



Vincent Street  
CESSNOCK 2325

8 July 2008

To All Councillors

You are hereby notified that the next Meeting of the Corporate & Community Committee will be held in the Council Chambers on Wednesday, 16 July 2008 immediately following the conclusion of the Infrastructure & Services Committee Meeting, for the purpose of transacting the undermentioned business.

**B R MORTOMORE  
GENERAL MANAGER**

**AGENDA:**

PAGE NO.

**(1) APOLOGIES.**

**(2) CONFIRMATION OF MINUTES.**

Minutes of the Corporate & Community Committee Meeting  
held on 2 July 2008

**(3) OFFICERS' REPORTS**

**DIRECTOR CORPORATE & COMMUNITY**

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**(4) QUESTIONS WITHOUT NOTICE.**

## **OFFICER'S REPORTS**

### **DIRECTOR CORPORATE & COMMUNITY REPORT NO. 52/2008**

**SUBJECT: DOUBTFUL DEBT WRITE-OFF – HIGHTRADE PTY LTD**

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Financial & Administrative Services Manager, Robert Maginnity, reports:

#### **SUMMARY**

A report on a debt considered bad in relation to collection requiring a Council resolution for write-off in accordance with Regulation 213 of the Local Government (General) Regulation 2005, as the amount is outside of the General Managers delegated authority.

#### **BACKGROUND**

Works staff undertook a private works project in late 2006 for roadworks associated with the Crowne Plaza development on Wine Country Drive. The works were undertaken on behalf of the contractors to the development, being Hightrade Pty Ltd with the net cost of the works totalling \$333,962 (GST exclusive). In line with the provisions for private works as set out in the Fees and Charges document of full cost recovery plus 20% plus GST, an invoice for \$440,000 (actual cost \$333,962 + profit component \$66,038 + GST \$40,000) was issued to Hightrade Pty Ltd.

In accordance with Goods & Services Taxation (GST) legislation, Council was required to pay the GST of \$40,000 to the Australian Taxation Office (ATO) as part of the monthly Business Activity Statement (BAS) at the time that the invoice was raised.

Despite numerous contacts from staff and repeated assurances that the account would be paid, no payments from Hightrade Pty Ltd have been received. Shortly after the invoice was issued, advice was received that the company known as Reica Constructions Pty Ltd (formerly known as Hightrade) had gone into liquidation.

The liquidators of the company, Hall Chadwick, were appointed following a special resolution under Section 446A of the Corporations Act 2001 for a "Creditors Voluntary Liquidation" and moved to wind up the affairs of the company. Contact with the liquidators indicated that a distribution was unlikely, with the latest contact on 26 June 2008 indicating that the process for the winding up of the company had been virtually completed and was now only waiting for the statutory timeframes to expire. Additionally, it was again confirmed that there are no funds available for a current distribution to unsecured creditors, and that any future distribution from royalties would be extremely unlikely.

As part of normal operating procedures and in line with accounting requirements, there is a requirement for staff to analyse accounts raised within the sundry and rates debtor systems to identify those accounts considered either uncollectible or not financially viable to be collected and for such to be classified as a bad or doubtful debt.

As rates are charges levied against the land these are not generally considered to be bad or doubtful debts as they are able to be recovered either when a property is sold or ultimately through action under Section 713 of the Local Government Act 1993 (sale of land for unpaid rates). However, charges raised through the sundry debtor system are normally applicable to individuals and are more likely to be a bad or doubtful debt.

As the recovery of any of the debt was considered unlikely, a provision for doubtful debt for the full amount of the \$440,000 debt was established in the 2006/07 financial year. This expense was funded from the Single Invitation Contract (SIC) reserve, where the income had been recognised from the original works. Any future distribution or payment will be recognised as income if received and returned to that reserve. Council has paid GST of \$40,000 on the original invoice and will be able to claim back the GST component once the debt has been formally written off.

The debt raised against Hightrade Pty Ltd under sundry debtor 5282/95 for \$440,000 is considered doubtful due to the company being wound up under Section 446A of the Corporations Act 2001. A formal proof of debt was lodged with the liquidator of the company, but any distribution from the liquidation is considered unlikely. Regulation 213 of the Local Government (General) Regulation 2005 provides the mechanism for a debt to be written off and is reproduced below for Councils information.

**213 Restrictions on writing off debts to a council**

(1) This clause does not apply to amounts owed to a council for rates or other charges for which the Act, or any other regulation in force under the Act, makes specific provision for writing off those amounts in specified circumstances.

(2) A council must from time to time, by resolution, fix an amount above which debts to the council may be written off only by resolution of the council.

(3) A debt of or below that amount can be written off either by resolution of the council or by order in writing of the council's general manager. In the absence of a resolution under subclause (2), the council's debts can be written off only by resolution of the council.

(4) A resolution or order writing off a debt to a council must:

- (a) specify the name of the person whose debt is being written off, and
  - (b) identify the account concerned, and
  - (c) specify the amount of the debt,
- or must refer to a record kept by the council in which those particulars are recorded.

(5) A debt can be written off under this clause only:

- (a) if the debt is not lawfully recoverable, or
- (b) as a result of a decision of a court, or
- (c) if the council or the general manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.

(6) The fact that a debt is written off under this clause does not prevent the council concerned from taking legal proceedings to recover the debt.

In November 2007 an undertaking was made to Council by a private individual (with the person wishing to remain anonymous) to make ex-gratia payments totalling \$350,000. As at 30 June 2008, a number of personal cheques had been receipted, with the agreed total of \$350,000 having been received. These payments were treated as contributions to roadworks and after the GST liability of \$31,818, Council received a net \$318,182 from this agreement. This net amount is to be transferred to the SIC reserve to offset the cost incurred in the 2006/7 financial year in creating the provision for doubtful debt of \$440,000.

**FINANCIAL & LEGAL IMPLICATIONS**

**Financial**

A provision for a doubtful debt was provided for in the 2006/07 financial year and any write-off would be charged against that provision. Should a distribution be received in the future from the liquidator then that would be recognised as income at that stage.

