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## **1. Acknowledgement to Country**

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting.

### **Webcasting**

#### **Administrator's Comment**

The public gallery should note that Council records and webcasts its Council Meetings live to enhance the accessibility of Council Meetings to the broader Shellharbour City Community.

Council Meetings can now be viewed live via webcast, downloaded from Council's website for later viewing, or purchased from Council for viewing on a computer.

At the appropriate time during the meeting pre registered or invited members of the gallery may Address the Council at which time their image, comments or submissions will be broadcast live and recorded.

Council accepts no responsibility for any defamatory or offensive statements.

Please ensure that mobile phones and other electronic devices are turned off or are in silent mode for the duration of the meeting.

## **2. Confirmation of Minutes**

### **2.1 Ordinary Meeting 5 April 2011**

That the Minutes of the Ordinary Council Meeting held on 5 April 2011 as circulated be taken as read and confirmed as a correct record of proceedings.

## **3. Apologies / Leave of Absence**

## **4. Confidential Business (Committee of the Whole)**

## **5. Pecuniary Interest and Conflict of Interest Declarations**

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**9. Administrator's Statements / Reports / Presentations**

**10. Councillors' Reports (not applicable at this time)**

**11. Administrator's Minutes**

**12. Reports**

**12.1 General Manager's Office**

Nil

## 12.2 Operations & Services Division

### 12.2.1 Oak Flats Police Station: Car Parking (9482727)

To the General Manager

**Division:** Operations & Services Division  
**Department:** Development & Technical Services

**Manager:** Arthur Webster - Director Operations & Services  
**Author:** Grant Meredith - Manager Development Services

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### Summary

This report is to clarify Council's 'draft' condition of development consent in regard to car parking requirements for the construction of the Oak Flats Police Station (Lake Illawarra Command) located adjacent to the Oak Flats Railway Station. There has been community concern over the apparent lack of onsite car parking and the impact of overflow parking from the site into the railway station public car park and local on-street parking.

There have been conflicting reports and criticism of Council and the Department of Planning in their assumed roles in the development approval process for this development.

### Background

The reduction in available car parking spaces at the Oak Flats Railways Station has created considerable community concern. The problem is a result of insufficient car parking spaces being provided for the adjoining Oak Flats Police Station and employees and visitors of the Police Station using the railway public car park. The community has been critical of Council due to their perception that Council should have required the Police Station development to include adequate car parking for the staff and visitors that utilise this facility.

A development application (DA 263/2008) for the new police station was lodged with Council by the United Group Services (UGL) on behalf of the NSW Police Service. Council processed the application and forwarded 'Draft Consent' conditions to UGL. Under Section 116C of the *Environmental, Planning and Assessment Act, 1979* Council needs the applicant (State Government Authority) to concur or amend draft conditions before Council is able to issue development consent. In regards to the Oak Flats Police Station the proposed consent included 86 draft conditions. One of these conditions required 61 onsite parking bays to be provided prior to the occupation of the building. The response to this draft condition from UGL Services was:

'NSW Police provide site parking for police vehicles. However NSW Police do not and will not provide any onsite parking for staff or visitors. This is a policy decision which will not be altered further, please remove this condition'.

Under these circumstances, Council removed this condition and, following resolution of other issues, Council issued consent to the development. The approved plans did identify parking for approximately 40 vehicles; however there appears to be amendments to the original consent which has reduced this number. The majority of these spaces were operational for the use of the Police Department.

The NSW Department of Planning has no involvement in this development application. Clearly there is insufficient onsite car parking available for this development. All development applications require provision for car parking in accordance with Council's *Draft Car Parking Policy and Commercial Development Control Plan (DCP)*. Section 116C of the *Environmental, Planning and Assessment Act* allows the relevant state government authority to consider all conditions of consent imposed by a Council then require Council to amend any conditions that the authority deems to be unsuitable. Council does not have the ability to disregard this requirement.

