

31 October 2012

Her Worship the Mayor & Councillors

I have to advise that a **Policy Committee Meeting** will be held in the Council Chambers on Wednesday, 7 November 2012 commencing at 6.00 pm.



D J Sherley  
**GENERAL MANAGER**

# **BUSINESS AGENDA**

## **POLICY COMMITTEE**

**TO BE HELD ON WEDNESDAY, 7 NOVEMBER 2012**

1. 6:00 PM - MEETING COMMENCES
2. APOLOGIES
3. REPORT OF PREVIOUS MEETING
  - \* Minutes - Policy Committee Meeting - 1 August 2012
4. DECLARATION OF INTEREST
  - To assist the Councillors and committee members in their correct consideration of business before them at the meeting, please give consideration to Section 451 of the Local Government Act, in relation to Declaration of Interest at meetings.
5. RECEIVE AND DEAL WITH DIRECTORS' REPORTS
  - \* Director Corporate Services & Finance's Report
  - \* General Manager's Report
6. GENERAL BUSINESS
7. DISCUSSION FORUM - DEVELOPMENT APPLICATION SUBMISSIONS
8. DISCUSSION FORUM OTHER
9. MEETING CLOSE

## **MINUTE**

### **1     MEETING COMMENCES**

Councillors Morse (Chair), Aubin, Coote, Hanger, Jennings, Rush, Westman.

**MINUTE**

**2     APOLOGIES**

**MOVED: W Aubin SECONDED: M Coote**

**RESOLVED:** That the apologies from Crs Bourke and North be accepted and leave of absence granted.

POLICY COMMITTEE  
REPORT OF PREVIOUS MEETING

**REPORT OF PREVIOUS MEETING TO THE POLICY COMMITTEE MEETING HELD ON 7  
NOVEMBER 2012**

General Manager  
Bathurst Regional Council

**1 MINUTES - POLICY COMMITTEE MEETING - 1 AUGUST 2012 (07.00064)**

**Recommendation:** That the Minutes of the Policy Committee Meeting held on 1 August, 2012 be adopted.

**Report:** The Minutes of the Policy Committee Meeting held 1 August, 2012, are attached.

**Financial Implications:** N/A

**Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2

**MINUTE**

**3 Item 1 MINUTES - POLICY COMMITTEE MEETING - 1 AUGUST 2012**  
**(07.00064)**

**MOVED: G Hanger SECONDED: M Coote**

**RESOLVED:** That the Minutes of the Policy Committee Meeting held on 1 August, 2012 be adopted.

**MINUTES OF THE POLICY COMMITTEE**  
**HELD ON 1 AUGUST 2012**

**MEETING COMMENCES**

**1 MEETING COMMENCES**

**Present:** Councillors Westman (Chair), Aubin, Bourke, Carpenter, Hanger, Morse, North, Thompson, Toole.

**APOLOGIES**

**2 APOLOGIES**

Nil.

**REPORT OF PREVIOUS MEETING**

**3 Item 1 MINUTES - POLICY COMMITTEE MEETING - 4 JULY 2012 (07.00064)**  
**MOVED** Cr I North and **SECONDED** Cr W Aubin

**RESOLVED:** That the Minutes of the Policy Committee Meeting held on 4 July 2012 be adopted.

**DECLARATION OF INTEREST**

**4 DECLARATION OF INTEREST 11.00002**  
**MOVED** Cr I North and **SECONDED** Cr W Aubin

**RESOLVED:** That the Declaration of Interest be noted.

**RECEIVE AND DEAL WITH DIRECTORS' REPORTS**

**Director Corporate Services & Finance's Report**

**5 Item 1 REPORT OF AUDIT AND RISK MANAGEMENT COMMITTEE - 27 JUNE 2012 (07.00096)**  
**MOVED** Cr R Thompson and **SECONDED** Cr W Aubin

**RESOLVED:** That the information be noted.

**6 Item 2 SKILLSET (18.00195-26/007)**  
**MOVED** Cr P Toole and **SECONDED** Cr B Bourke

**RESOLVED:** That Council:

- a) not sponsor the FACETS 2012 event to be held in Bathurst.
- b) enact this resolution immediately



## General Manager's Report

**7** **Item 1 CODE OF CONDUCT COMPLAINTS 1 JULY 2011 TO 30 JUNE 2012 (07.00088)**

**MOVED** Cr R Thompson and **SECONDED** Cr P Toole

**RESOLVED:** That the information be noted.

**8** **Item 2 NSW INDEPENDENT LOCAL GOVERNMENT REVIEW PANEL (18.00145)**

**MOVED** Cr R Thompson and **SECONDED** Cr P Toole

**RESOLVED:** That the information be noted.

## GENERAL BUSINESS

**9** **CREMATORIUM (36.00246)**

**Cr Bourke** - spoke to length of time this project is taking. Asked for a report on this to September 2012 Council meeting.

**10** **ELECTION TIMETABLE - INVITES GOING OUT (12.00010)**

**Cr Bourke** - feels inappropriate that invites go out for Mt Panorama events prior to an election under Mayor's name. Could new Council review this process.