After adjustments for GST, the net cost to Council will amount to \$15,780, representing the difference between the actual cost of the works \$333,962 and the net contribution received \$318,182. Council will also lose the “profit” component of \$66,038.

**Statutory**

Regulation 213 (5) (a) of the Local Government (General) Regulation 2005 provides for a debt to be written off “if the debt is not lawfully recoverable”. The debt is in the name of a company in liquidation under Section 446A of the Corporations Act 2001 and advice received from the liquidators is that the company has been wound up and that any future distribution is extremely unlikely.

**RECOMMENDATION** that the amount of \$440,000 for sundry debtor 5282/95 be considered “bad” and be written off in accordance with Regulation 213 of the Local Government (General) Regulation 2005.

To: **The General Manager**  
Corporate & Community  
Committee – 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
30 June 2008

**DIRECTOR CORPORATE & COMMUNITY  
REPORT NO. 53/2008**

**SUBJECT: INVESTMENTS**

Financial & Administrative Services Manager, Robert Maginnity, reports:

**SUMMARY**

Clause 212 of the Local Government (General) Regulation 2005 requires a monthly report to Council detailing all money that Council has invested under Section 625 of the Local Government Act 1993.

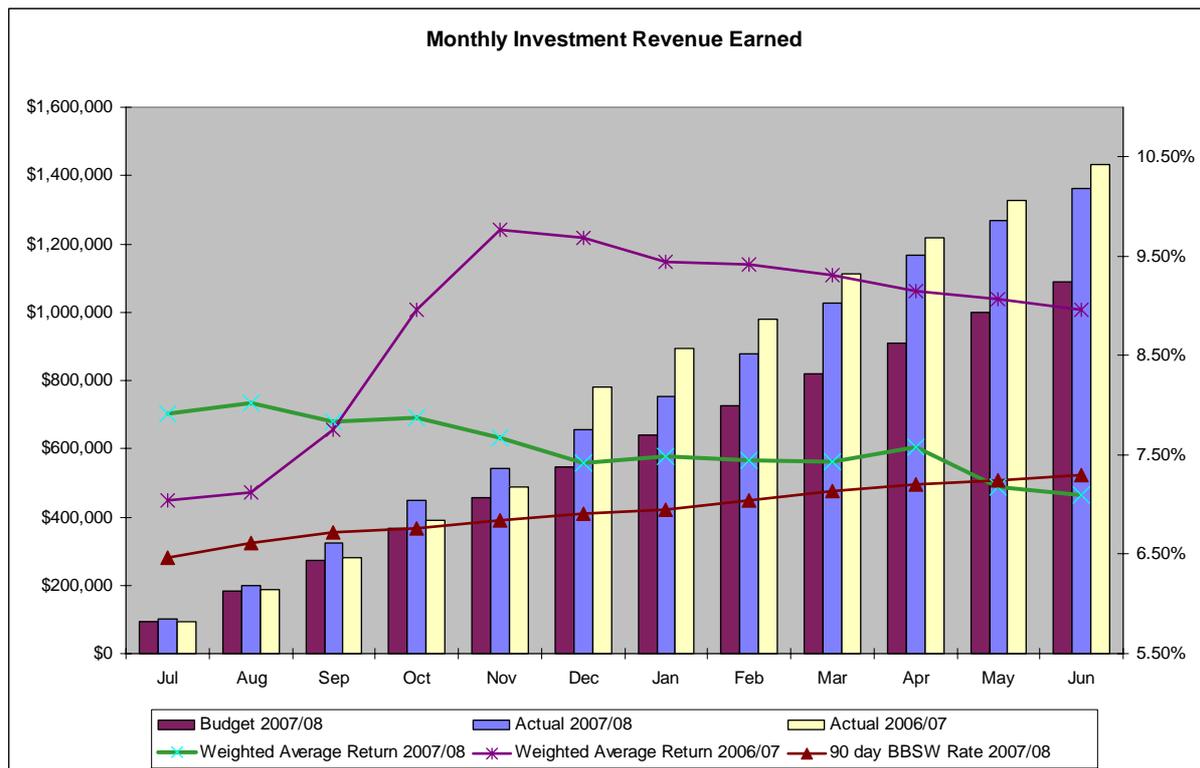
**BACKGROUND**

Details of investments held by Council as at 30 June 2008 are set out below. .

Inv. No.	Form Held With	Instrument	Term	Coupon Date	Maturity Date	Interest Rate %	Amount \$'000
	Commonwealth Bank of Australia	Cash					2,600
1001p	Greater Building Society	FRN	92	27-Aug-08	27-Nov-08	9.49%	500
1010p	Wide Bay Capricorn Bldg Society	FRN	91	15-Sep-08	15-Dec-08	9.44%	500
1020p	Credit Suisse First Boston Int.	CDO	91	05-Aug-08	05-May-11	9.79%	1,000
1029p	Credit Suisse First Boston Int.	CDO	91	05-Aug-08	05-May-11	9.79%	1,500
1069m	RIMsec	CDO	92	08-Jul-08	08-Oct-11	9.89%	2,000
1102j	Commonwealth Bank of Australia	AN	91	16-Sep-08	16-Dec-10	7.50%	500
1126e	Commonwealth Bank of Australia	AN	90	06-Aug-08	06-Nov-11	9.25%	500
1132g	JP Morgan Chase Bank	CDO	94	22-Sep-08	20-Dec-09	8.82%	500
1133a	Commonwealth Bank of Australia	ELD	364	22-Dec-08	20-Dec-09	3.00%	1,000
1138a	Commonwealth Bank of Australia	ELD	365	05-Mar-09	05-Oct-10	3.00%	500
1142e	Lehman Brothers	CDO	94	22-Sep-08	20-Mar-11	9.12%	1,000
1143b	ANZ Banking Group	ELD	365	30-Jun-08	30-Mar-13	0.00%	500
1146d	Merill Lynch International	CDO	94	22-Sep-08	20-Jun-10	8.82%	1,000
1147a	Commonwealth Bank of Australia	ELD	365	05-Jun-09	07-Oct-10	3.00%	500
1149d	Newcastle Permanent Building Society	TD	91	17-Jul-08	17-Jul-08	8.06%	500
1161b	Illawarra Mutual Building Society	TD	91	07-Aug-08	07-Aug-08	8.01%	500
1165a	Illawarra Mutual Building Society	TD	91	17-Jul-08	17-Jul-08	8.04%	500
1169a	Illawarra Mutual Building Society	TD	63	24-Jul-08	24-Jul-08	7.78%	500
1170a	Maitland Mutual Building Society	TD	34	10-Jul-08	10-Jul-08	8.23%	500
1171a	Newcastle Permanent Building Society	TD	70	21-Aug-08	21-Aug-08	8.15%	500
1172a	Illawarra Mutual Building Society	TD	49	17-Jul-08	17-Jul-08	7.68%	500
1175	Maitland Mutual Building Society	TD	83	31-Jul-08	31-Jul-08	8.35%	500
1176	Newcastle Permanent Building Society	TD	90	14-Aug-08	14-Aug-08	8.12%	500
1177	Maitland Mutual Building Society	TD	48	03-Jul-08	03-Jul-08	8.20%	500
1178	Maitland Mutual Building Society	TD	55	10-Jul-08	10-Jul-08	8.20%	500
1179	Citibank	TD	59	31-Jul-08	31-Jul-08	8.00%	500
							<b>20,100</b>