Council staff have been negotiating with the Local Area Commander and his staff to address the parking shortfall. There is undeveloped land within the site that could be developed for additional parking, subject to relevant approvals and provision of construction funding.

## **Consultations**

### **Internal**

Director Operations & Services

### **External**

Nil

## **Political Donations Disclosure**

Under Section 147(4) of the *Environmental Planning and Assessment Act 1979* (the Act) a person who makes a relevant planning application to Council is required to disclose any reportable political donations and gifts made by any person with a financial interest in the application within the period commencing two years before the application is made and ending when the application is determined, including:

- a. all reportable political donations made to any Councillor of this Council
- b. all gifts made to any Councillor or employee of this Council.

Under Section 147(5) of the Act, these disclosure requirements also apply to a person, or any associate of a person, who makes a relevant public submission to Council in relation to a relevant planning application.

**Note:** Section 147(1) of the Act states: 'political donations or gifts are not relevant to the determination of any such planning application, and the making of political donations or gifts does not provide grounds for challenging the determination on any such planning application'.

The Disclosure Statement/s received by Council indicate that no reportable donations or gifts have been made.

### **Recommendation**

**That Council write to the Minister for Police, The Hon Michael Gallacher and request that funding be provided to increase the available onsite car parking spaces for the Oak Flats Police Station to 61 in accordance with Council's *Commercial Development Control Plan*.**

Approved for Council's consideration: \_\_\_\_\_



### **Attachments**

Nil

**12.2.2 Proposed Financial Assistance to the Shellharbour Sharks Football Club - William Street Shellharbour (9481119)**

To the General Manager

**Division: Operations & Services Division**

**Department: Corporate Services**

**Manager:** Arthur Webster - Director of Operations and Services

**Author:** Donna Flanagan - Manager Property Services

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## **Summary**

This report informs Council that the Shellharbour Sharks Football Club Pty Limited has requested financial assistance from Council towards a programme of upgrading buildings at Ron Costello Oval. The report recommends that Council, subject to provisions of Section 356 of the Local Government Act 1993, give public notice of the Council's intention that financial assistance be considered, to assist the Shellharbour Sharks with the works that are currently under construction at Ron Costello Oval. The consideration of this assistance will necessitate rescission of an earlier Council resolution dated 16 October 2009.

## **Background**

Shellharbour Sharks Football Club, with the support of Illawarra ITeC was successful in gaining a Federal Government Grant, under the Jobs Creation Scheme administered by the Department of Education, Employment and Workplace Training, for the amount of \$1,040,121.00 to upgrade buildings and structures at Ron Costello Oval. As part of this application, the Shellharbour Sharks committed to providing \$150,000 cash and a further \$154,000 in materials. In addition to this grant funding, the Shellharbour Sharks also secured \$35,000 through the NSW Department of Sport and Recreation, to construct another amenities building on the eastern side of Ron Costello Oval. All of the above funds are required to be fully spent and projects completed by 30 June 2011.

The project is well advanced and is being project managed and built by Illawarra ITec on behalf of the Shellharbour Sharks Football Club.

On completion of the construction works it is proposed that the Shellharbour Sharks will enter into a lease agreement with Council for the occupation of the building. On completion, the infrastructure will become an asset for Shellharbour City Council and will enhance the amenity of Ron Costello Oval.

Shellharbour Sharks approached the Council in October 2010 seeking financial assistance for the repayments of the loan requesting that Council provide financial assistance of \$10,000 per year for a term of 10 years. This assistance could be met through the annual rental, which Council receives from Telstra for the telecommunications facilities, located on two existing sportsfield light poles within

Ron Costello Oval. The Council indicated its support for this request, subject to budget approval in the appropriate financial year.

As part of the recommendation of this report, the financial assistance proposal will be placed on exhibition for 28 days. Any submissions received will be considered in conjunction with the 2011/12 budget process, with a recommendation being reported back to Council at the meeting to adopt the 2011/12 budget.

Shellharbour Sharks management have applied to the Department of Sport and Recreation to guarantee a bank loan of \$140,000 to meet their cash commitment to the project. This arrangement has not been finalised. Shellharbour Sharks will be responsible for the additional amount of \$40,000 and the interest associated with the loan.