**11** **VEGETATION MANAGEMENT PLAN MEETING (13.00001)**

**Cr North** - the Committee requests that thanks be passed on to Cr Carpenter for her support over the years.

**12** **'IN PRINCIPLE' AGREEMENTS (08.00007)**

**Cr North** - asked could this matter be reviewed by the new Council. An example of this, is the lease agreements for telephone towers.

**13** **75 YEARS MOUNT PANORAMA GROUP (23.00008)**

**Cr North** - spoke to letter given to the group concerning the cost of hiring Mount Panorama. 75 years only happens once, need to move this ahead. Disappointed Council is not more actively assisting this event.

**The General Manager** spoke to Working Party session held with the group and that the pricing structure was sent out in accordance with these discussions.

**14** **GILMOUR STREET - WATER DETENTION BASIN (31.00001)**

**Cr North** - asked does Council clear this Detention Basin area.

**The Director Engineering Services** advised the water table is at a high level and Council cannot get equipment in, waiting for the basin to dry out, then will clear up.

**15** **SUNNY CORNER - TREES (13.00019)**

**Cr North** - Council have cut back some trees in the vicinity. Approaches have been made by residents to have some more trees cleared.

**16**      **LIBRARY CONFERENCE (11.00009)**

**Cr Morse** - advised was an excellent conference. Spoke to library operations. The winner of the Kath Knowles Leaders Award gave a presentation. A major issue for libraries is keeping up to date with technology. Noted for 2015.

**17**      **TOURISM CONFERENCE (11.00009)**

**Cr Morse** - advised there were many speakers covering many areas. Possibility of linking in with Cricket World Cup in 2015 was discussed, also soccer regional/Asia events. Not a lot raised on regional tourism

**18**      **CORRECTIONAL SERVICES WORKING GROUP (07.00108)**

**Cr Morse** - spoke to whether a committee has been created to service this new program.

**The General Manager** noted that Cr Bourke and General Manager will be meeting with Corrective Services this Friday on this matter.

**19**      **FLAG POLES - ENTRANCE TO BATHURST (18.00269)**

**Cr Morse** - advised that these need to be repaired, can this be looked into.

**20**      **THANK YOU (07.00064)**

**Cr Toole** - advised this is the last Policy meeting he will attend. It has been an honour to represent the community for the last 18 years. It has been a pleasure to work with Councillors, staff and the community.

Thanked the staff and public for their efforts, it has been a productive and positive time.

Best wishes to the retiring Councillors - Carpenter & Thompson and good luck to those standing.

Looks forward to continuing to work with Council into the future as the local member.

**21**      **THANK YOU (07.00064)**

**Cr Thompson** - thanked Council and staff for the rewarding experience of being a Councillor. The importance of the rural community needs to be acknowledged and the Council has provided strong support. Things achieved include; minimum lot sizes decision, Fire Control Centre, lobbying over weed concerns, scholarships, environmental grants, Hill End Road, Village Improvement Program.

**22**      **THANK YOU (07.00064)**

**Cr Carpenter** - thanked fellow Councillors for their efforts, noted in particular the levels of dedication put in. The Councillors represent a broad cross-section of the community and work well as a team. The hours of service are extraordinary. Good luck to all Councillors who are standing again.

Thank you to the staff in helping Councillors. It has been a very successful Council. The Council has been well managed and the relationships have been co-operative.

Thank you to the loyal attendees from the community who bring a public voice to Council.

**MEETING CLOSE**

**23**      **MEETING CLOSE**

The Meeting closed at 5.22 pm.

**CHAIRMAN:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **(15 August 2012)**

**MINUTE**

**4     DECLARATION OF INTEREST 11.00002**

**MOVED: G Hanger SECONDED: M Coote**

**RESOLVED:** That the Declaration of Interest be noted.

POLICY COMMITTEE  
DIRECTOR CORPORATE SERVICES & FINANCE'S REPORT  
7 NOVEMBER 2012

**DIRECTOR CORPORATE SERVICES & FINANCE'S REPORT TO THE POLICY  
COMMITTEE MEETING HELD ON 7 NOVEMBER 2012**

General Manager  
Bathurst Regional Council

**1 DELEGATIONS REGISTER REVIEW (41.00088)**

**Recommendation:** That Council adopt the Delegations Register as tabled.

**Report:** Council under Section 377 of the Local Government Act 1993 may delegate certain authority to the General Manager or any other person or body (not including another employee of the Council). Council has in place a detailed list of delegations to the General Manager the Mayor and some other bodies. Section 380 of the Local Government Act 1993 requires Council to review the delegations in the 12 months following a general local government election. The Delegations Register is now submitted to Council for review in accordance with Section 380.

The Delegations Register was adopted by Council on 4 April 2012. Minor amendments have been made to the Register to reflect changes in legislation. The revised register is provided at **attachment 1**.

**Financial Implications:** Nil.

**Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.8, 28.6
- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2

**MINUTE**

**5     Item 1   DELEGATIONS REGISTER REVIEW (41.00088)**

**MOVED: M Coote SECONDED: J Jennings**

**RESOLVED:** That Council adopt the Delegations Register as tabled.

## **2 POLICY - CODE OF CONDUCT (11.00024, 41.00089)**

**Recommendation:** That Council adopt the Code of Conduct and Code of Conduct Complaints - Principles and Procedures and update the Policy Manual.