As Responsible Accounting Officer, I, Robert Maginnity, hereby certify that this report is produced in accordance with Clause 212 of the Local Government (General) Regulation 2005 and that all investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and Council's investment policies.

Statistical Information



Performance Measure	This Year	Last Year
Portfolio Weighted average return (Year to date)	7.10%	8.95%
Average 90 day BBSW (Year to Date)	7.30%	6.33%
Interest on Investment (Year to Date) *	\$1,362,198	\$1,433,172

\*This amount includes investment returns on Section 94 & Waste Services Funds

Financial Institution	Amount \$'000	% Portfolio
Commonwealth Bank of Australia	5,600	27.84%
Credit Suisse First Boston Int.	2,500	12.44%
Newcastle Permanent Building Society	1,500	7.46%
Maitland Mutual Building Society	2,000	9.95%
Illawarra Mutual Building Society	2,000	9.95%
RIMsec	2,000	9.95%
Lehman Brothers	1,000	4.98%
Merill Lynch International	1,000	4.98%
ANZ Banking Group	500	2.49%
Citibank	500	2.49%
Greater Building Society	500	2.49%
JP Morgan Chase Bank	500	2.49%
Wide Bay Capricorn Bldg Society	500	2.49%
	<b>20,100</b>	<b>100.00%</b>

Investment Type	Amount \$'000	% Portfolio
Cash	2,600	11.30%
Collateralised Debt Obligation (CDO)	7,000	35.48%
Floating Rate Note (FRN)	1,000	5.07%
Term Deposit (TD)	6,000	30.41%
Equity Linked Deposit (ELD)	2,500	12.67%
Accrual Note (AN)	1,000	5.07%
	<b>20,100</b>	<b>100.00%</b>

**FINANCIAL & STATUTORY IMPLICATIONS**

**Statutory**

Meets Councils statutory obligations under Clause 212 of the Local Government (General) Regulation 2005 and Section 625 of the Local Government Act 1993.

**Financial**

The financial impact of Councils current investment returns have been factored into Councils current adopted budget.

**RECOMMENDATION** that the report be received and noted.

To: **The General Manager**  
Corporate & Community  
Committee – 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
2 July 2008

**DIRECTOR CORPORATE & COMMUNITY  
REPORT NO. 54/2008**

**SUBJECT:     REQUEST FOR DONATION**

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Community Worker, Ms J Forbes, reports:

**SUMMARY**

On the 6 September 2006 Council resolved to adopt a Donations Policy. Since this time Council has funded various requests for donations. The Policy was amended at Council's meeting held on 16 April 2008.

Below are donations which Council has received that meet the revised criteria set out in the Donations Policy.

**BACKGROUND**

**AUSTRALIA'S BIGGEST CONVOY**

Correspondence received 10 June 2008 seeking sponsorship towards the fundraising event 'Australia's Biggest Convoy' which is going to be held at Cessnock Showground on the 2 August 2008.

The convoy is a charity event aimed at providing relief to communities and families affected by the ongoing drought and other unfortunate occurrences such as flood and Equine Influenza.

The day will include stalls and activities as well as musical entertainment. A major component of the event will include a Ute Muster which will seek to award participants in a number of different categories.

The application can be considered under the charitable projects criteria of the Donations Policy.

Please note that the following two requests are for assistance to attend the National Aerobics Championships, however they are from two separate organisations.

**CESSNOCK WEST PUBLIC SCHOOL DANCE AEROBICS TEAM**

Correspondence received 23 June 2008 seeking a donation towards travel and accommodation expenses to attend the National Aerobics Championships in Melbourne in August 2008.

The Cessnock West Public School's Dance Aerobics team has been selected to compete in the National Championships. The team competed at the School Aerobics State Championships and was placed 2<sup>nd</sup> in the Themed Dance Aerobics Section and 3<sup>rd</sup> in the Open Aerobics Section.

The team comprises of twelve young people and it is anticipated that the cost of taking the young people to Nationals will be approximately \$6,500.

The application can be considered under the sporting criteria of the Donations Policy.

**A. CLASS STUDIO**

Correspondence received 23 June 2008 seeking a donation towards travel and accommodation expenses to attend the National Aerobics Championships in Melbourne in August 2008.

A. Class Studio's Theatrical Dance squad competed at the State Championships and gained entry to compete at the National Aerobics Championships.

The squad comprises of seven young people. The young people all live in the Cessnock LGA. It is anticipated that the cost of taking them to Nationals will be approximately \$5,000.

The application can be considered under the sporting criteria of the Donations Policy.

