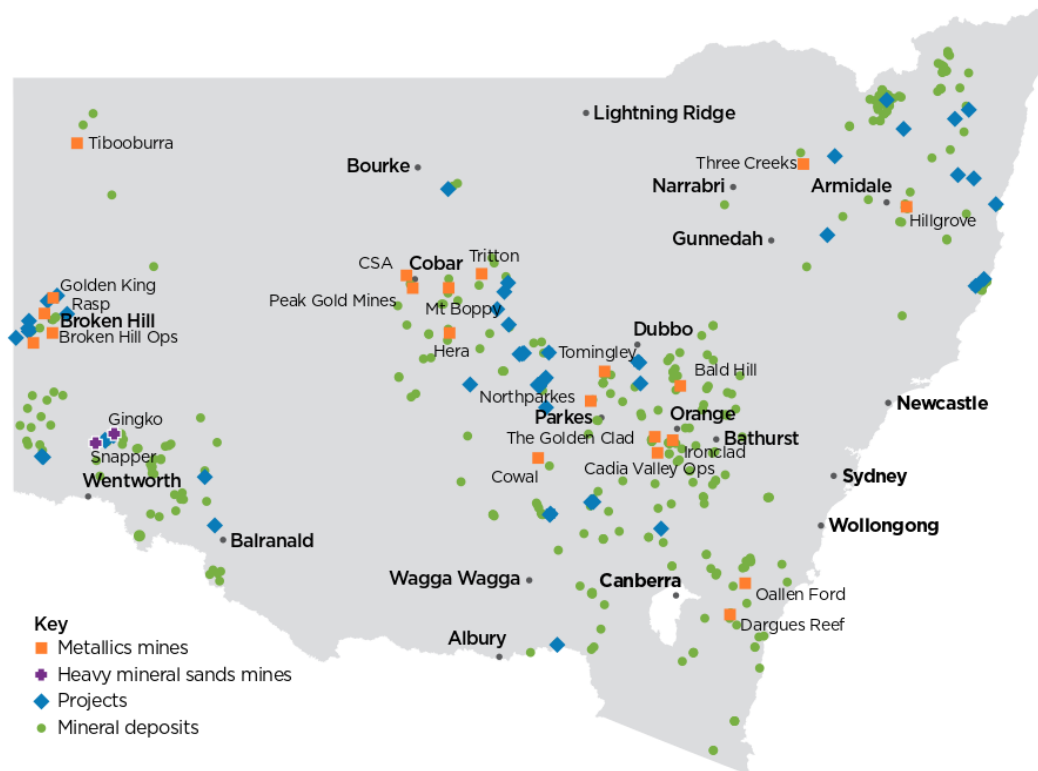


Figure 2 Mineral deposits in New South Wales.

New mining opportunities

New South Wales has a significant mineral endowment of nickel and cobalt which is used in EV battery manufacture as well as deposits of copper, a crucial mineral required in wiring and transmission of energy. Demand for these minerals will increase as EV charging networks widen, leading to more jobs in New South Wales.

The rise in EV uptake globally will continue to create new markets for these minerals, which could attract new mineral exploration, mining and processing investment in New South Wales and provide skilled and well-paid jobs in regional New South Wales.

Modernised road network

The Australian road network primarily relies on petrol and diesel vehicles to transport passengers and commuters from point A to point B. Future mobility and technology innovations such as EVs are part of modernising transport for the community and businesses to make ours a world class network. The NSW Government has focused on ensuring that NSW regions also benefit from this modernisation, including through the installation of regional EV charging infrastructure.



Quieter roads

Many people are concerned about the level of road traffic noise in their neighbourhood. EVs are quieter than petrol and diesel vehicles, and produce hardly any noise at lower speeds. That's why some EVs use acoustic vehicle alerting systems which make just enough noise for pedestrians to hear them approaching. Quieter roads help to improve the amenity of public spaces, allowing more people to enjoy outdoor areas and to live near busier roads with less noise disruption.