**Report:** In accordance with Section 440 (7) of the Local Government Act 1993 "a Council must within twelve months after each Ordinary election, review its adopted Code and make such adjustments as it considers appropriate and as are consistent with this section".

Council has previously adopted the model code provided by the Department of Local Government, with some minor changes. This code has been provided to all Councillors as part of the Policy Manual.

Council has also adopted a Code of Conduct Complaints - Principles and Procedures document to supplement the Code of Conduct. This deals in more detail with the handling of complaints received under the Code of Conduct.

In order to comply with Section 440(7) of the Local Government Act 1993 it is recommended that Council adopt the Code of Conduct, as shown at **attachment 1** (minor amendments have been made to reflect changes in legislation) and the Code of Conduct Complaints - Principles and Procedures, as shown at **attachment 2** and update the Policy Manual.

**Financial Implications:** Nil.

### **Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.8
- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2



**MINUTE**

**6     Item 2   POLICY - CODE OF CONDUCT (11.00024, 41.00089)**

**MOVED: W Aubin SECONDED: G Rush**

**RESOLVED:** That Council adopt the Code of Conduct and Code of Conduct Complaints - Principles and Procedures and update the Policy Manual.

### **3 GOVERNANCE - PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR COUNCILLORS (11.00008, 41.00089)**

**Recommendation:** That:

- (a) Council adopt the changes to the policy as outlined in the report, place the revised Policy on Payment of Expenses and Provision of Facilities for Councillors on public exhibition for a period of 28 days.
- (b) If no submissions are received; adopt the Policy, update the Policy Manual and place on Council's website.
- (c) if submissions are received; report back to Council.
- (d) Council forward the adopted Policy to the Division of Local Government, Department of Premier & Cabinet.

**Report:** Section 252(1) of the Local Government Act 1993 states "*within five months after the end of each year, a Council must adopt a Policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the Mayor, the Deputy Mayor (if there is one) and the other Councillors in relation to discharging the functions of civic office*" . Council's last review of the policy was on 7 December 2011.

There has been one slight change to the adopted policy to clarify the definition of official function of the Council in clause 15.1 to include BMEC Theatre Season performances. Changes are as follows:-

**Modify** clause 8 (iv) (b) from

*(b) one adult ticket (for the use of the Councillor only) to each of the Theatre Season performances at the Bathurst Memorial Entertainment Centre.*

to

*(b) two adult tickets (for the use of the Councillor and their spouse/partner) to each of the Theatre Season performances at the Bathurst Memorial Entertainment Centre.*

and

**Modify** clause 15.1 (first paragraph) from:

*Council will pay the cost of attendance of a spouse, partner or accompanying person at an official function of the Council or other official functions that are of a formal and ceremonial nature. Examples would include Citizenship ceremonies, civic receptions/functions and charitable functions for charities supported by the Council.*

to

*Council will pay the cost of attendance of a spouse, partner or accompanying person at an official function of the Council (which includes BMEC Theatre Season performances) or other official functions that are of*

*a formal and ceremonial nature. Examples would include Citizenship ceremonies, civic receptions/functions and charitable functions for charities supported by the Council.*

It is recommended that Council

- (a) Council adopt the changes to the policy as outlined in the report, place the revised Policy on Payment of Expenses and Provision of Facilities for Councillors on public exhibition for a period of 28 days.
- (b) If no submissions are received; adopt the Policy, update the Policy Manual and place on Council's website.
- (c) if submissions are received; report back to Council.
- (d) Council forward the adopted Policy to the Division of Local Government, Department of Premier & Cabinet.

A copy of the revised policy is provided at **attachment 1.**

**Financial Implications:** Expenses incurred under this Policy are already provided for in Council's adopted budget.

**Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.8
- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2

**MINUTE**

**7 Item 3 GOVERNANCE - PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR COUNCILLORS (11.00008, 41.00089)**

**MOVED: M Coote SECONDED: W Aubin**

**RESOLVED:** That:

- (a) Council adopt the changes to the policy as outlined in the report, place the revised Policy on Payment of Expenses and Provision of Facilities for Councillors on public exhibition for a period of 28 days.
- (b) If no submissions are received; adopt the Policy, update the Policy Manual and place on Council's website.
- (c) if submissions are received; report back to Council.
- (d) Council forward the adopted Policy to the Division of Local Government, Department of Premier & Cabinet.

#### **4 POLICY - CODE OF MEETING PRACTICE (07.00064, 07.00065, 41.00089)**

**Recommendation:** That Council adopt the Code of Meeting Practice and update the Policy Manual accordingly.

**Report:** Council has adopted a Code of Meeting Practice in accordance with Section 360 of the Local Government Act 1993 - Conduct of meetings of councils and committees which states:-

*"(1) The regulations may make provision with respect to the conduct of meetings of councils and committees*

*of councils of which all the members are councillors.*

*(2) A council may adopt a code of meeting practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them.*

*(3) A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by it."*

As part of its governance procedures following a general election of Council, Bathurst Regional Council reconsiders many of its policies and procedures. A review of the Code of Meeting Practice has been undertaken and no changes are recommended to the existing policy. A copy of the current policy is provided at **attachment 1** for Councillors

It is recommended that Council adopt the Code of Meeting Practice and update the Policy Manual accordingly.