A copy of these requests have been included with the Enclosure Documents and there is presently \$21,500 remaining in the Donations Budget for Council's consideration. This is the total budget for the 2008/2009 financial year.

**RECOMMENDATION** that the correspondence be submitted for determination.

To: ***The General Manager***  
Corporate & Community  
Committee – 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
1 July 2008

**DIRECTOR CORPORATE & COMMUNITY  
REPORT NO. 55/2008**

**SUBJECT:      REPORT OF THE CULTURAL PLANNING & DEVELOPMENT  
                  COMMITTEE MEETING HELD ON 25 JUNE 2008**

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A meeting of the Cessnock City Cultural Planning & Development Committee was held on 25 June 2008 and reports as follows:

Attendees at the meeting included The Mayor Councillor Clarence (Chairman), Councillors Pynsent, Parsons and Smith, Mr B Andrews, Mesdames P Marsland, C Sadler, Director Corporate and Community Mr Craig Bennett, Community and Cultural Programs Manager Mr S Eade.

Ms V Randall submitted her apologies for not attending.

**LISTED MATTERS**

**1.      BUSINESS ARISING FROM PREVIOUS MINUTES**

**1.1     Artists' Database on Council's website**

Mr Eade reported that he had had discussions with the company which provides the software and support for Council's Community Directory. It appears that an Artists' Database can be established and incorporated into the Directory at minimal cost and effort, following on from an upgrade to the search engine which should be undertaken in the near future.

Mr Eade reported that he hoped to have the framework in place for the database within a couple of months.

**RECOMMENDED** that the information be noted.

**2.      COMMUNITY CULTURAL DEVELOPMENT COMMITTEE \$ FOR \$ GRANT  
          PROGRAM – REVIEW OF GUIDELINES FOR 2008/2009**

At its meeting held 2 April 2008, Council considered the recommendations of the Cultural Planning and Development Committee regarding the distribution of funds for the 2007/2008 Community Cultural \$ for \$ Grant Program. In discussion, it was requested that the guidelines for the program be reviewed, in particular in relation to the allocation of funds to organisations based outside the Cessnock Local Government Area (LGA).

There was some preliminary discussion on the matter, before a unanimous decision by the Committee to defer any further consideration of the issue until after the Council elections scheduled for September. This will enable the new Council to review the guidelines and consider the specific issue of providing funding to organisations outside the LGA.

**RECOMMENDED** that the information be noted.

**3.      CITY OF CESSNOCK HALL OF FAME – 2008 NOMINATIONS**

Mr Eade advised that nominations are now being sought for the 2008 inductions to the City of Cessnock Hall of Fame. Advertisements are in local newspapers, with a closing date of 18 July 2008. It is hoped to refer nominations to the Committee's next meeting, scheduled for August.

Clr Smith requested that a Media Release be prepared to gain wider publicity for the process, and Mr Eade advised that this would be done.

**RECOMMENDED** that the information be noted and that Mr Eade organise for a Media Release.

#### **4. CESSNOCK COMMUNITY PERFORMING ARTS CENTRE – PROGRESS REPORT**

Mr Eade advised that construction of the Cessnock Community Performing Arts Centre is progressing well, with the programmed completion date scheduled for 23 September 2008 (subject to weather).

It was suggested that the Committee be given the opportunity for a site inspection to become familiar with the facility. Mr Eade undertook to see if a visit could be organised for the second week in July and notify Committee members of details.

**RECOMMENDED** that the information be noted and that Mr Eade organise a site inspection.

#### **5. PROPOSAL FOR CESSNOCK REGIONAL ART GALLERY (CRAG INC) – PROGRESS REPORT**

Ms Marsland reported that an incorporated association (Cessnock Regional Art Gallery (CRAG) Inc) is now established and has been registered with the Australian Taxation Office for charitable gifts and donations. It is planned to advertise 2 July 2008 to call for nominations for membership of a CRAG management committee. There will also be an arts advisory panel and a financial committee.

There will be the possibility of bringing curated exhibitions to the gallery during the first two years of operation, pending the appointment of qualified staff.

Ms Marsland has been busy meeting with State and Federal representatives to promote the proposal and to gauge the possibilities of accessing government funds to assist with the establishment of the gallery.

Negotiations with the owner of a building in Vincent Street are progressing.

**RECOMMENDED** that the information be noted.

#### **6. GENERAL BUSINESS**

6.1 Mr Bennett reported that Council has appointed a Grants Officer, Mr Keith Whelan, who will be working with staff and members of the community to improve the levels of funding that can be gained from grants to assist with Council and community projects.

6.2 The Committee was reminded that the Weston Art Show is currently on and will be open until 28 June.

6.3 Ms Sadler sought clarification regarding the reporting process for projects funded through the Community Cultural \$ for \$ Grant program. It was explained that it was a condition of funding that organisations provide an acquittal report detailing the outcomes of the project and expenditure of funds.

6.4 Mr Eade reported that a number of letters of thanks had been received by Council from organisations whose projects received funding in the 2007/2008 grant program.

**RECOMMENDATION** that Council endorse the report of the Cessnock Cultural Planning & Development Committee meeting held on 25 June 2008.

To: ***The General Manager***  
Corporate & Community  
Committee - 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
2 July 2008

**DIRECTOR CORPORATE & COMMUNITY  
REPORT NO. 56/2008**

**SUBJECT: ACTION PLAN – LOCAL GOVERNMENT REFORM PROGRAM –  
PROMOTING BETTER PRACTICE**

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**SUMMARY**

Council resolved the following at the Ordinary Council Meeting of 7 February 2007 “the Review Report on Cessnock City Council under the Local Government Reform Program – Promoting Better Practice, be noted and an action plan be developed to implement the report’s recommendations”.

Council is required to adopt an Action Plan to implement the recommendations from the Local Government Reform Program – Promoting Better Practice. The Action Plan has now been approved by Senior Management and is now ready for adoption by Council. A copy of the Action Plan has been included within the enclosure documents.

