



**KEMPSEY**  
Shire Council

## **DIRECTOR CORPORATE AND COMMUNITY SERVICES REPORT**

14<sup>th</sup> August 2007

<b>DCCS13</b>	<b>DONATIONS POLICY AND PROCEDURES</b>
<b>FILE: 126</b>	<b>PJH {Folio No. *}</b>

### **SUMMARY:**

To advise Council on the review of its donations policy and procedures in relation to its donations to local organisations

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### **DESCRIPTION:**

At a recent meeting of the Mid North Coast Governance Network Group the issue of donations by Councils to local organisations was discussed in detail. The Northern Rivers Group of Councils had sought a change to the Local Government Act in relation to donations, so as to allow donations to be made, without a separate Council resolution, provided they were part of an adopted program in the Management Plan or part of an adopted donations policy.

### **Department of Local Government advice**

The Department of Local Government (DLG) response from the Director General has made it clear that a separate Council resolution is required for donations, irrespective of whether they are provided in the budget and management plan or Council adopted policies.

The DLG response on this issue has an impact on Kempsey Shire Council, in that we have in recent times provided donations in accordance with adopted budgets and our donations policy. The advice from the DLG is that a separate Council resolution covering each donation made is also required.

It is felt that to allow for the donations listed in Council's policy to be made a Council resolution should be passed at the beginning of each financial year (at the July Council meeting) to provide the donations to the organisations listed in Council's policy.

A précis of the DLG response is reproduced below: -

*"Following careful consideration of the present request, I have noted that the Group has expressed the view that section 356 'does not match the contemporary intent of the Act in terms of permitting staff to implement the adopted policies of the Council.' I respectfully disagree with the assertion.*

*As you are aware, section 356 of the Act provides, among other things, that a council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.*

*The intent of that section is to ensure that prior to making a decision to use community resources and/or expend public money in a form of financial and other assistance to persons, councils should comply with the requirements that are designed to promote better accountability and transparency in relation to council decision making processes.*

*There is flexibility provided by section 356(3) to avoid public notice provisions where financial assistance is part of a specific program and the program is detailed in the draft management plan for the financial year in which the assistance is to be provided, and the programs proposed budget for that year does not exceed 5% of the council's proposed income from ordinary rates levied for that year and the program applies uniformly to all or a significant number of persons within the local government area.*

*In light of the above and in absence of any new grounds, I remain of the view that the proposed amendments as sought by the Group are not warranted at this time.*

*Garry Payne  
Director General"*

In discussions with the other Councils, advice was also received by them from the DLG that any donation of second hand surplus goods to community group e.g. old computers must also be approved by Council resolution and dealt with in terms of Section 356 of the Act.

In light of this information our procedures for giving donations in future will need to comply with the DLG advice.

## **Review of Council's Policy C21:7 – Donations and grants and subsidies**

Council at its meeting of 27<sup>th</sup> February 2007 resolved: -

*"That a review of donation funding in the draft budget be undertaken including recoupment of development application fees."*

A report was then presented to Council at its Budget meeting on 10 April 2007. A copy of this report is reproduced at [\(Appendix G – Page J11\)](#). Council resolved to a conduct a further review of its donations to local organisations and also not to refund any development application fees as part of its policy on donations.

It has been assumed that the intention of Council's resolution of 10 April 2007 was to have a closer look at the merits of the recipient organisations (listed as part of the 10 April report), as there may be some questions over why some of the organisations receive automatic financial support in this way each year.

It is recommended to Council that the following actions take place to initiate a full review of Council's donations to local organisations: -

- That Council's existing policy and recipient organisation list be the basis of its donations in the 2007-2008 year. In light of the DLG advice a resolution from Council will be required to ratify this. It is felt it would be unfair to say at this time to organisations that have received the assistance each year and would be expecting it again that they may not receive it this year without any consultation with them (e.g. community halls receive a subsidy equal to general rates).
- That each recipient organisation be written to and advised that Council is conducting a full review of its donations to local organisations and invite them to submit a request to Council seeking a continuation of Council's financial assistance from the 2008-2009 year.
- Council advertise that its conducting a full review of its donations policy and invite submissions from any other organisations who feel that they warrant financial assistance from Council on an annual basis. A period of at least 28 days should be given for any submissions.
- Council to consider all applications/submissions (at October or November meeting) and prepare a new policy and recipient organisation list prior to commencement of draft budget preparation for the 2008-2009 year.

By implementing the result of this review in the 2008-2009 year it gives sufficient time for organisations to prepare their budget strategies, if in fact they have been receiving a donation and this is ceased or they are replaced by an organisation more fitting of assistance.

### **Recent requests received for Financial Assistance**

Council has recently received requests for increased financial assistance from community organisations. These were:-

Macleay Valley Regional Shooting Complex – seeking 100% general rate donation (Council already pays 50% as per existing donations policy).

SWR Maritime Precinct Inc. – seeking 100% general rate donation (Council has already agreed to pay 50%).

As these requests are looking for continued financial assistance not just a one off donation, it is recommended that they and other similar requests received be advised that their requests will be considered as part of the full review and that Council's existing donations policy will apply for the 2007-2008 year.

Any requests for one-off donations can be considered on their merits and dealt with in accordance with section 356 and determined by Council, subject to funding being available in the donations allocation.

### **2007 - 2008 Donations & Subsidies Budget**

Council's adopted budget for 2007 - 2008 provides for the following donations:-

Public Hall subsidies	\$	6,374
Surf Club subsidies	\$	16,176

Section 356 donations	\$	11,000
Community based activities	\$	4,500
Westpac Rescue helicopter	\$	1,000
Slim Dusty Museum	\$	5,000
NC Academy of Sport	\$	3,000
Health scholarship	\$	13,000
Arts Council	\$	3,720
Regional Arts Board	\$	5,570
Kempsey Silver Band	\$	4,500
	\$	73,870

As can be seen of the total donations budget of \$73,870 the amount already allocated is \$58,340.

## REPORT IMPLICATIONS:

- *Environmental*

*Nil*

- *Social*

*A complete review of Council's donations policy gives an opportunity to other non-profit community groups to apply for ongoing donations from Council. It also allows existing recipient organisations to demonstrate to Council why the assistance to them should continue.*

- *Economic (Financial)*

*Council only has a limited amount for donations each year. Council's budget for donations for the 2007-2008 year is \$73,870 of which approximately \$58,340 is allocated to particular community organisations listed in Council's policy.*

- *Policy or Statutory*

*Council must comply with section 356 of the Local Govt Act when it financially assists others. Council's policy C21:7 sets out what organisations are assisted financially on a regular (annual) basis.*

- *Directors Review*

*The recommendation is supported.*

## RECOMMENDATION:

1. That Council's regular annual donations for the 2007 - 2008 year be made in accordance with its policy C21:7 to the recipient organisations listed in the existing policy.
2. That any other one-off donation requests received during the 2007 - 2008 year be processed in accordance with the requirements of section 356 of the Local Government Act.
3. That Council conduct a full review of its donations policy with a view to a new policy and recipient organisation list being

developed and to be the basis for donations in the 2008 - 2009 year and organisations be invited to lodge submissions if they seek to be included in Council's donations policy as an annual recipient.

4. That the review be completed in sufficient time for consideration by Council at its November 2007 Council meeting.
5. That any organisations seeking new or amended annual donations be advised that such requests will be considered with the full review of Council's donations policy and that any decision will be implemented from the 2008 - 2009 year.

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**G B Snape**  
**DIRECTOR CORPORATE & COMMUNITY SERVICES**