**Financial Implications:** N/A

#### **Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.8
- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2

**MINUTE**

**8     Item 4   POLICY - CODE OF MEETING PRACTICE (07.00064, 07.00065, 41.00089)**

**MOVED: M Coote SECONDED: G Hanger**

**RESOLVED:** That Council adopt the Code of Meeting Practice and update the Policy Manual accordingly.

## **5 ENTERPRISE RISK MANAGEMENT PLAN - RISK MATRIX (03.00162)**

**Recommendation:** That Council adopt the new Risk Assessment Matrix and include it in the Enterprise Risk Management Plan.

**Report:** Council at its meeting on 16 May 2012 adopted an Enterprise Risk Management Plan (ERM Plan) to assist in the implementation of an organisational approach to risk management. Tables 3(a), 3(b) and 4 (shown at **attachment 1**) of that Plan outlined the methodology to assess risks and determine their threat to the organisation. Staff have been developing a newer version of these tables that can be more easily read and understood. A copy of the new table titled Risk Assessment Matrix is provided at **attachment 2**.

It is recommended that Council adopt the new Risk Assessment Matrix and include it in the Enterprise Risk Management Plan.

**Financial Implications:** Implementation of strategies from the ERM Plan will occur as funding allows from within existing budgets.

### **Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.8
- Objective 29: To guide the construction and provision of new infrastructure/facilities and services and the management and upgrading of existing assets and service levels. Strategy 29.8
- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2

**MINUTE**

**9 Item 5 ENTERPRISE RISK MANAGEMENT PLAN - RISK MATRIX (03.00162)**

**MOVED: J Jennings SECONDED: M Coote**

**RESOLVED:** That Council adopt the new Risk Assessment Matrix and include it in the Enterprise Risk Management Plan.

Yours faithfully



R Roach  
**DIRECTOR  
CORPORATE SERVICES & FINANCE**



POLICY COMMITTEE  
GENERAL MANAGER'S REPORT  
7 NOVEMBER 2012

## **GENERAL MANAGER'S REPORT TO THE POLICY COMMITTEE MEETING HELD ON 7 NOVEMBER 2012**

General Manager  
Bathurst Regional Council

### **1 STATE GOVERNMENT DESTINATION 2036 ACTION PLAN - LOCAL GOVERNMENTS ACTS (LGA) TASKFORCE. (18.00145, 02.00003)**

**Recommendation:** That the information be noted.

**Report:** Councillors will recall that the State Government has initiated the Destination-2036 Action Plan process. The Action Plan sets out the actions that will be delivered over the coming years to meet the needs of NSW communities and achieve the vision of creating strong communities through partnerships.

The Destination 2036 Action Plan document can be accessed at the Division of Local Government website on the following link:

<http://222.dlg.nsw.gov.au/dlg/dlghome/documents/information/Destination%202036%20-%20Action%20Plan.pdf>

#### **Implementation Steering Committee (ISC)**

The Government established an Implementation Steering Committee (ISC) to ensure actions of the Plan are implemented in collaboration with interested groups. Membership of the ISC consists of the Chief Executive of the Division of L.G.(Chair), the Presidents of the LG&SA and the President of the Local Government Managers' Association (LGMA).

As a consequence of creating the Destination 2036 Action Plan, a number of ancillary groups have been created.

#### **Independent Local Government Review Panel**

The Action Plan has led to the establishment of the Independent Local Government Review Panel. Details of this Panel's Terms of Reference were reported to Council Policy Committee - 1st August 2012, General Manager Report #2, refer **attachment 1.**

The State Government set the following Terms of Reference for the Panel:

#### ***"Local Government Review Panel***

##### ***Terms of Reference Overview***

*Following the approach from the Local Government and Shires Associations of NSW, the NSW Minister for Local Government has agreed to appoint a three member panel to develop options to improve the strength and effectiveness of local government in NSW. The review will drive key strategic directions identified in the Destination 2036 initiative and support the*

broader objectives of the State as outlined in NSW 2021: A Plan to Make NSW Number One (the State Plan).

The panel will investigate and identify options for governance models, structural arrangements and boundary changes for local government in NSW, taking into consideration:

1. ability to support the current and future needs of local communities
2. ability to deliver services and infrastructure efficiently effectively and in a timely manner
3. the financial sustainability of each local government are
4. ability for local representation and decision making; and
5. barriers and incentives to encourage voluntary boundary changes.

The panel will be comprised of three members, chaired by Professor Graham Sansom and is expected to report to the Minister by 12 to 14 months from the start of the review."

Membership of the panel consists of; Professor Graham Sansom (Chair), Ms Jude Munro AO and Mr Glenn Inglis.