Lower greenhouse gas emissions

The transport sector is a significant and growing source of greenhouse gas emissions. In 2019, transport was responsible for 28 million tonnes of carbon dioxide equivalent (Mt CO₂e) of emissions, making up 20% of NSW emissions, with almost 50% of those from passenger vehicles. Transport emissions are currently projected to become the leading source of emissions by 2035, overtaking both electricity and other stationary energy sources.

Increasing the number of EVs on NSW roads and powering them with renewable energy will help to reduce emissions across the transport sector, contributing towards the State's objective to achieve net zero emissions by 2050.

Balanced energy supply

Some EVs can act like a home battery, allowing households to store excess rooftop solar electricity on sunny days and use that electricity at times when the sun is not shining. By integrating EVs into the electricity grid in a smart way, and optimising charging times, EVs can help households to take control of their electricity bills and improve the reliability of the grid.





Policy principles

Increasing the number of EVs on the road requires strategic planning and direction. This Strategy has been developed based on the following four principles.

- It will prioritise overcoming the biggest barriers to electric vehicle uptake.
- It will maximise the economic and public health opportunities that arise from increasing the number of electric vehicles on NSW roads.
- It will be consistent with the State's objective to achieve net zero emissions by 2050.
- It will adopt a fair and sustainable revenue model to build and operate the road network into the future.

Principle 1

The strategy will prioritise overcoming the biggest barriers to electric vehicle uptake

The top three barriers to the widespread uptake of EVs are:

1. **Upfront costs:**
Currently, the average EV sold into the NSW market is about \$28,000 more expensive than the average petrol or diesel car. While the average price of an EV is expected to fall, with many categories reaching price parity by 2027 (BloombergNEF, 2021), helping to reduce upfront costs in the next few years will help to create a vibrant EV market in New South Wales and allows drivers to access the lower running cost benefits sooner.
2. **Range anxiety:**
NSW EV drivers currently have access to around 450 public chargers across the State; however, many of these are located too far apart or charge at slower rates, meaning drivers have to wait longer before getting back on the road. Rolling out a world-class, ultra-fast charging network will give motorists confidence that they can quickly recharge their car when and where they need to.
3. **Model availability:**
There are currently only around 30 plug-in hybrid and battery EV models for sale in New South Wales, many of which are relatively expensive, luxury models. This compares to more than 75 EV models available in the UK. Bringing more affordable EV models into the NSW market is a key part of helping more people benefit from the EV driving experience.

The strategy will work to address these barriers in ways that are targeted and cost-effective and create a sustainable market for EVs in New South Wales in the long term.

NSW Government



Principle 2

The strategy will maximise the economic and public health opportunities that arise from increasing the number of electric vehicles on NSW roads

The health of our NSW communities is paramount. Encouraging the rapid adoption of EVs and other environmentally conscious technology across the transport network will immediately reduce air pollution and vehicle emissions. EV adoption is part of a broader, multi-faceted solution for NSW roads that extends to encouraging other modes of transport, including active and public transport.

There are also many opportunities to grow the economy and create jobs from the widespread adoption of EVs both in New South Wales and internationally, including by producing valuable minerals needed to make batteries and building and maintaining EV infrastructure. There will also be new jobs created in generating the electricity needed to power the vehicle fleet. Whereas most jobs in the production of petrol and diesel are based interstate or overseas, electrifying mobility would allow the State to bring those energy jobs back to New South Wales.





Principle 3

The strategy will be consistent with the State's objective to achieve net zero emissions by 2050

Australia is one of 191 countries that have committed to keeping global temperature rises to well below 2°C under the Paris Agreement. The NSW Government is taking action by committing to reducing emissions by 35% by 2030 compared with 2005 levels and achieving net zero emissions by 2050 while continuing to grow the economy, create jobs and reduce the cost of living.

The electrification of light vehicles is a key pathway for decarbonising the transport sector in a way that creates jobs and reduces the cost of driving and is important to achieving the State's net zero emissions objective.

