

**ITEM-56 CCL 23/07/19 - AFFIXING COUNCIL SEAL TO DEEDS OF
INDEMNITY FOR NEWCASTLE AIRPORT COMPANIES**

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER LEGAL

PURPOSE

To enter into, and affix Council's seal, to Deeds of Indemnity for newly appointed Directors of Newcastle Airport Pty Limited (NAPL) and Greater Newcastle Aerotropolis Pty Ltd (GNAPL).

RECOMMENDATION

That Council:

- 1 Enter into, and affix Council's seal, to the following:
 - (i) Deeds of Indemnity between Newcastle City Council and Port Stephens Council indemnifying the officers of Greater Newcastle Aerotropolis Pty Ltd:
 - (a) Jeremy Robert Bath
 - (b) Edward Keith Campbell
 - (c) William Kirby Clark
 - (d) Peter Lawrence Cock
 - (e) Peter Gregory Gesling
 - (f) Andrew Stuart Gill
 - (g) Louise Karen Hicks
 - (h) Cameron Alexander Macphee
 - (i) Judith Rose Munro
 - (j) Nuatali Josephine Nelmes
 - (k) Ryan Philip Palmer
 - (l) Morgan Benn Parker
 - (m) Wayne Anthony Wallis
 - (ii) Deeds of Indemnity between Newcastle City Council and Port Stephens Council indemnifying the officers of Newcastle Airport Pty Limited:
 - (a) Andrew Stuart Gill
 - (b) Nuatali Josephine Nelmes
 - (c) Morgan Benn Parker

on the grounds that the Deeds of Indemnity relate to the business of Council.

KEY ISSUES

- 2 City of Newcastle (CN) and Port Stephens Council (PSC) have jointly owned Newcastle Airport since its establishment.
- 3 New Directors have been recently appointed to NAPL and GNAPL. By entering into the Deeds of Indemnity (Deeds), CN is protecting its interests in the event of a claim arising from liabilities and associated legal costs.

- 4 The affixing of Council's seal to the Deeds is a function that cannot be delegated to the CEO and is exercised in accordance with Clause 400(4) of the Local Government (General) Regulation 2005 (NSW).

FINANCIAL IMPACT

- 5 There is no financial cost associated with Council's execution of the Deeds. In the event that a legal claim was ever made against a Director in their capacity as Director of NAPL or GNAPL, it is expected that NAPL or GNAPL's (as the case may be) Directors and Officers Indemnity Insurance Policy would fully cover the financial costs of the claim as per its terms and conditions.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 6 Open and collaborative leadership
 - 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting; and
 - 7.2c Establish collaborative relationships and advocate for local needs with all stakeholders.

IMPLEMENTATION PLAN/IMPLICATIONS

- 7 The Deeds will be executed subsequently by the other parties.

RISK ASSESSMENT AND MITIGATION

- 8 The existence of a deed is a common practice as it limits any potential risk that Council may be exposed to. Delays in executing the Deeds, including affixing the Council seal, exposes CN to litigation and financial costs associated with it.

RELATED PREVIOUS DECISIONS

- 9 At the Ordinary Council Meeting held on 1 May 2018, Council voted in favour of a re-structure for NAPL associated with and to facilitate the purchase of land which resulted in the creation of GNAPL.

CONSULTATION

- 10 Not required.

BACKGROUND

- 11 Nil.

OPTIONS

Option 1

- 12 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 13 Council does not adopt the recommendation as at Paragraph 1. This is not the recommended option because it exposes Council to litigation and associated costs.

REFERENCES

Nil

ATTACHMENTS

Nil