### **TCorp Assessment Group**

To assist the Independent Local Government Review panel, Treasury Corporation (TCorp) will undertake a review of the financial sustainability of each council in NSW. This will provide an independent assessment of each council's financial sustainability. The assessments are due to be provided to the Panel by 31 December 2012.

At **attachment 2** is DLG Circular 12-23 (5 July 2012) which summarises the purpose and issues to be considered by the TCorp review.

### **DLG Infrastructure Audit - Data Collection**

To further assist the government in its review of local government, the Division is co-ordinating a collation of local government infrastructure data. The audit is due to be completed by 31 March 2013, with the main purpose of developing a reliable data source on the infrastructure backlog whilst identifying trends and issues across the State.

At **attachment 3** is DLG Circular 12-21 (4 July 2012) which summarises the purpose and issues to be considered by the Division.

### **Local Government Acts (LGA) Taskforce**

The State Government has recently announced the appointment of the LGA Taskforce. This group has been appointed as part of the modernisation of local government legislation process, see **attachment 4**, DLG Circular 12-32 (27 August 2012)

The circular contains the following

#### **"MODERNISATION OF LOCAL GOVERNMENT LEGISLATION**

##### ***Purpose***

*To announce the commencement of the Local Government Acts (LGA) Taskforce.*

##### ***Issue***

- *The Hon Don Page MP has appointed the LGA Taskforce to review the Local*

Government Act 1993 and the City of Sydney Act 1988. This appointment follows the release of the Destination 2036 Action Plan earlier this year.

- The Taskforce members are:
  - Mr John Turner (Chair)
  - Mrs Gabrielle Kibble AO
  - Clr Dr Ian Tiley
  - Mr Stephen Blackadder
- The Taskforce will commence work in September this year, and will report back to the Minister by September 2013.
- The Terms of Reference of the LGA Taskforce are attached to this Circular.
- The Taskforce will work closely with the Independent Local Government Review Panel to ensure that the new legislation supports and facilitates the outcomes of this work.
- a webpage will be established on the Division's website which will enable interested persons to keep track of the progress of the review, provide ready access to LGA Taskforce publications as they become available and facilitate the consultation process.
- The work of the LGA Taskforce is an important initiative that will assist in ensuring that NSW has the right legislative framework for strong and sustainable local government into the future.

#### **Action**

General Managers are asked to bring this Circular to the attention of councillors, council staff and their local community."

**Financial Implications:** Nil, at this stage.

#### **Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.6, 28.8
- Objective 33: To be and develop good leaders. Strategy 33.4, 33.5
- Objective 29: To guide the construction and provision of new infrastructure/facilities and services and the management and upgrading of existing assets and service levels. Strategy 29.8, 29.6

**MINUTE**

**10 Item 1 STATE GOVERNMENT DESTINATION 2036 ACTION PLAN - LOCAL GOVERNMENTS ACTS (LGA) TASKFORCE. (18.00145, 02.00003)**

**MOVED: M Coote SECONDED: J Jennings**

**RESOLVED:** That the information be noted.

## **2 DEPARTMENT OF LOCAL GOVERNMENT - PROMOTING BETTER PRACTICE REVIEW REPORT (NOVEMBER 2006) (03.00142)**

**Recommendation:** That Council note the updated report (as at November 2012) of the Department of Local Government, PBP Review of November 2006.

**Report:** In November 2006, the Department of Local Government undertook a Promoting Better Practice Review of the Council. The Review Report and initial responses were presented to Council at its meeting on 16 May 2007 (General Manager's Report No 1). Follow-up reports have been provided to Council at its meetings of 3 September 2008, 1 April 2009, 30 September 2009, 5 May 2010, 3 November 2010, 4 May 2011, 2 November 2011 and 2 May 2012.

The purpose of this item is to provide an ongoing report on how Council is addressing the recommendations contained within the review. At **attachment 1**, is an Action Plan/Status Report which provides a Progress Report on each recommendation. The results of the Review were extremely pleasing. A number of the recommendations have progressed:

### **(1) Recommendation 6**

Council adopted its Enterprise Risk Management Plan at the Ordinary meeting. This item is now completed.

### **(2) Recommendation 21**

Integrated ten year financial plan in place as part of the Government's Integrated Planning and Reporting requirements. This item is now completed.

### **(3) Recommendations 13 and 16**

Draft of the new comprehensive LEP is with the State Government awaiting their response.

In regards to Section 94 Plans, a draft plan has been prepared for Eglinton. Other existing plans are being reviewed on an ongoing basis as part of the LEP review.

**Financial Implications:** Actions are being taken within existing budgets.

### **Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.8
- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2
- Objective 33: To be and develop good leaders. Strategy 33.5

**MINUTE**

**11 Item 2 DEPARTMENT OF LOCAL GOVERNMENT - PROMOTING BETTER PRACTICE REVIEW REPORT (NOVEMBER 2006) (03.00142)**

**MOVED: M Coote SECONDED: G Rush**

**RESOLVED:** That Council note the updated report (as at November 2012) of the Department of Local Government, PBP Review of November 2006.