**BACKGROUND**

The Department of Local Government (DLG) conducted a focused review report on Cessnock City Council in 2006. A draft report was sent to management in October 2006. After a few minor amendments a final report was issued by the DLG in December 2006. The final report was submitted to Council for adoption in February 2007.

Council was then required to prepare an action plan to address the recommendations and send an updated action plan to the DLG within six months of adopting the report. The updated action plan should have been sent to the DLG by August 2007.

Unfortunately due to a number of internal issues in 2007 the action plan was never adopted by Council. This report seeks to address this oversight and adopt the action plan.

The action plan nominates the action proposed, timeframe to implement the proposed action, department responsible for the implementation of the proposed action and the progress made to date on each of the 25 recommendations made by the DLG.

The Director of Corporate and Community Services is the officer charged with co-ordinating the action plan. It is intended that the current action plan will be submitted to the DLG and the IAB. A follow-up action plan will be submitted to both organisations by January 2009.

**CONSULTATION**

The following Council Officers have been consulted during the preparation of this Council report:

General Manager  
Director City Planning  
Director Infrastructure and Services

**STATUTORY IMPLICATIONS**

**Legislative Implications**

Section 335 of the Local Government Act 1993 details the functions of the General Manager. The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay of decisions of Council.

The implementation of this action plan will assist in improving the efficiency and effectiveness of Cessnock City Council.

**Financial Implications**

Nil

**Policy Implications**

Nil

**CONCLUSION**

Council is required to adopt the attached action plan and submit to the DLG.

It is considered worthwhile sending the action plan to the IAB in addition to the DLG.

Council is required to send a follow-up action plan within six months of tabling the action plan in order to demonstrate where it has made continuous improvement and addressed the recommendations from the DLG.

**RECOMMENDATION** that:

1. Council adopt the attached Action Plan.
2. Council approve of the submitting of the attached Action Plan to the Department of Local Government (DLG) and the Internal Audit Bureau (IAB) by Council Officers.
3. Council approve of a follow-up six monthly report be submitted to the DLG and the IAB by Council Officers. The follow-up report is to be submitted by the 31 March 2009.

To: **The General Manager**  
Corporate & Community  
Committee – 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
7 July 2008

**DIRECTOR CORPORATE & COMMUNITY  
REPORT NO. 57/2008**

**SUBJECT:      ACTION PLAN FOR THE IMPLEMENTATION OF THE  
RECOMMENDATIONS FROM THE IAB IT HEALTH CHECK REPORT  
PREPARED IN MARCH 2008**

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**SUMMARY**

An IT Health Check was conducted by the Internal Audit Bureau (IAB) at the request of Council in March 2008. The purpose of this report is for Council to adopt the Action Plan prepared by Council Officers in response to the IT Health Check Report. A copy of the Action Plan has been included within the enclosure documents.

**BACKGROUND**

Council engaged the IAB to conduct an IT Health Check, a Risk Assessment of Fraud and Corruption at Cessnock City Council and to prepare a draft Fraud Control Strategy for Cessnock City Council in March and April of 2008.

This report is to formalise the Action Plan for the IT Health Check. Two further reports will be prepared for Council adoption in the coming weeks. The first one will be an Action Plan to implement the recommendations from the Risk Assessment of Fraud and Corruption at Cessnock City Council. The second report will be for Council to adopt the Fraud Control Strategy currently in draft form.

The attached IT Health Check Action Plan was endorsed by Senior Executive at their meeting on Tuesday 1 July 2008.

The attached Risk Rating Sheet shows that Cessnock City Council has no extreme IT risks, where immediate action would be required.

The sheet demonstrates that two categories, IT Security and Business Continuity and IT Recovery are considered high risk by the report. These risks require urgent management attention and have duly been given priority where possible.

The sheet also shows that Council has 4 other categories considered Moderate Risk and 3 categories considered Low Risk.

All of the above categories are accounted for in the IT Health Check Action Plan.

Only the following recommendations will be outstanding as of 1 January 2009 – 3.4.1, 3.6.1, 5.1, 5.2 and 9.3.1.

Recommendation 8.1.1 is an ongoing item. The Information Technology Business Plan will be used to guide the Operational and Strategic Direction of Information Services at Cessnock City Council in conjunction with the IT Steering Committee currently being formed.

**CONSULTATION**

The following Council Officers have been consulted during the preparation of this Council report:

Information Systems Manager  
Network Administrator  
General Manager  
Director City Planning  
Director Infrastructure and Services

## **STATUTORY IMPLICATIONS**

### **Legislative Implications**

Section 335 of the Local Government Act 1993 details the functions of the General Manager. The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay of decisions of Council.

The implementation of this action plan will assist in improving the efficiency and effectiveness of Cessnock City Council.

### **Financial Implications**

The total cost of the three reports from IAB was \$33,146. The cost of the IT Health Check was \$16,940.

### **Policy Implications**

Nil

## **CONCLUSION**

Council is required to adopt the attached IT Check Action Plan and submit the final version to the IAB, the organisation engaged to conduct the IT Health Check.

It is considered worthwhile sending the action plan to the DLG in addition to the IAB.

### **RECOMMENDATION** that:

1. Council adopt the attached IT Health Check Action Plan.
2. Council approve of the IT Health Check Action Plan being submitted to the IAB as well as the DLG by Council Officers immediately.
3. Council approve of a follow-up Action Plan being submitted to the IAB as well as the DLG after 6 months and before the 31 March 2009.

To: **The General Manager**  
Corporate & Community  
Committee – 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
7 July 2008

**DIRECTOR OF CORPORATE AND COMMUNITY  
REPORT NO. 58/2008**

**SUBJECT:     REQUEST FOR A REVIEW OF HUNTER VALLEY WINE INDUSTRY  
ASSOCIATION (HVWIA) FUNDING FOR THE 2008-09 FINANCIAL  
YEAR**

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Council's Economic Development Manager, Ms K Payall reports :

**SUMMARY**

Cessnock City Council received a letter from the Hunter Valley Wine Industry Association (HVWIA) on June 6 2008 requesting for Council to review its decision not to support any funding to the HVWIA for the 2008-2009 financial year.