Given that light vehicles stay on the road for around 15 years on average, moving to net zero emissions for light vehicles will require the vast majority of new car sales to be battery or fuel cell EVs by 2035.

Principle 4

The strategy will adopt a fair and sustainable revenue model to build and operate the road network into the future

Given they are powered by electricity rather than petrol or diesel, EVs do not pay fuel excise that other motorists currently pay at the bowser. Fuel excise is currently levied at 42.7 cents per litre. While EVs only make up a small part of the NSW vehicle fleet today, as more people buy EVs, the fuel excise revenue needed to help pay for road construction and maintenance is expected to go into long-term structural decline. Without a proper plan to manage the increase in EVs, this will affect the State's financial capacity to fund the future construction of new road infrastructure and maintain the quality and safety of existing roads. Therefore the Strategy will create the framework for a modern road funding model that will actively incentivise the purchase of EVs, while also setting the foundations for a road funding system that is fair and sustainable in the long term.





Actions

The NSW Government has identified five areas for action required to make New South Wales the easiest place to buy and use an EV in Australia:

- Action 1** **Helping drivers buy an electric vehicle**
- Action 2** **Building a world-class electric vehicle charging network**
- Action 3** **Making it easy to drive an electric vehicle**
- Action 4** **Creating jobs and growing the economy**
- Action 5** **Keeping road funding fair and sustainable**

Table 2 Applicability of NSW actions to vehicle types.

Type of vehicle	No stamp duty*	Rebate	Fleet incentives	Public charging network	Priority driving lanes	Road user charge**
 EVs	✓	✓	✓	✓	✓	✓
 Plug-in hybrids	✓	-	-	✓	-	✓

* From 1 September 2021 for EVs under \$78,000. All other EVs and plug-in hybrids will pay no stamp duty from 1 July 2027 or when EVs make up 30% of new car sales.

** From 1 July 2027 or when EVs make up 30% of new car sales.



Action

1

Helping drivers buy an electric vehicle

While EVs are expected to come down in price in the next few years, many EV models remain expensive, making cost one of the key barriers to increasing their market share. To help reduce the upfront cost of buying an EV, the NSW Government will remove stamp duty on EVs, offer EV rebates, provide fleet incentives and use the NSW Government fleet to bring a range of cheaper EV models into the State.

The NSW Government will remove stamp duty on electric vehicles

The cost of stamp duty in New South Wales is currently \$3 per every \$100 for cars under \$45,000, and \$1350 plus \$5 per every \$100 for cars above \$45,000. The NSW Government will encourage EV uptake by removing this inefficient tax, which makes it harder for motorists to switch to an EV. Stamp duty will be removed for EVs under \$78,000 purchased from 1 September 2021 and all EVs including plug-in hybrids from 1 July 2027 or when EVs make up at least 30% of new car sales (whichever is earlier), when the road user charge is introduced.

The NSW Government will offer \$3000 rebates on new electric vehicle purchases

The NSW Government will provide rebates of \$3000 on the purchase of the first 25,000 EVs sold in New South Wales from 1 September 2021. Rebates will only be available for cars retailing under \$68,750, making sure the rebate is going to the cars more people can afford. Fleets will not be eligible.



The NSW Government will provide fleet incentives to help local councils and businesses buy electric vehicles

Fleet buyers are important participants in the new vehicle market in New South Wales. Fleet vehicles typically drive further and have higher petrol and maintenance costs, so fleet operators can realise greater savings by switching to EVs.

As fleet buyers purchase large numbers of vehicles at a time, their bulk purchasing power can also have influence on vehicle availability. Supporting fleet buyers will help encourage car makers to increase the range of EVs available in the NSW market, which will benefit all EV purchasers. Noting that fleet buyers replace their vehicles more frequently, typically every three to five years, encouraging fleets to purchase EVs will also help to build the second-hand EV market in the future.