### **3 STATE EMERGENCY & RESCUE MANAGEMENT ACT: LOCAL EMERGENCY MANAGEMENT COMMITTEE (07.00018-10/013, 41.00088)**

**Recommendation:** That Council delegate to the General Manager the following function:

"117. To appoint a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency & Rescue Management Act (1989) as amended."

**Report:** The State Government has recently amended the State Emergency and Rescue Management (SERM) Act (1989). Advice from the Ministry for Police and Emergency Services is as follows:

*"The amendments to the SERM Act that are particularly relevant to the Local Government are:*

- *The General Manager of the Council is now to be the Chairperson of the Local Emergency Management Committee - previously, the Chairperson was to be a person with the authority of the Council to co-ordinate and use the Council's resources. Councils may consider whether the General Manager's power to delegate under Section 378 of the Local Government Act 1993 can be exercised in relation to this function.*
- *The functions of a Local Emergency Management Committee (LEMC) are now specified to reflect modern practice. These include that an LEMC may:*
  - \* *give effect to and carry out emergency management policy and practice, consistent with information on that policy and practice disseminated by the State Emergency Management Committee. This reflects the LEMCs existing role as part of the tiered emergency management structure.*
  - \* *review and prepare plans in respect of the relevant local government area that are, or are proposed to be, subplans and supporting plans established under the State Emergency Management Plan. This could include local emergency management plans. It does not supplant the Combat Agency's existing planning responsibilities.*
  - \* *make recommendations about and assist in the co-ordination of training in relation to emergency management in the relevant local government area.*
  - \* *develop, conduct and evaluate local emergency management training exercises.*
  - \* *facilitate local level emergency management capability through inter-agency co-ordination, co-operation and information sharing arrangements.*
  - \* *assist the Local Emergency Operations Controller (LEOCON).*
  - \* *other functions related to this act and/or assigned to the Committee by the relevant Regional or State Emergency Management Committee.*
  - \* *in section 31(1B)(b) the reference to the Minister will be omitted which means the LEOCON may assume responsibility for controlling the response to an emergency from the combat agency if the combat agency has required or agreed to the LEOCON assuming responsibility.*
  - \* *Section 32(2) will be omitted which will remove the reference to the Local Emergency Management Officer as the principal executive officer to the LEMC.*

*The Ministry for Police and Emergency Services considers that the inclusion of the specific reference to the Local Emergency Management Officer was a policy and not a legislative title, and therefore does not consider that there should be any practical changes to the executive support provided by Council staff. The responsibility in Section 32(1) for Councils to provide executive support facilities for the Local Emergency Management Committee and*



*the Local Emergency Operations Controller in its area has not been altered. Consequently, the office of the LEMO will be set out in the new State Emergency Management Plan (EMPLAN) which will replace the current State Disaster Plan (Displan).*

*Given that the State is entering into the 2012-13 Bushfire Season, the Ministry accepts that transitional arrangements may need to be put in place to transfer the role of the Chair to the Council General Manager, where it has been held by another senior Council Officer."*

### **Delegation - LEMC - Chairperson**

In regard to the question of delegation, in particular, the Chairperson role of the Local Emergency Management Committee (LEMC) Section 378 of the Local Government Act states:

#### **"378 Delegations by the General Manager**

- (1) The General Manager may delegate any of the functions of the General Manager, other than this power of delegation.*
- (2) The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the Council).*
- (3) Subsection (2) extends to a function sub-delegated to the General Manager by the Council under Section 377(2)."*

This section provides the power for the General Manager to sub-delegate his/her functions.

Further, Section 381 of the Local Government Act states:

#### **"381 Exercise of functions conferred or imposed on Council employees under other Acts**

- (1) If, under any other Act, a function is conferred or imposed on an employee of a Council or on the Mayor or a Councillor of a Council, otherwise than by delegation in accordance with this section, the function is taken to be conferred or imposed on the Council.*
- (2) Such a function may be delegated by the Council in accordance with this Part.*
- (3) A person must not, under any Act, delegate a function to:
  - \* the General Manager, except with the approval of the Council.*
  - \* an employee of the Council, except with the approval of the Council and the General Manager."**

This covers the exercise of functions conferred or imposed on Council employees under other Acts. This report will clarify the delegation to the General Manager by Council of the role of Chairperson of the Local Emergency Management Committee.

The old provisions of the State Emergency and Rescue Management Act (1989) at Section 28 read as follows:

#### **"28 Local Emergency Management Committees**

- (1) There is established by this Act a Local Emergency Management Committee for each*

Local Government area.