#### Funding Council's contribution.

Council at its meeting of 16 October 2007, resolved to enter into a licence agreement with Telstra for the installation of the telecommunications devices on two existing light poles at Ron Costello Oval for a term of five years, with an annual rental of \$10,000 with 5% annual rental increases and further that any income received be directed to asset maintenance. To enable Council consideration of the proposal for the above assistance as outlined earlier in this report, Council will be required to rescind its original resolution that the income received will be directed to asset maintenance.

#### Public Notice:

Under Section 356 of the Local Government Act, 1993, public notice must be given for a period of 28 days, of the Council's proposal to provide financial assistance to the Shellharbour Sharks. Any submissions received will be considered in conjunction with the 2011/12 budget process, with a recommendation being reported back to Council at the meeting to adopt the 2011/12 budget.

## **Consultations**

### **Internal**

Director of Operations and Services  
Group Manager Corporate Services  
Manager Financial Services  
Manager Environment and Recreation

### **External**

Shellharbour Sharks Football Club Pty Limited  
The Illawarra ITeC

## **Political Donations Disclosure**

Not applicable

**Recommendation**

1. That consistent with its earlier advice to the Shellharbour Sharks, the Council as per Section 356 of the Local Government Act, 1993, give 28 days public notice of the proposal to recommend that financial assistance of \$10,000 per year for 10 years be considered to assist the Shellharbour Sharks with the upgrade of buildings and structures at Ron Costello Oval.
  
2. That in order to fund such a commitment, the Council resolution (Min No. 523), dated the 16 October 2007, providing that income received from the licence agreement between Telstra and Council for the installation of telecommunications devices on two existing sportsfield light poles at Ron Costello Oval be directed to asset maintenance, be rescinded.

Approved for Council's consideration:



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**Attachments**

Nil

**12.2.3            Lot 2 DP 1092398, Airport Road, Albion Park Rail, Illawarra Regional Airport: Renewal of lease agreement with Total Aerospace Solutions (9480888)**

To the General Manager

**Division:            Operations & Services Division**  
**Department:       Corporate Services**

**Manager:**            Donna Flanagan - Manager Property Services  
**Author:**              Kim Fury - Property Officer

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## **Summary**

This report seeks Council approval to sign, under seal, a new lease agreement with Total Aerospace Solutions Pty Limited at the Illawarra Regional Airport for their five year option period for occupation of Lot 1 DP 1092398 for a term of five years commencing 1 June 2011 at a rental of \$17,875.00 plus GST per annum to be increased annually by CPI.

## **Background**

Total Aerospace Solutions Pty Limited was successful with their application under Expression of Interest to occupy one of the hangars in the light aeronautics industry cluster at the Illawarra Regional Airport in 2005.

It was resolved by Council at its meeting on 2 November 2005 to invite Total Aerospace Solutions to submit a development application for Lot 2 DP 1092398 and if the consent was issued, that a lease be granted for a five year term with a five year option at a rental of \$15,000.00 per annum plus GST.

The development application was approved and Total Aerospace Solutions Pty Ltd entered into a five year lease with a five year option for the occupation of Hangar 2, at the Illawarra Regional Airport.

The current five year occupation terminates on 31 May 2011 and we have received a notice from Total Aerospace Solutions confirming their intention to exercise their option under the current lease agreement for the further five year term. This notice was received within the required time frame specified, in the lease agreement, for the option to be exercised.

As it was resolved by Council at its meeting of 2 November 2005 to enter into a lease for a five year term with a five year option and the lessee has complied with the terms of the lease regarding this option, Council must approve the renewal of the lease.

A market valuation has been carried out by Council's valuer and it has been determined that the new rental will be \$17,875.00 per annum plus GST and

increased by CPI annually. The lessee will be required to comply with the same conditions as the current lease agreement.