As previously committed under the NSW Net Zero Plan: 2020–2030, the NSW Government will offer incentives to support medium to large sized fleets, such as local councils, businesses, car leasing companies and car share companies, to purchase battery or hydrogen fuel cell EVs. The incentives will be offered through a reverse auction process, ensuring the Government maximises value for money and uptake of EVs in New South Wales.

The NSW Government will target an all-electric passenger fleet by 2030

As of mid-2020, there were only 11 battery EV models available on the Australian market (Electric Vehicle Council, 2020). In order to bring more affordable models into New South Wales, importers need to have confidence in the local market.

The NSW Government will use its bulk purchasing power to incentivise importers to increase the range of EV models they sell in New South Wales. It will do this by setting a target of electrifying NSW Government passenger vehicle fleet procurement by 2030, with an interim target of 50% EV procurement by 2026. NSW Government fleet vehicles are typically resold on the second-hand market after three to five years, which will mean a higher number of second-hand light EVs will be available to NSW drivers.

The NSW Government will also conduct a strategic review of NSW Procurement's Approved Vehicle List and associated procurement processes, to make it as easy as possible for Government agencies to buy EVs.



Action

2

Building a world-class electric vehicle charging network

Currently New South Wales has limited public fast charging infrastructure for drivers of EVs. Motorists who are considering buying an EV are often concerned they might run out of charge and won't be able to find places to easily recharge their vehicle, especially on longer trips. This is commonly referred to as 'range anxiety'. Range anxiety is consistently identified as one of the biggest barriers to purchasing an EV.

The NSW Government will invest \$171 million over the next four years to ensure widespread, world-class EV charging coverage so current and future EV drivers can be confident they can drive their vehicles whenever and wherever they need to. Of the total investment:

- \$131 million is for ultra-fast charging infrastructure in areas with limited off-street parking, as well as to build EV Commuter Corridors and Super Highways across the State,
- \$20 million is for destination charging infrastructure in or near commuter carparks and other popular Transport for NSW sites
- \$20 million is for destination charging infrastructure at regional tourist locations, such as motels, restaurants and wineries.

The NSW Government will adopt a coordinated approach to delivering on-street charging infrastructure and make those location details available on an open data platform. This information will provide customers with greater visibility of charging locations, as well as enable app developers to create products that further improve the customer experience of owning and using an EV.

What is ultra-fast and destination charging?

Ultra-fast chargers have a capacity of 350 kilowatts (kW). Drivers plugging into an ultra-fast charger can recharge between 200 and 400 kilometres (km) in no more than 15 minutes. These chargers are best suited for people who need to get back on the road quickly.

Destination chargers have a capacity of between 7 kW and 25 kW. Drivers can recharge between 40 km and 140 km per hour. These chargers are best suited for places like commuter carparks and motels where people leave their cars parked for longer periods of time.

The chargers will be powered by electricity from renewable energy projects.



The NSW Government will ensure households in areas with limited off-street parking live no more than 5 km from an ultra-fast charger

About 30% of drivers are unable to access private off-street parking where they can recharge their EV. This includes many tenants and apartment owners who rely on street parking. The NSW Government will run a competitive funding process to co-fund the deployment of charging infrastructure for EVs, so households in areas with limited off-street parking live no more than 5 km from an ultra-fast charger.

The NSW Government will invest in EV Super Highways and Commuter Corridors across New South Wales

NSW EV drivers already have access to the largest regional network of EV fast chargers in Australia, with 59 EV fast charging sites featuring 153 charging stations available across New South Wales as of July 2020, and another 35 underway.

The NSW Government will build on this progress by co-investing in more ultra-fast chargers at 100 km intervals across all major highways in New South Wales - creating 'EV Super Highways' across the State. This will help regional residents and businesses share in the benefits of EVs by improving their access to charging infrastructure and encouraging more city-based EV drivers to travel to regional areas, boosting local tourism.