(2) *Each such Committee is to consist of:*

- (a) *a senior representative of the Council of the relevant Local Government area nominated by that Council who is to be the Chairperson of the Committee, and*
- (b) *a senior representative of each emergency services organisation operating in the relevant local government area, and*
- (c) *representatives of such organisations providing services in functional areas in the relevant Local Government area as the Council of that area may from time to time determine, and*
- (d) *the Local Emergency Operations Controller for the relevant Local Government area.*

(3) *The Chairperson of a Committee is to be a person who has the authority of the Council to co-ordinate the use of the Council's resources in the prevention of, preparation for, response to and recovery from emergencies.*

(4) *(Repealed)*

(5) *The representative of an organisation is to be nominated by the organisation.*

(6) *(Repealed)*

(7) *Schedule 2 has effect with respect to the members and procedure of a Local Emergency Management Committee."*

This section has been amended through Schedule 3 of the Amendment of State Emergency & Rescue Management Act 1989, No 165, as follows:

**"[25] Section 28 Local Emergency Management Committees**

*Omit Section 28(2)(a). Insert instead:*

(a) *The General Manager of the Council of the relevant Local Government area, who is to be the Chairperson of the Committee, and*

**[26] Section 28(2)(c)**

*Omit the paragraph. Insert instead:*

(c) *a representative of each organisation that:*

- (i) *provides services in a functional area or areas in the relevant Local Government area; and,*
- (ii) *the Council of that area determines from time to time is to be represented on the Committee, and*

**[27] Section 28(3)**

*Omit the subsection."*

The change at Section 28(2)(a) has created the need for more red-tape.

This report alters the delegations instrument of Council to clarify that the appointment of an appropriate person to handle the role as Chair of the LEMC, is a matter for the General Manager to delegate.

Council's current appointee to the LEMC is the Manager Corporate Governance who currently fulfils the role of Local Emergency Management Officer (LEMO) and Chairperson of the LEMC.

It is considered that the current Delegations Instrument at Clause 17 - Corporate and Executive Powers, provides the power to delegate the role of Chairperson. However, to ensure that there are no misunderstandings, it is proposed to add a Clause 117 to the Corporate Services/Administration section of the Delegations Instrument:

"To appoint a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency and Rescue Management Act (1989) as amended."

**Financial Implications:** Nil

**Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 22: To improve community safety. Strategy 22.3, 22.8

**MINUTE**

**12 Item 3 STATE EMERGENCY & RESCUE MANAGEMENT ACT: LOCAL EMERGENCY MANAGEMENT COMMITTEE (07.00018-10/013, 41.00088)**

**MOVED: G Rush SECONDED: G Hanger**

**RESOLVED:** That Council delegate to the General Manager the following function:

"117. To appoint a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency & Rescue Management Act (1989) as amended."

#### **4 ICAC INVESTIGATION REPORT - OPERATION JAREK (46.00075, 46.00117)**

**Recommendation:** For Council's consideration.

**Report:** Councillors would be aware that Council in December 2008 received information of alleged fraudulent activity involving Council's Storeman. Council undertook an internal investigation in early 2009 and provided information to NSW Police which lead to criminal charges being laid against Council's Storeman.

In accordance with Section 11 of the Independent Commission Against Corruption Act 1998 Council reported this fraudulent activity to the Independent Commission Against Corruption (ICAC). The ICAC then undertook an extensive investigation of its own which subsequently lead to a Public Inquiry. The ICAC has now released its report on the findings from that Public Inquiry. A copy of the report titled "Investigation into allegations that staff from a number of local Councils and other Public Authorities accepted secret benefits from suppliers and that staff from two local Councils facilitated payment of false invoices from suppliers" will be tabled at the meeting. A copy can also be viewed or downloaded at the following link

<http://www.icac.nsw.gov.au/investigations/past-investigations/investigationdetail/185>.

The report outlines the circumstances of the discovery of the fraudulent activity.

*On 1 December 2008, Bathurst Regional Council (BRC) received an anonymous email, dated 29 November 2008.*

*The email alleged that BRC had been "ripped off" in the amount of \$400,000 over a period of six years by BRC's senior council storeperson, Geoffrey Hadley, and two companies, Pinnacle Traders Pty Ltd ("Pinnacle") and Universal Telemarketing Services Pty Ltd (UTS).*

*On 11 December 2008, the Commission received a report on the above allegations from BRC pursuant to section 11 of the Independent Commission Against Corruption Act 1988 ("the ICAC Act"). This section imposes a duty on the principal officer of a public authority to report any possible corrupt conduct to the Commission.*

*BRC followed the section 11 report with an internal investigation, which revealed incidents of non-compliance with purchasing and stores procedures at BRC between 2003 and 2009. The investigation also showed that, during this period, some goods were ordered in excessive quantities and certain invoices were paid for goods that were never received, resulting in possible financial loss to BRC of nearly \$1 million. It was suspected that Mr Hadley and Robin Newman, an employee of UTS and director of Pinnacle at the time, were involved.*

*BRC provided this information to the NSW Police, which proceeded to investigate the matter. Both Mr Hadley and Mr Newman made admissions to the NSW Police that they had an arrangement whereby Mr Newman issued invoices for goods that were not in fact delivered and Mr Hadley facilitated payment of these invoices by BRC, with the two men sharing the profits. The investigation by the NSW Police also indicated that there may have been other companies, in addition to the companies associated with Mr Newman, who engaged in similar conduct in collusion with Mr Hadley.*

*In April 2009 and October 2009 respectively, BRC and the NSW Police provided the information gathered from their investigations to the Commission. This led to*