The lessee will also be responsible for the payment of all outgoings associated with the site as well as for Council's legal costs, associated with the preparation of the new lease.

The subject land is classified as Operational land and therefore there is no requirement under the *Local Government Act 1993* for this proposal to be advertised. The lessee provides extensive experience to the aviation industry with their aeronautical systems on both fixed and rotary wing aircraft

## **Consultations**

### **Internal**

Manager, Property Services

### **External**

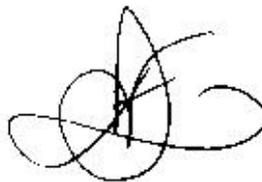
Total Aerospace Solutions  
Walsh & Monaghan

### **Political Donations Disclosure**

Not Applicable

## **Recommendation**

- 1. That Council renew the five year option period by way of a lease with Total Aerospace Solution Pty Limited for occupation of Lot 2 DP 1092398 for a term of five years commencing on 1 June 2011 and terminating on 31 May 2016 at a rental of \$17,875.00 plus GST per annum and to be increased by CPI annually.**
- 2. That the Administrator and General Manager be authorised to execute related documentation to this lease under Council Seal.**



Approved for Council's consideration: \_\_\_\_\_

### **Attachments**

Nil

**12.2.4            Lot 1 DP 1092398 Airport Road, Albion Park Rail, Illawarra Regional Airport: Renewal of lease to Rotorfix Pty Limited (9480904)**

To the General Manager

**Division:            Operations & Services Division**  
**Department:       Corporate Services**

**Manager:**            Donna Flanagan - Manager Property Services  
**Author:**              Kim Fury - Property Officer

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## **Summary**

This report seeks Council approval to sign, under seal, a new lease agreement with Rotorfix Pty Limited at the Illawarra Regional Airport, for their 5 year option period for occupation of Lot 1 DP 1092398, for a term of five years commencing 15 May 2011, at a rental of \$17,875.00 plus GST per annum, to be increased annually by CPI.

## **Background**

Council at its meeting on 12 October 2010 resolved to agree to allow Aircraft Maintenance Centre Pty Ltd to assign its interest in the lease to Rotorfix Pty Limited for occupation of hangar 1 at the Illawarra Regional Airport.

We have received a notice from Rotorfix Pty Ltd confirming their intention to exercise their option under the current lease agreement, for the further five year term. This notice was received within the required time frame specified in the lease agreement for the option to be exercised.

It was originally resolved by Council at its meeting of 2 November 2005, to enter into a lease for a five year term with a five year option for the occupation of Lot 1 DP 1092398. The current lessee has complied with the terms of the lease regarding this option and accordingly Council must approve the renewal of the lease.

A market valuation has been carried out by Council's valuer and it has been determined that the new rental will be \$17,875.00 per annum plus GST and increased by CPI annually. The lessee will be required to comply with the same conditions as the current lease agreement.

The lessee will also be responsible for the payment of all outgoings associated with the site as well as for Council's legal costs, associated with the preparation of the new lease.

The subject land is classified as Operational land and therefore there is no requirement under the *Local Government Act 1993* for this proposal to be advertised.

The lessee provides quality maintenance training and support to General Aviation, Regional Passenger Transport Industries and the aviation elements of the Australian Defence Forces.

## **Consultations**

### **Internal**

Manager, Property Services

### **External**

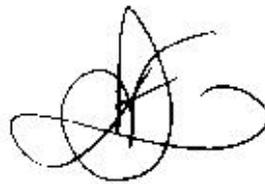
Rotorfix Pty Limited  
Walsh & Monaghan

## **Political Donations Disclosure**

Not Applicable

## **Recommendation**

1. That Council renew the five year option period by way of a lease with Rotorfix Pty Limited for occupation of Lot 1 DP 1092398, for a term of five years commencing on 15 May 2011 and terminating on 14 May 2016, at a rental of \$17,875.00 plus GST per annum to be increased by CPI annually.
2. That the Administrator and General Manager be authorised to execute related documentation to this lease under Council Seal.