The NSW Government will also invest in 'EV Commuter Corridors' across Sydney, to make sure drivers have no more than 5 km to drive to the next ultra-fast EV charger along these roads.

See Figures 3 and 4 on the following page.

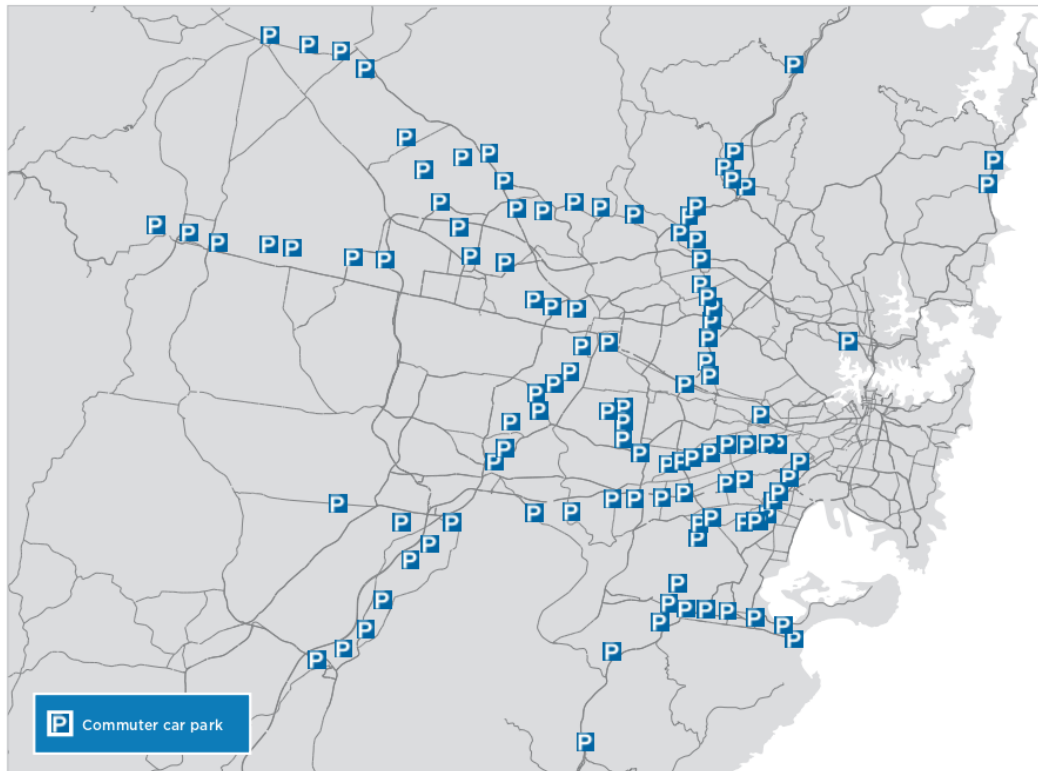


Figure 5 Indicative map of carpark locations to have destination chargers installed.

The NSW Government will support more destination chargers at commuter carparks and other key government locations

Many commuter carparks across New South Wales are already designed for the easy addition of EV charging and are ideal places for motorists to make the most of destination chargers while they are at work.

The NSW Government is currently trialling the installation of destination chargers at some commuter carparks. Under this strategy, the NSW Government will roll out the next stage of charging infrastructure at commuter carparks and other Transport for NSW sites across the State. The location of the chargers will encourage drivers to use public transport and other modes of transport as part of their commute and will tackle the first mile/last mile challenge many countries now face, taking more vehicles off congested roads and ensuring a more seamless connection between different journey modes.

The NSW Government will also ensure most future commuter car parks are supported by the necessary wiring and electrical capabilities, and adequate space considerations, so that EV infrastructure can be installed quickly and in response to the EV demand of local commuters.