Cessnock City Council received the original submission on 28 February 2008. The original submission was discussed and deliberated on during the preparation of Council's draft Management Plan for the 2008-09 financial year.

**BACKGROUND**

Wine Hunter Marketing has received \$150,000 from Council over a three year period, commencing in 2005/2005 and concluding on 30 June 2008. The purpose of this funding was to support the 'Brand Hunter' project which undertook to market Hunter Wines both nationally and internationally.

As the commitment for financial support was set to expire in June 2008 Wine Hunter Marketing made a submission to Council to increase the funding from \$50,000 per annum to \$75,000 per annum in February 2008. This request was for Council to support them for the next three years. The total of the funding request was therefore \$225,000.

Over the last eighteen months as a result of a process dubbed 'way forward' Wine Hunter Marketing and Hunter Valley Vineyard Association have amalgamated and formed a new organisation now called Hunter Valley Wine Industry Association.

The HVWIA aims to develop and support the Hunter Valley through the implementation of a strategic business plan addressing marketing, viticulture, winemaking and policy issues.

In the March 2008 budget deliberations 'Brand Hunter' was not successful in achieving Council's financial support.

In view of the formalised amalgamation accompanied by a strong desire to continue marketing the Hunter Wine Industry, Council has received a request to review the submission.

The current request and the previous submission from Wine Hunter Marketing are included as enclosures to the report.

The original submission noted that Scone and Muswellbrook Councils 'thus far have not contributed' and that 'Singleton Council will again be approached to continue and increase their funding'.

Scone and Muswellbrook Councils decided not to support the HVWIA for the 2008-2009 financial year. Singleton Council contributed \$20,000 on the proviso that Cessnock City Council supported the HVWIA.

**CONSULTATION**

The following staff have been consulted in the preparation of this report:

General Manager – Mr Bernie Mortomore  
Financial and Administrative Services Manager – Mr Rob Maginnity

**STATUTORY IMPLICATIONS**

**Legislative Implications**

Council is required to prepare a draft Management Plan under section 402 of the Local Government Act 1993.

Council is also required to give public notice of the draft Management after it is prepared, put the draft Management Plan on public exhibition and call for submissions from the public under section 405 of the Local Government Act 1993.

Finally, Council is required to adopt the Management Plan under section 406 of the Local Government Act 1993.

If Council decides to support the funding request now it will not allow the public an opportunity to provide a submission on the funding as it will not be part of draft Management Plan process.

**Financial Implications**

This funding request has already been considered as part of the budget deliberations in March 2008. A decision was made not to fund the proposal and no allocation was made in the Management Plan for 2008/2009.

Currently there is no capacity to absorb an unfunded budget allocation such as that requested by the HVWIA. If Council elects to support this proposal for the 2008/2009 financial year, an alternative source of funding would need to be provided or a project of similar value would need to be removed from the 2008/2009 budget.

Funding could be allocated as part of the September quarterly review if Council was now of a mind to support the proposal.

**Policy Implications**

Nil

**CONCLUSION**

Council needs to assess the request and decide whether funding of the HVWIA is a priority for the 2008-2009 financial year.

**RECOMMENDATION** that the information be submitted for consideration by Council.

To: **The General Manager**  
Corporate and Community  
Committee – 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
7 July 2008

**DIRECTOR CORPORATE & COMMUNITY  
REPORT NO. 59/2008**

**SUBJECT:     ADDITIONAL INCREASE IN LGA MEMBER SUBSCRIPTION AND  
              AUSTROADS MEMBERSHIP FOR THE 2008-2009 FINANCIAL YEAR**

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**SUMMARY**

Council has received a request from the Local Government and Shires Association of NSW (LGSA) to increase the LGA subscription and the Austroads membership for the 2008-2009 financial year by an additional 5% on top of the rate pegging limit of 3.2%.

**BACKGROUND**

The LGSA sent a letter to all Mayors in NSW on 17 June 2008 explaining the reasons for the additional increase. The letter quite clearly demonstrated that the increases over the past few years have been set in accordance with the rate pegging limit. A copy of the letter has been included within the enclosure documents.

At the GMAC meeting held on Thursday 3 July 2008, it was decided unanimously to recommend that all Councils reject the additional 5% increase until the LGSA could provide justification for the additional increase.

New tax invoices will need to be distributed to Councils if the additional increase is not paid. Councils will need to be issued with a tax invoice for the 2007-2008 fee plus 3.2%.

If the additional 5% increase can be substantiated by the LGSA, then an additional tax invoice for the 5% could be sent to all Councils in due course.

**CONSULTATION**

The following Council Officers have been consulted during the preparation of this Council report:

Financial and Administrative Services Manager  
General Manager  
Director City Planning  
Director Infrastructure and Services

**STATUTORY IMPLICATIONS**

**Legislative Implications**

Nil.

**Financial Implications**

The additional 5% increase will cost Council an additional \$1,640 over and above the 3.2% increase. The current Management Plan for the 2008-2009 financial year has an allowance for a 3.2% increase to the subscription and membership fees. The additional 5% increase would have to be found from savings in expenditure or increases in revenue.

**Policy Implications**

Nil

**CONCLUSION**

Council has paid the rate pegging increases over the past few years. It is considered unfair for the LGSA to cost shift to the residents and ratepayers of Cessnock. Cessnock City Council should reject the additional increase along with the other members of the Hunter Councils.

**RECOMMENDATION** that Council:

1. Reject the additional 5% increase in the LGA subscription and Austroads membership for the 2008-2009 financial year.
2. Support the 3.2% increase in the LGA subscription and Austroads membership for the 2008-2009 financial year.
3. Write to the LGSA asking for the associations to clearly demonstrate why Councils in NSW should wear the additional 5% increase, when Councils have the same dilemma as the LGSA and will have to reduce services to its residents and ratepayers in order to meet the cost shifting by the LGSA.
4. Request the LGSA to send a replacement tax invoice for the 2007-2008 fees plus the 3.2% increase.