Approved for Council's consideration: \_\_\_\_\_

## **Attachments**

Nil

**12.2.5 Proposed Lease Renewal: GE Personal Finance Pty Ltd- Shop 135 Lamerton House, Lamerton Crescent, Shellharbour City Centre (9470479)**

To the General Manager

**Division: Operations & Services Division**  
**Department: Corporate Services**

**Manager:** Donna Flanagan - Manager Property Services  
**Author:** Trudi Robinson - Property Administration Officer

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## Summary

This report seeks Council's approval to renew the lease agreement with GE Personal Finance Pty Ltd for the continued occupation of Shop 135, Lamerton House, Lamerton Crescent, Shellharbour City Centre for a further period of five years.

## Background

GE Personal Finance Pty Ltd has been in occupation of Shop 135 of Lamerton House for the past ten years. The current lease agreement is due to expire on 30 April 2011 and GE Personal Finance Pty Ltd has requested to renew the agreement for a further five year term.

Negotiations have taken place between Council's Managing Agent, Southern Estates and GE Personal Finance Pty Ltd in relation to a new annual rental figure. With the number of vacancies that are currently available in and around the Shellharbour City Centre area and the rates at which they are being offered into the market place, Southern Estates have recommended that Council continue with the current rental figure of \$67,364.40 (being \$580.22 / m<sup>2</sup>). This rental figure is well above the average return by reference to current market rent in the area. The current average annual rent in the area ranges from \$215/ m<sup>2</sup> to \$347 / m<sup>2</sup> . Rent reviews will be carried out every year and rental will be increased by the Consumer Price Index (Sydney All Groups) or 3%, whichever is greater, on the anniversary date of the lease for each year the lease is in place.

As part of the negotiations GE Personal Finance Pty Ltd have requested that the legal costs payable by them, for preparation of the lease agreement, be capped at \$1,000.00, with Council being responsible for the remainder of the legal fees and that Council construct a disabled access ramp of the same material and style as the ramps installed by Council at Shop 134a and Shop 134b in 2008. If GE Personal Finance Pty Ltd were to vacate the premises and Council was to lodge an Application for Development Consent for the Shop, the disabled access ramp would be a requirement of Council to install at the site, as with Shop 134a and Shop 134b. Therefore, this request is considered reasonable and complies with the requirements under the Australian Standard 1428.1 designs for access and mobility.

Southern Estates have completed an inspection of the property and report that it is kept in excellent condition by the lessee.

There should be no adverse public or social impact as there have been no incidents since GE Personal Finance Pty Ltd took occupation of the building ten years ago. GE Personal Finance has continued to pay their rent in advance, through their occupancy at the site.

The annual rental received from GE Personal Finance Pty Ltd is used to offset part of the cost of outgoings for Lamerton House as a whole, including electricity, water, air conditioning and other associated costs.

GE Personal Finance Pty Ltd are responsible for the cost of any telephone services connected to the shop, however, they are not responsible for the payment of water and electricity as these services are not separately metered.

## **Consultations**

### **Internal**

Manager Property Services  
Group Manager Corporate Services  
Director Operations and Services

### **External**

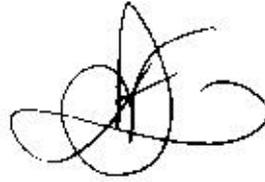
Southern Estates  
GE Personal Finance Pty Ltd

### **Political Donations Disclosure**

Not Applicable

## **Recommendation**

- 1. That Council renew the lease agreement for the occupation of Shop 135 Lamerton House, Lamerton Crescent, Shellharbour City Centre with GE Personal Finance Pty Ltd for a further term of five years at an annual rental of \$67,364.40 plus GST, increased annually by CPI (Sydney All Groups) or 3%, whichever is the greater.**
- 2. That the Administrator and General Manager be authorised to sign all relevant documentation in association with this lease, under Council Seal.**

A handwritten signature in black ink, consisting of several overlapping loops and a central vertical stroke.