*the Commission commencing its investigation in November 2009.*

*Following the investigation by the NSW Police, Mr Hadley was charged with a number of counts of receiving corrupt benefits and using false instruments with intent under the Crimes Act 1900 ("the Crimes Act"). Mr Newman was also charged with a number of counts of giving corrupt benefits and making false instruments with intent under the Crimes Act. These charges related to corrupt dealings concerning Mr Hadley, Mr Newman and a fictitious company created by Mr Newman, Robin Newman Pty Ltd, involving false invoices in the total amount of \$757,467.15. Both Mr Hadley and Mr Newman pleaded guilty to these charges and were each sentenced to four years' imprisonment on 13 April 2011.*

The ICAC report made 15 recommendations in relation to councils generally and their gifts and benefits policies and procurement processes. None of the recommendations relate specifically to Bathurst Regional Council. Refer **attachment 1** - Summary of Investigation and Results.

Council has since 2009 introduced numerous changes to its processes relating to gifts and benefits and procurement (the purchasing of materials for use by council).

### **Gifts and Benefits**

Council has since September 2006 had in place an adopted policy on Gifts and Benefits (which is available in Council's Policy Manual). The Gifts and Benefits Policy

- is provided to all new employees at induction
- is regularly mentioned in staff newsletters
- is readily available on council's intranet (internal staff internet)
- is readily available on Council's website under the public documents section
- requires all staff to declare any gifts received (even of a token value) and have them recorded on the gifts register which is kept in the General Manager's office

Council also has a Statement of Business Ethics which it provides to suppliers that has a section on gifts and benefits - refer ICAC recommendation no. 1.

Council has also prohibited staff directly involved in creating orders from receiving any gifts (even those of a token value) - refer ICAC recommendation no. 1 (This recommendation suggests the prohibition should be extended to all staff with financial delegations and council will need to review this.)

### **Procurement**

Council has since 2009 implemented many new processes and procedures in relation to its procurement processes. These include:-

- introduction of e-procurement (an electronic on-line ordering system available within Council's Civica Authority accounting software) - refer ICAC recommendation no. 8
- establishment of an Audit and Risk Management Committee (which has an independent Chairman and member from outside of Council)
- employment of an Internal Auditor in conjunction with Dubbo and Orange Councils
- reorganisation of the store to systematically record the inventory against a specific location and secured all stores items within a locked enclosure. This allows the stock count sheets to be printed in order by bays which minimises the risk of missing stock items in the count or counting the one item twice - refer ICAC recommendation no.12

- Council also had items in the depot that had been returned to store as they were not used on a job and these have now been included on the stores system - refer ICAC recommendation no.12
- conduct of the stock take by independent staff members . Stock takes have since 2009 been directly supervised by the Manager Corporate Governance and the counting has been carried out by independent finance staff - refer ICAC recommendation no.13

As part of the e-procurement system all orders are created on-line. The staff member creates a requisition which then follows a hierarchy of steps where specific delegations are required to have an order created. The requisition request is reviewed by Council's Purchasing Officer to ensure compliance with the council purchasing policy and procedures prior to the order being created by the Purchasing Officer. Council has also removed the ability of any employee to create an order and then complete a goods received notification.

Council has implemented many procedures and processes since the discovery of the fraudulent activity and this was noted by the ICAC during the Public Inquiry.

Mr Hadley and Mr Newman were originally charged with fraud totalling \$851,563.13 and were convicted of misappropriating \$757,467.15 from Council for which they received a four year gaol sentence. Council was able to recover this amount through its insurance policy (as reported to Council on 16 June 2010 DCSF Confidential Report item #2).

**Financial Implications:** There are no financial implications resulting from this report.

### **Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.6

**MINUTE**

**13 Item 4 ICAC INVESTIGATION REPORT - OPERATION JAREK (46.00075, 46.00117)**

**MOVED: M Coote SECONDED: W Aubin**

**RESOLVED:** That the information be noted.

Yours faithfully



D J Sherley  
**GENERAL MANAGER**



POLICY COMMITTEE  
GENERAL BUSINESS

## MINUTE

### 14 Item 1 CBD BEAUTIFICATION AND TOWN ENTRANCES (07.00097)

**Cr Westman** - spoke regarding the area of land south of the bridge when coming into town. Is there any intentions to do anything with this?

**The Director Engineering Services** - spoke to activities undertaken; native regeneration, slashing etc. and proposed works, which are limited.

## MINUTE

### 15 Item 2 LAMBERT AND MITRE STREETS (25.00095)

**Cr Rush** - Is there a report on this intersection, particularly safety? If there has been a review, could we perhaps reconsider?

**The Director Engineering Services** - Spoke to funding issues and cost of utility relocation. Accident statistics are not a major concern. There have been a number of reviews but costs have been prohibitive. A report will be prepared for Council.

**MINUTE**

**16     Item 3   MEALS ON WHEELS VISIT (18.00236)**

**Cr Hanger** - On Wednesday 21 November, 2012 a breakfast invitation has been made to Councillors by Meals on Wheels to facilitate a tour of the site.

**MINUTE**

**17    MEETING CLOSE**

The Meeting closed at 6.07 pm.

**CHAIRMAN:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **(21 November 2012)**