



## GENERAL MANAGER'S REPORT

18th July 2006

<b>GM4</b>	<b>CODE OF CONDUCT COMPLAINT</b> <b>COUNCILLOR JIM GRIBBIN</b> <b>FILE: 564 AVB</b>	<b>{Folio No. *}</b>
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### SUMMARY:

A request has been received from Councillor Jim Gribbin for Council to pay his legal costs in respect of the complaint made against him and investigated by the Conduct committee.



### DESCRIPTION:

A complaint dated 3rd February 2005 from a number of ratepayers was made against Councillor Gribbin alleging that he entered property 19 Seaview Street, South West Rocks uninvited and proceeded to harass the contractor.

The matter was referred to the Conduct Committee who resolved no to proceed with the allegation as after consideration of the complaint and statements provided by the witnesses and Councillor Gribbin the evidence was inconclusive.

Councillor Gribbin is now seeking reimbursement of his legal expenses from Council.

The sequence of events that led to the investigation is as follows: -

- Complaint against Clr Gribbin received by Council 7th February 2005.
- Letter dated 16th March 2005 forwarded to Councillor Gribbin advising of the complaint and asking him to make arrangements to see me.
- Letter from Councillor Gribbin dated 19th March referring to the time taken to notify him, advising that he visited the site at the request of a ratepayer and wanting to know the clauses of the Local Government Act that have been breached.

- Letter to Councillor Gribbin dated 24th March advising that in accordance with Policy C24.10 that I needed to interview him in the presence of the Mayor as part of the preliminary investigation and advising that the complaint had been forwarded to him late due to me being away and as he was unavailable due to ill health. I once again requested he arrange a meeting with me.
- Letter to Councillor Gribbin dated 4th April 2005 advising that I had been informed by the Department of Local Government that although the alleged breach occurred after the adoption of Council's new Code of conduct the breach must be dealt with under the new Code of Conduct and advising that unless he met with me prior to the 13th April to discuss the allegations I would have no option but to refer the complaint to the Conduct committee.
- Letter from Contractor also signed by employees dated 5th April making a formal complaint against Councillor Gribbin.
- Letter from Councillor Gribbin dated 6th April asking for statutory declarations from the contractor and his employees then he and his legal representative would meet with me.
- Letter to Councillor Gribbin dated 7th April advising that I am required to investigate the complaint and requesting a meeting prior to the 14th April.
- The matter was referred to the Conduct Committee on the 28th April 2005.
- Letter to Councillor Gribbin dated 9th May 2005 outlining the clauses of the Code of Conduct that could have been breached and details of the record of interview with the contractor and giving two alternative dates to meet with the Conduct Committee.
- Letter from Stacks / Port dated 12th May advising that they are acting for Councillor Gribbin and asking for a deferment of meeting time to the week commencing 13th June.
- Letter from Stacks / Port dated 23rd May to Howard Sheridan Cooney Harvey advising that their client is unable to meet with the Conduct Committee as he has to undergo medical treatment in Sydney and asking for another date.
- Letter from Stacks / Port dated 16th June advising that their client was unable to attend the Conduct committee on the 17th June due to inadequate notice and requesting additional information.
- Letter to Stacks / Port dated 21st June supplying information and suggesting 27th, 28th, 29th or 30th June as a Conduct Committee meeting.
- Letter from Stacks / Port dated 30th June outlining issues that they want addressed prior to meeting with the Conduct Committee.
- Council as its meeting held on the 9th August adopted procedures for the operation of the Kempsey shire Conduct committee.

- In the interests of procedural fairness Councillor Gribbin advised on the 22nd August that I would recommence my assessment of the allegation and asking him to respond to the complaint in writing by the 14th September.
- Letter received from Stacks / Port dated 14th September responding to the alleged breach of the Code of Conduct.
- Letter to Stacks / Port dated 28th November forwarding statements from the contractors' employees and advising that as there are conflicting accounts I was referring the matter to the Conduct committee.
- The Conduct Committee met on the 7th December and resolved not to proceed with the matter. Councillor Gribbin was advised on the 7th December.

Councillor Gribbin advises me that his legal costs are approximately \$4,000. Payments to Councillors must be covered by Policy C24.4 Payment of Expenses and Provision of Facilities to Mayor and Councillors. The policy does not provide for the payment of Councillors legal expenses. If Council wishes to pay a Councillor's legal expenses the policy would need to be amended.

**REPORT IMPLICATIONS:**

- *Environmental*

*Nil*

- *Social*

*Nil*

- *Economic (Financial)*

*Any costs paid would be expenditure against the legal costs vote.*

- *Policy or Statutory*

*Nil*

- *General Manager's Review*

*Nil*

**RECOMMENDATION:**

**For Council's determination.**

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**A V Burgess  
GENERAL MANAGER**