The NSW Government will ensure new buildings and precincts are 'EV ready'

Many buildings are not currently designed in a way that easily accommodates the installation of charging infrastructure in the carpark. They lack the necessary wiring, electrical infrastructure and accessible space needed to install charging infrastructure. Retrofitting EV infrastructure into existing buildings can be expensive and technically challenging. Depending on the size, layout and age of the building, this can cost approximately \$75,000 for an apartment building with 20 car spaces. Ensuring that EV electrical infrastructure is built-in when a building is under construction is much cheaper and can save apartment owners at least 75% for the same building size if planned for upfront. The NSW Government will update relevant regulations to make sure all new buildings and precincts are constructed and wired to be 'EV ready'.

The NSW Government will manage the integration of electric vehicles into the electricity grid

Increased numbers of EVs will put demand on the electricity grid as more vehicles are plugged in to charge. The NSW Government will work to ensure that the increase in EV uptake is appropriately integrated with the electricity system, including with rooftop solar, batteries, and with smart chargers to manage the impact on peak electricity demand. With bidirectional charging capabilities, EV batteries can help support the grid at peak demand times in the future.

The NSW Government will empower councils to take action

The NSW Government will also work with local councils to support pilots of roadside charging infrastructure in conjunction with kerbside parking for EVs. These pilots will be used to inform the development of EV parking and charging guidelines for local councils in New South Wales.



Action

3

Making it easy to drive an electric vehicle

In addition to improving access to public EV charging infrastructure, the NSW Government will update policies and legislation to allow EV drivers to use transit lanes such as T2 and T3 lanes for a limited time to encourage the uptake of EVs.

The NSW Government will work with local councils to make sure that carpark designations like signage is fit for purpose, including by allowing priority parking spots for EVs to recharge and ensuring that charging locations and nearby parking spots are readily accessible for EV users.





Action

4

Creating jobs and growing the economy

The NSW Government is committed to maximising the employment and economic benefits from increasing the uptake of EVs in the State. New South Wales has a highly skilled workforce and a diverse range of minerals that can be leveraged to unlock new economic opportunities for the State to grow.

The NSW Government will promote investment in the minerals needed to make electric vehicle batteries

Global demand for EVs is expected to grow quickly. The NSW Government is working closely with the Commonwealth Government to assist battery mineral project owners in our State to de-risk projects and encourage investments. By acting now to identify and promote opportunities to mine and value-add by downstream processing of cobalt, nickel and rare earth elements, regional New South Wales can benefit from these changes in global demand. The NSW Government will turbocharge its agenda to tap these resources and promote investment in high tech minerals in New South Wales.





The NSW Government will support EV-ready regional destinations

The continued growth of NSW's regional tourism industry will rely on the ability of small regional businesses to cater for an increasing number of EV drivers. The NSW Government will support EV ready destinations across the State by providing \$20 million in grants to small regional businesses such as motels, wineries and restaurants to install charging points for their guests.

The NSW Government will also roll out 'EV Tourist Drives' across the State, promoting scenic regional driving routes that have the charging infrastructure needed to support an EV road trip. This initiative will encourage EV drivers to take a holiday in regional New South Wales, growing those local economies and supporting more regional jobs in the tourism industry.

The NSW Government will drive a skills and training agenda for the electric vehicle industry

This Strategy is expected to support 670 jobs, in particular jobs in the renewable electricity, minerals and the EV infrastructure sectors. The NSW Government will work to identify skills needs and opportunities for NSW workers to take up the EV jobs of the future. The NSW Government is investing \$318 million in skills in partnership with the Commonwealth and its JobTrainer program and will work to use these funds to create future focused careers in the transport sector.

The NSW Government has also announced specialised training to support the introduction of electric buses in New South Wales, as part of a partnership between TAFE NSW and Volvo Bus Australia. This will involve short courses to help mechanics upskill in EV technologies, such as working safely with high voltage systems.