To: **The General Manager**  
Corporate and Community  
Committee – 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
7 July 2008

# **DIRECTOR CORPORATE & COMMUNITY REPORT NO. 60/2008**

**SUBJECT: ADOPTION OF THE REVISED MODEL CODE OF CONDUCT FOR  
LOCAL GOVERNMENT IN NSW**

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## **SUMMARY**

The Department of Local Government (DLG) issued a circular to all Councils on 20 June 2008 advising that a Revised Model Code of Conduct (Model Code) for Local Councils in NSW was now in place and is effective from Friday 20 June 2008. A copy of the Revised Model Code of Conduct has been included within the enclosure documents.

## **BACKGROUND**

The original Model Code of Conduct for Local Councils in NSW came into effect on 1 January 2005. It was adopted by Cessnock City Council on 2 March 2005.

Cessnock City Council is now required to adopt the Model Code of Conduct or adopt a Code of Conduct which is not inconsistent with the Model Code.

The **most significant changes** to the current Code of Conduct will now be detailed:

## **OVERALL**

The Model Code has been organised into three parts – Context, Standards of Conduct and Procedures.

Additional Sections have been added on complaint handling, complaint assessment criteria and operational guidelines for conduct review committees/reviewers. These sections are contained in Part 3, Procedures.

Administrators have been added to the provisions that apply to Councillors and included in the definition of Council officials.

## **SPECIFIC SECTIONS AND PARTS**

### **PART 1 : CONTEXT (Clauses 1 to 5)**

Additional definitions have been added for the **conduct review committee, conduct reviewer, conflict of interests, misbehaviour, person independent of Council and personal information (clause 2 Definitions)**.

The key principle of 'objectivity' has been amended to '**impartiality**'.

The guide to ethical decision making now includes additional information to assist Council officials with political donations and conflict of interests situations (**sections 5.2 and 5.3**).

### **PART 2: STANDARDS OF CONDUCT (Clauses 6 to 11)**

#### **General Conduct Obligations (section 6)**

Previous section 5.1 (**now section 6.1**) has been worded so that it applies to all Council officials and not just Councillors. It is consistent with Schedule 6A of the Local Government Act 1993 (the Act).

An additional clause has been added (**section 6.4**) which requires Councillors to comply with Council Resolutions requiring them to take action as a result of a breach.

### **Conflict of Interests (section 7)**

This section of the model Code has been substantially rewritten.

New provisions relating to Non-Pecuniary Conflict of Interests include the addition of a section (**section 7.12**) to provide that the political views of a Councillor do not constitute a private interest and a section (**section 7.11**) that provides that the matter of a conduct review committee/reviewer report to Council is not a private interest.

The Model Code provides a clearer definition of **Significant** Non-Pecuniary Conflicts of Interests (**section 7.16**).

The Model Code now clarifies the action required to be taken if a Council official has a Non-Pecuniary Conflict of Interest. There are actions for **Significant and Insignificant** Non-Pecuniary Conflicts of Interest (**sections 7.17 and 7.18**).

**Section 7.19** (a new section) requires Council staff to manage any Non-Pecuniary Conflicts of Interests in consultation with their managers.

The political donations provisions (**sections 7.21 to 7.25**) now require Councillors to treat a political donation **in excess of \$1,000** in the same way as a Significant Non-Pecuniary Conflict of Interest. Councillors are required to determine whether or not contributions below \$1,000 create a Significant Non-Pecuniary Conflict of Interest.

### **Personal Benefit (section 8)**

This section of the Model Code has also been substantially rewritten.

Definitions of token gifts and benefits and gifts and benefits of value have been provided at the beginning of the section (**section 8.1**). These have been substantially rewritten in order to provide greater clarity around what is and what is not a gift/benefit of value or of token value.

Old Sections 7.1, 7.2, 7.3 and 7.5 have been rewritten into the new **section 8.3**.

Old Section 7.10 has been removed as the declaration of gifts totalling over \$500 by Councillors and designated persons is a requirement in the Act. It therefore does not need to be included in the Model Code as the Act overrides the Code.

### **Relationship Between Council Officials (section 9)**

An additional interaction has been provided which advises that it is inappropriate for Councillors and Administrators to make personal attacks on Council staff in a public forum (**section 9.7f**).

Language has been changed to make it clear that inappropriate interactions are a breach of the Code. This was previously implicit only.

### **Reporting Breaches (section 11)**

This section now only contains provisions which relate to the reporting of allegations of breaches of the Code of Conduct. The previous section included complaint handling and sanction information. That information is now included in Part 3 of the Model Code.

A provision has been added (**section 11.1**) which makes it clear that anyone can make a complaint alleging a breach of the Model Code.

The Protected Disclosures clauses have been modified to ensure that they are consistent with the Protected Disclosures Act 1994 (**sections 11.3 to 11.5**).

### **PART 3: PROCEDURES (Sections 12 to 14)**

This is a new part of the Model Code. This part contains the complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer.

The complaint handling requirements and the complaint assessment criteria now provide for the use of a range of methods for the resolution of complaints, give clearer guidance about the referral of complaints to the conduct review committee/reviewer and clarifies the role of the Mayor and the General Manager in relation to complaint management.

Councils are now able to have conduct review committees or individual reviewers undertake enquiries into breach allegations. Members of these committees or the sole reviewers will now be **independent** of Council and can act in the role for more than one Council.

Conduct review committees/ reviewers are required to act in accordance with the operating guidelines which are provided in the Model Code (**section 14**).

The General Manager is now required to report annually to Council on Code of Conduct complaints (**section 12.33**).

#### **Complaint Handling Procedures and Sanctions (section 12)**

Complaints are received by the General Manager or the Mayor (**section 12.1 and 12.2**).

#### **Complaint Assessment Criteria (section 13)**

The General Manager or Mayor, in the case of a complaint about the General Manager, will assess a complaint alleging a breach of the Model Code to determine if the matter should be referred to the Conduct Review Committee/Reviewer (**section 13.1**).