Approved for Council's consideration: \_\_\_\_\_

**Attachments**

Nil

**12.2.6 Terry Reserve, Albion Park: Proposed Licence Agreement with Stoney Range Pony Club Incorporated (9481418)**

To the General Manager

**Division:** Operations & Services Division

**Department:** Corporate Services

**Manager:** Donna Flanagan - Manager, Property Services

**Author:** Trudi Robinson - Property Administration Officer

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## Summary

This report seeks Council approval to commence the process, including advertising, to enter into a non-exclusive licence agreement with Stoney Range Pony Club Incorporated, for the use and occupation of the purpose built clubhouse at Terry Reserve, Albion Park for a period of five years, at an annual rental of \$100.00 plus GST with annual CPI increases.

## Background

Stoney Range Pony Club constructed the clubhouse at Terry Reserve a number of years ago. Since this time the Club have been in occupation of the building and Council should formalise the occupation by way of a non-exclusive licence agreement, for a period of five years.

As the clubhouse is located on Council owned Community Land, the proposal is subject to the provisions of S. 47A of the *Local Government Act 1993*, relating to public exhibition of the proposal providing for a submission period of not less than 28 days, in which the public may make a submission or objection to the licence agreement being issued.

In accordance with Council's Fees and Charges, Stoney Range Pony Club falls into the category of a not-for-profit Community Group and therefore the annual rental would be \$100.00 plus GST, with CPI increases on the anniversary day of the licence commencement, throughout the term. All costs associated with the preparation of the licence agreement are to be borne by Stoney Range Pony Club. The Club will be responsible for the payment of any outgoings connected to the property, that are separately metered to Terry Reserve.

There should be no adverse public or social impact in granting the licence agreement, as Stoney Range Pony Club provides a site where young equestrian enthusiasts can train and socialise. A non-exclusive agreement also provides Council with the ability to allow other clubs to utilise the facility under a separate agreement, if required. A separate booking approval is required for the use of the reserve for any Pony Club activities.

As Stoney Range Pony Club constructed the building, they will be responsible for the upkeep of the facility, including the removal of graffiti and completion of structural repairs i.e. cracks in brickwork, damage to roof, wall frames, concrete flooring, damage to eaves etc. All structural repairs proposed by the Club must have the prior written approval of Council and must be undertaken by a suitably qualified and competent person. Upon completion of the repairs the work must be inspected and approved by a qualified structural engineer.

## **Consultations**

### **Internal**

Building Maintenance Supervisor  
Manager, Risk Management  
Manager, Environment & Recreation

### **External**

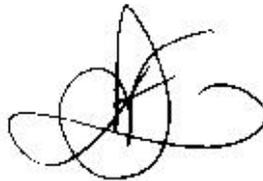
Stoney Range Pony Club Incorporated

### **Political Donations Disclosure**

Not Applicable

## **Recommendation**

- 1. That Council commence the formal process to enter into a five year non-exclusive licence agreement with Stoney Range Pony Club Incorporated, including advertising and exhibition of the proposal.**
- 2. That provided no objections are received, Council enter into a five year non-exclusive licence agreement with Stoney Range Pony Club Incorporated, for the use and occupation of part of Terry Reserve, as defined on the attached plan (Attachment 1), at an annual rental of \$100.00 plus GST, increased annually by CPI.**



Approved for Council's consideration: \_\_\_\_\_

## **Attachments**

1. Aerial photo of subject property

Attachment 1 - Aerial photo of subject property.



**12.3 Community Planning & Strategies Division**

Nil

**12.4 Shell Cove Business Division**

Nil

**13. Committee Recommendations**

Nil

**14. Items for Information**

Nil

**15. Notices of Rescission/Alteration Motions**

Nil

**16. Notices of Motion**

Nil

**17. Questions on Notice**

**18. Urgent Business**

**19. Committee of the Whole in Closed Session: Adjournment**

**20. Committee of the Whole: Consideration of Adoption of Decisions Reached in Closed Session**

**21. Consideration of Motions to Declassify Reports Considered in Closed Session**