Action

5

Keeping road funding fair and sustainable

Currently, NSW drivers contribute to the cost of road maintenance and construction through a combination of the fuel excise charge, stamp duty and registration costs. The uptake of EVs brings many positives, including lower vehicle running costs, better air quality and quieter roads. However, with the actions that New South Wales is taking to drive the uptake of EVs, the amount of revenue from the fuel excise available to fund critical roadwork is projected to decline over the coming years. Without rethinking the way our roads are funded, the quality of the road network is likely to deteriorate.

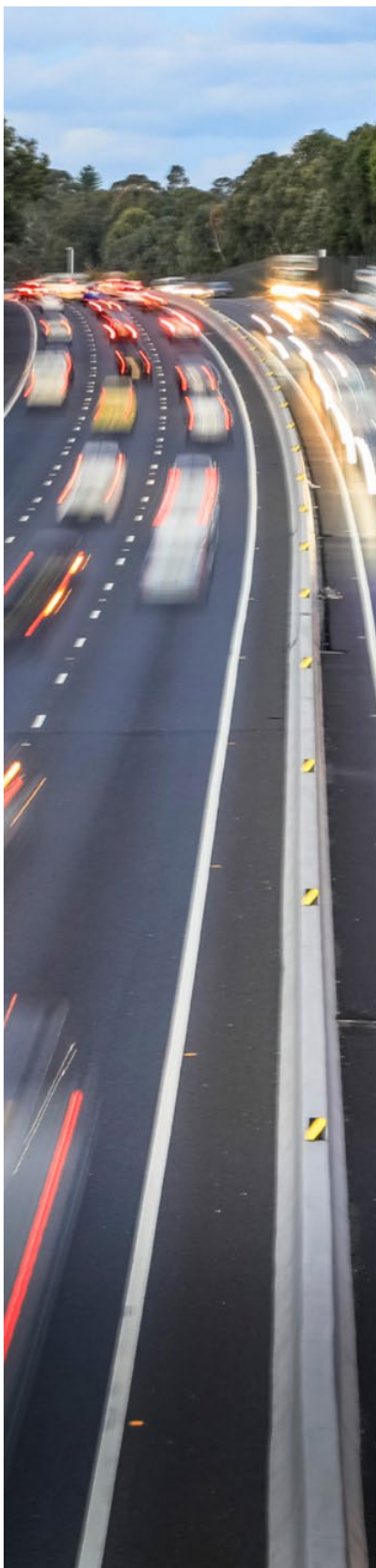
The NSW Government will reform the road taxation system by:

- from 1 September 2021, phasing out stamp duty on EVs sold for less than \$78,000 (including GST)
- from 1 July 2027 or when EVs make up at least 30% of new car sales (whichever is earlier):
 - phasing out stamp duty on all EVs
 - introducing a distance-based road user charge (RUC) for EVs.

The RUC rate will be set at 2.5 cents per kilometre for EVs and 2 cents per kilometre for plug-in hybrids. The distance-based charge will reflect an EV driver's use of the road network and will create a more efficient and fairer taxation framework for the State's vehicle fleet of the future.

The RUC is shaped by the following principles:

- Drivers of EVs should not pay on average more under the RUC than they currently pay through stamp duty and fuel excise.
- The RUC should not commence until EVs reach a significant (30%) share of total new car sales in New South Wales (forecast to be from 1 July 2027).
- The RUC should apply to all EV and plug-in hybrids that receive a stamp duty exemption at the point of purchase.
- The implementation of the RUC should minimise the administrative burden on drivers.
- The implementation of the RUC will be designed in consultation with key industry stakeholders, including relevant exemptions for kilometres driven on private roads.



Projections

Through the actions outlined in this strategy the NSW Government plans to stimulate the market to increase demand for and availability of EVs in New South Wales, allowing more consumers to benefit from the new transport technology.

Under the strategy, EVs are expected to make up 52% of new car sales in 2030-31 and it is the NSW Government's objective to achieve that uptake and see the vast majority of new car sales as EVs by 2035.