#### **Conduct Review Committee (sections 12.12 to 12.14 and sections 14.1 to 14.10)**

Council must resolve to appoint persons independent of Council to comprise the members of a Conduct Review Committee and/or act as sole Conduct Reviewers (**section 12.12**).

The members of the Conduct Review Committee and/or the persons acting as sole Conduct Reviewers should be appropriately qualified persons of high standing in the community. These persons do not need to be residents of the local government area of the Council that has appointed them (**section 12.13**).

The Conduct Review Committee, members of such committee and sole conduct reviewers may act in that role for more than one Council (**section 12.14**).

The Conduct Review Committee must consist of three or more appropriately qualified persons of high standing in the community who are independent of the Council (**section 14.3**).

The General Manager or Mayor, in the case of a complaint about the General Manager, will be responsible for convening the initial meeting of the Conduct Review Committee when there is a complaint referred to it (**section 14.6**).

In addition to complying with the operating guidelines in section 14 of the Model Code, the Conduct Review Committee/Reviewer will ensure it deals with all complaints in accordance with section 12 of the Model Code (**section 14.8**).

Where the Conduct Review Committee/Reviewer determines, in its view that the conduct referred to it comprises a breach of the Model Code it may in its report to the Council, make recommendations for Council to take any of the actions listed in **section 14.9**.

The General Manager and the Mayor are no longer able to be members of the Conduct Review Committee. They are only allowed to act in an advisory capacity.

At the GMAC meeting on Thursday July 3 2008 a proposal for Hunter Council's to set up a panel of reviewers for each Council in the Hunter to select from when required, was discussed.

The proposal will be discussed at the next Hunter Councils Board Meeting.

### **OTHER CONSIDERATIONS**

#### **Model Code Guidelines and Educator Package Facilitator's Guide**

The DLG is currently updating the guidelines which assist in interpreting the Model Code. The guidelines will be issued shortly.

The Model Code Education Package Facilitator's Guide will also be updated to incorporate the new provisions. Only the changed sections and CD will be reissued to Councils to update the current resource that was distributed to all Councils in 2005.

#### **Transitional Arrangements**

Councils will need to deal with any complaints that are currently in process in accordance with the procedures established in the current Code of Conduct. Once Councils have adopted the provisions of the Revised Model Code of Conduct, any complaints received about conduct that occurred under their previous Code of Conduct will need to be dealt with in accordance with the standards that applied in the Code at that time. However, Councils may choose to use the new procedural requirements for managing the complaints that are contained in the Revised Model Code for those complaints.

A Council is free to add to the model Code but any additional content must be more onerous than the provisions of the model Code.

Additional clauses may be added to the model Code in the future. It was deemed necessary to adopt the model Code due to the closeness of the upcoming Local Government elections and the fact that the model Code is applicable to all Councils from 20 June 2008.

A further Council report will be prepared if it is deemed appropriate to add to the model Code.

### **NEW DISCLOSURE OF INTEREST AT MEETINGS FORM**

The attached enclosure "**Disclosure of Interest at Meetings**" along with the definitions pages will be the new template for Councillors to declare their pecuniary and non-pecuniary conflict of interests.

Councillors will note that the form has a section to declare a Pecuniary Interest, a section to declare a Non-Pecuniary Significant Interest and a section to declare a Non-Pecuniary Insignificant Interest. In addition Councillors are required to document reasons on the form and in the case of a Non-Pecuniary Insignificant Conflict of Interest, document the reasons why they choose to remain in the Chamber.

Councillors will be requested to fill out the disclosure of interest forms prior to any Council, Committee or Briefing Meetings.

The new form will assist to improve the transparency and governance practices at Council. It is good practice to fill out and sign the form prior to any meeting, where possible.

Where this is not possible, Councillors should fill the form out during the meeting or immediately after the meeting has finished and hand the signed form to the relevant Council officer.

### **CONSULTATION**

The following Council Officers have been consulted during the preparation of this Council report :

Office Co-ordinator – Corporate and Community Services  
General Manager  
Director City Planning  
Director Infrastructure and Services

### **STATUTORY IMPLICATIONS**

#### **Legislative Implications**

Section 440 of the Local Government Act 1993 requires all New South Wales Councils to adopt a Code of Conduct.

Specifically section 440(3) states *“A Council must adopt a Code of Conduct (the adopted Code) that incorporates the provisions of the model code. The adopted code may include provisions that supplement the model code”*.

Local Government (General) Amendment Regulation 2008 was gazetted by the New South Wales State Government on 20 June 2008.

The purpose of the regulation was to amend the Local Government (General) Regulation 2005, specifically relating to omitting the following wording “published by the Department in December 2004” from clause 193 (Code of Conduct) and inserting the following wording “as published in the Gazette on 20 June 2008.”

The objective of the new regulation is to prescribe a new model Code of Conduct applicable to Councillors, members of Staff of Councils and delegates of Councils.

Council is now required to adopt the Model Code and remove the current Code of Conduct which is now superseded by the model Code.

#### **Financial Implications**

Nil

**Policy Implications**

Council's current Code of Conduct adopted by Council at the Ordinary Council Meeting of 2 March 2005 is to be replaced by the Revised Model Code of Conduct.

**CONCLUSION**

Council is required to adopt the enclosed model Code of Conduct.

**RECOMMENDATION** that:

1. Council adopt the enclosed Revised Model Code of Conduct as its Code of Conduct, effective from Friday June 20 2008.
2. Council consider using the panel of reviewers likely to be setup by Hunter Councils.
3. Council delegate to the General Manager the power to select the proposal being put forward by Hunter Councils should it eventuate.
4. Council call for expressions of interest for the Conduct Review Committee should the proposal from Hunter Councils not eventuate.
5. A further report be prepared and brought before Council prior to the end of August 2008 nominating the independent members of the Conduct Review Committee.

To: **The General Manager**  
Corporate & Community  
Committee – 16 July 2008

**C T BENNETT**  
**DIRECTOR CORPORATE & COMMUNITY**  
8 July 2008