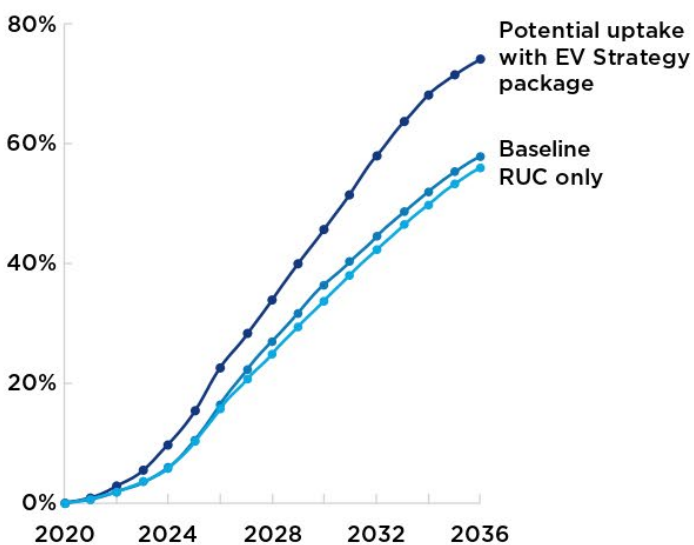


Figure 6 Share of battery electric vehicles in annual sales.

NSW Government



Keeping track and strategy review

The implementation of the strategy and progress of EV uptake will be reviewed regularly, with a first initial review by mid-2023 and subsequent three yearly reviews.

The impact of the EV Strategy in supporting progress towards net zero emissions, delivering clean air and associated health benefits, and realising economic benefits for New South Wales will be reported within future State of the Environment Reports.

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Cover photo: Person charging their electric vehicle (Quentin Jones/DPIE); **Page 3:** Peak hour traffic, Sydney (Bob Peters/DPIE); **Page 4:** Person driving a Tesla (Quentin Jones/DPIE); **Page 5:** Electric bus (Transport for NSW); **Page 6:** Person charging their electric vehicle (Quentin Jones/DPIE); **Page 7:** An electric vehicle (Quentin Jones/DPIE); **Page 9:** Tesla charging stations (DPIE); **Page 11:** Group exercise, Sea Acres National Park (John Spencer/DPIE); **Page 13:** Mobile phone showing electric vehicle charge (Quentin Jones/DPIE), Capital Wind Farm Bungendore (Rosie Nicolai/DPIE); **Page 14:** Darling Harbour rooftops with solar panels (Lisa Madden/DPIE); **Page 15:** NRMA electric vehicle charging (Transport for NSW), Electric vehicles under a solar powered electric vehicle charging station (Quentin Jones/DPIE); **Page 16:** Young family (Adam Hollingworth/DPIE); **Page 17:** Electric vehicle (Quentin Jones/DPIE); **Page 19:** Person driving an electric vehicle (Quentin Jones/DPIE); **Page 20:** Person charging their electric vehicle (Quentin Jones/DPIE); **Page 21:** Mennekes electric vehicle charging plug (DPIE); **Page 22:** Shops on Belmore Road in Riverwood, South Sydney NSW (Adam Hollingworth/DPIE); **Page 25:** Apartment buildings in Homebush, Inner West Sydney, NSW (Adam Hollingworth/DPIE), Electric vehicles (DPIE); **Page 26:** Newcastle, NSW (John Spencer/DPIE); **Page 27:** Electric bus (Transport for NSW); Broken Hill Solar farm (DPIE); **Page 28:** Tesla charging stations (DPIE), Roche Estate vineyard, Pokolbin, NSW (Jamie Plaza Van Roon/DPIE); **Page 29:** Road works between Bega and Bemboka, NSW (Jamie Plaza Van Roon/DPIE); **Page 30:** Slow shutter speed of M5 highway (Salty Dingo/DPIE); **Page 31:** Food and Wine Fair (Simone Cottrell/Botanic Gardens Trust).

There being no further business the meeting closed at 6:07pm.